

1 DIVISION OF LABOR STANDARDS ENFORCEMENT  
2 By: Carl G. Joseph, Special Hearing Officer  
3 107 South Broadway, Room 5016  
4 Los Angeles, California 90012  
5 (213) 620-2500



6  
7  
8 BEFORE THE LABOR COMMISSIONER  
9 OF THE STATE OF CALIFORNIA

10  
11 RICHARD PRYOR, an individual, )  
12 INDIGO, INCORPORATED, a )  
13 California corporation, )  
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19 The above-entitled controversy came on regularly for  
20 hearing before the Labor Commissioner, Division of Labor  
21 Standards Enforcement, Department of Industrial Relations,  
22 State of California, by Carl G. Joseph, Attorney for the  
23 Division of Labor Standards Enforcement, serving as Hearing  
24 Officer under the provisions of Section 1700.44 of the Labor  
25 Code of the State of California, Petitioners RICHARD PRYOR and  
26 INDIGO, INCORPORATED appearing by the Law Office of Lavelly &  
27 Singer, by John H. Lavelly, Jr. and Martin D. Singer, and

1 Respondent DAVID MCCOY FRANKLIN, individually and doing  
2 business as DAVID FRANKLIN & ASSOCIATES, appearing by the Law  
3 Offices of Joseph E. Porter, III, by Joseph E. Porter, III,  
4 Thomasina Reed, and Robert Pryce. Evidence, both oral and  
5 documentary having been introduced, and the matter having been  
6 briefed and submitted for decision, the following determination  
7 is made:

8 It is the determination of the Labor Commissioner:

9 1. That during the time period of 1975 through  
10 September 1980, Respondent agreed to act and acted as an  
11 artists' manager and talent agent as those terms are defined in  
12 Labor Code, Section 1700.4 on behalf of Petitioners in the  
13 State of California, without being licensed as such as required  
14 by the Labor Code.

15 2. That the agreement entered into between  
16 Petitioners and Respondent in 1975 is void and unenforceable  
17 and that Petitioners have no liability thereunder to Respondent  
18 and Respondent has no rights or privileges thereunder.

19 3. That Respondent is ordered to return to  
20 Petitioners the sum of Three Million One Hundred Ten Thousand  
21 Nine Hundred Eighteen (\$3,110,918) Dollars representing all  
22 monies and things of value which Respondent received for  
23 services performed as an unlicensed artists' manager and talent  
24 agent<sup>1</sup> and all monies and things of value which Respondent

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26 1/ Amounting to Seven Hundred Fifty-Three Thousand Two  
27 Hundred Seventeen (\$753,217) Dollars paid to Respondent by  
Petitioners over the period 1975 through 1980.

1 willfully misappropriated from Petitioners through his role as  
2 Petitioners' artist's manager and talent agent.<sup>2</sup>

3 4. Because of the fact that the Labor  
4 Commissioner has no power to subpoena Respondent's records from  
5 Georgia and because of the related impracticability of ordering  
6 Respondent to render an accounting as to any additional monies  
7 which he may have obtained from Petitioners in connection with  
8 his procurement of employment on Petitioners' behalf, we  
9 decline to order Respondent to render an accounting to  
10 Petitioners, although we recognize Petitioners' right to  
11 receive an accounting from Respondent as to all such monies  
12 which he obtained in his role as Petitioners' representative.

13 5. That Respondent is guilty of serious moral  
14 turpitude and is therefore not entitled to any claim or offset  
15 based on the reasonable value of services rendered to  
16 Petitioners.

17  
18 I.

19 INTRODUCTION

20 On August 25, 1981, Petitioners RICHARD PRYOR  
21 (hereinafter sometimes "Pryor") and INDIGO, INCORPORATED  
22 (hereinafter collectively "Petitioners") filed a Petition to  
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24 2/ Amounting to Two Million Three Hundred Fifty-Seven  
25 Thousand Seven Hundred One (\$2,357,701) Dollars which includes  
26 interest at the legal rate of seven (7%) percent per annum,  
27 amounting to Five Hundred Six Thousand Nine Hundred Twenty-Nine  
(\$506,929) Dollars as of June 21, 1982.

1 Determine Controversy pursuant to Labor Code § 1700.44 with the  
2 Labor Commissioner of the State of California, against  
3 Respondent DAVID MCCOY FRANKLIN, individually and doing  
4 business as DAVID FRANKLIN & ASSOCIATES (hereinafter  
5 "Respondent" or "Franklin"). The Petition alleged that  
6 Respondent acted as an unlicensed artists' manager and talent  
7 agent in the State of California during his five year  
8 representation of Petitioners.

9 In Petitioners' prayer for relief, Petitioners have  
10 requested:

11 1. A determination that the agreement between  
12 Petitioners and Respondent Franklin is void and unenforceable  
13 and that Petitioners have no liability thereunder to Respondent  
14 and Respondent has no rights or privileges thereunder;

15 2. An accounting from Respondent Franklin  
16 concerning all monies, and things of value received by  
17 Respondent from Petitioners, directly or indirectly, in  
18 connection with Respondent's representation of Petitioners  
19 during the period of 1975 through 1980;

20 3. An Order requiring Respondent to return to  
21 Petitioners all monies and things of value received by  
22 Respondent, directly or indirectly, pursuant to the agreement  
23 and/or in connection with Respondent's representation of and  
24 procurement of employment for Petitioners;

25 4. A determination denying Respondent Franklin  
26 any claim or offset based on the alleged reasonable value of  
27 services rendered by Respondent on behalf of Petitioner; and

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5. For such other and further relief as the Labor Commissioner may deem just and proper.

Respondent filed an Answer to the allegations in the Petition to Determine Controversy and admitted that he negotiated on behalf of Petitioners almost all of the agreements that were referred to in the Petition but denied the material allegations of the Petition regarding the claimed violations of the Artists' Managers Act and Talent Agency Act..

A hearing on the Petition was originally scheduled to commence on December 3, 1981. However, Respondent's original attorney of record, Tony Axam, ("Axam") requested a continuance of the hearing, and Petitioners' attorneys of record entered into a stipulation with Axam in which it was agreed that the hearing would commence on December 21, 1981.

On December 21, 1981, when the hearing on the Petition was scheduled to commence, Petitioner Richard Pryor and Petitioners' attorneys appeared at the hearing. However, neither Respondent nor his attorney, Axam, appeared at the hearing. An attorney from the office of Joseph E. Porter appeared at the hearing on December 21, 1981, and requested a

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1 continuance. The hearing was continued to February 8, 1982,  
2 pursuant to Respondent's Motion for a Continuance.<sup>3</sup> After  
3 Respondent obtained new counsel, the Law Offices of Joseph E.  
4 Porter, III, the hearing on the Petition was continued a third  
5 time to March 1, 1982. A request by Respondent for a fourth  
6 continuance of the hearing was denied. The hearing before the  
7 Labor Commissioner commenced on March 1, 1982, and continued  
8 through March 25, 1982, concluding after seven days of hearings.

9 Prior to the opening of Petitioners' case and the  
10 taking of evidence, Respondent made a Motion to Dismiss the  
11 Petition on the grounds that Petitioners were estopped to  
12 assert any claims against Respondent. The Motion to Dismiss  
13 the Petition was denied.

14 In addition, prior to the taking of evidence,  
15 Petitioners made a motion that the hearing be held as a  
16 confidential proceeding in order to maintain confidentiality of  
17 privileged communications. The Motion that the hearing be held  
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21 3/ As a condition of the order continuing the hearing,  
22 Respondent was also ordered to pay to Petitioners' attorneys,  
23 Lavelly & Singer, the sum of \$750, as reasonable attorneys fees  
24 incurred in preparing for and attending the hearing, and was  
25 also ordered to pay to Petitioner Richard Pryor the sum of \$600  
26 as costs incurred in connection with the continuance of the  
27 hearing. However, Respondent refused to pay any of the  
attorneys fees or costs which he was ordered to pay and as a  
result thereof, the Hearing Officer signed a Certified  
Statement of Facts regarding the Refusal of David Franklin to  
Obey the Lawful Order of the Labor Commissioner in connection  
with a contempt proceeding instituted against Respondent in the  
Los Angeles Superior Court.

1 as a confidential proceeding was granted. After the ruling on  
2 Respondent's Motion to Dismiss and Petitioners' Motion that the  
3 hearing be held as a confidential proceeding, the hearing  
4 commenced.

5 After Petitioners presented their case and rested,  
6 Respondent made a motion for a judgment pursuant to Code of  
7 Civil Procedure Section 631.8. The Motion for a judgment or  
8 determination in Respondent's favor was denied. The hearing  
9 continued and Respondent put on his evidence. After the  
10 conclusion of the hearing, a complete transcript was prepared,  
11 briefs were submitted by Petitioners and Respondent and the  
12 matter was submitted to the Hearing Officer for a determination.

13  
14 II.

15 ISSUES

16 The issues presented are twofold:

17 1. Did Respondent function as an artists'  
18 manager and talent agent as those terms are defined in the  
19 Labor Code without a license?

20 2. If so, what relief, if any, are Petitioners  
21 entitled to?

22 III.

23 APPLICABLE LAW

24 The law which will determine the outcome of the claims  
25 asserted by Petitioners is contained in Labor Code, Sections  
26 1700-1700.47, which was known as the Artists' Managers Act  
27 during part of the period of time in question in this

1 proceeding, until the Act was amended in 1978 when it became  
2 known as the Talent Agencies Act.

3 Section 1700.5 of the Artists' Managers  
4 Act<sup>4</sup> prohibits anyone from engaging in the occupation of an  
5 artists' manager or talent agent without having obtained a  
6 license from the California Labor Commissioner. Respondent has  
7 admitted that he never sought or obtained such a license during  
8 the almost five year period that he represented Petitioners.

9 One of the critical issues which will be discussed  
10 hereinbelow is whether Respondent performed services of an  
11 artists' manager or talent agent on Petitioners' behalf. An

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26 4/ All statutory citations will be to the California  
27 Labor Code unless otherwise specified.



1 artists' manager is defined in Section 1700.4 as:

2           "\* \* \*A person who engages in the  
3           occupation of advising, counseling, or  
4           directing artists in the development or  
5           advancement of their professional careers and  
6           who procures, offers, promises or attempts to  
7           procure employment or engagements for an  
8           artist only in connection with and as a part  
9           of the duties and obligations of such person  
10          under a contract with such artist by which  
11          such person contracts to render services of  
12          the nature above mentioned to such  
13          artist.\*\*\*"5

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15 5/           Effective January 1, 1979, Section 1700.4 was amended  
16 to read as follows:

17           "A talent agency is hereby defined to be  
18           a person or corporation who engages in the  
19           occupation of procuring, offering, promising  
20           or attempting to procure employment or  
21           engagements for an artist or artists. Talent  
22           agencies may, in addition, counsel or direct  
23           artists in the development of their  
24           professional careers.\*\*\*"

25           The services and conduct of Respondent that took place  
26           before January 1, 1979, will be judged based on the definition  
27           of "artists' manager" as it existed at that time; whereas,  
28           Respondent's services and conduct after January 1, 1979, will  
29           be weighed against the amended definition of "talent agency".  
30           It is noted, however, that the change of definition did not  
31           have any significant impact on the outcome of this case. Since  
32           none of the changes which the California Legislature passed in  
33           1978 is outcome-determinative on any of the issues in this  
34           case, we will, for ease of reference, use the term "Talent  
35           Agencies Act" (sometimes simply "the Act") to refer  
36           collectively to both the Artists' Managers Act and the Talent  
37           Agencies Act.

1 The Act, as supplemented by the California  
2 Administrative Code<sup>6</sup> and as interpreted in part by some  
3 significant California court decisions<sup>7</sup> establishes a  
4 comprehensive regulatory scheme governing the conduct of talent  
5 agents, including licensing requirements, investigation of  
6 character, conduct of business, bonding requirements, approval  
7 of contracts, posting of fees, verifying employer experience,  
8 maintaining books and records, prohibition of fee splitting and  
9 false advertising, and other regulatory provisions.

10 Respondent has not disputed the state of California's  
11 right and power to enforce this regulatory scheme, maintain its  
12 integrity, and protect artists from unlicensed talent agents.  
13 However, Respondent does dispute and deny that the services he  
14 rendered for Petitioners during the period 1975 through 1980  
15 were those of a talent agent. Notwithstanding this contention  
16 by Respondent, the dispute between Petitioners and Respondent  
17 is clearly a "controversy arising under [the Act]", as referred  
18 to in Section 1700.44, which controversy must be decided, in  
19 the first instance, by the Labor Commissioner. Buchwald vs.  
20 Superior Court, 254 Cal. App. 2d 347, 62 Cal. Rptr. 364, 372  
21 (1967); Garson vs. Division of Labor Law Enforcement, 33 Cal.  
22 2d 861, 864, 206 P.2d 368 (1949).

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23  
24 6/ Title 8, Article 6, Chapter 6, Group 3.

25 7/ Raden vs. Laurie, 120 Cal. App. 2d 778, 262 P.2d 61  
26 (1953); Buchwald vs. Superior Court, 254 Cal. App. 2d 347; 62  
27 Cal. Rptr. 364 (1967); and Buchwald vs. Katz, 8 Cal. 3d 493,  
105 Cal. Rptr. 368 (1972).

DISCUSSION AND FINDINGS

Respondent has admitted, and there is no question, that Pryor is an "artist" as that term is defined in Section 1700.4.

The next question, which was the principal issue in dispute in this proceeding, is whether Respondent acted as an artist's manager or talent agent in rendering services for Pryor or whether the services were rendered in a capacity, or capacities, other than that of an artist's manager/talent agent. We will first consider that portion of the definition of artists' manager in Section 1700.4 which deals with promises, representations, and the process of entering into an agreement concerning prohibited services. The evidence at the hearing clearly established that the Respondent promised to procure employment for Pryor, in all fields of entertainment. With regard to the contractual arrangements made between Pryor and Respondent, Pryor testified in some detail about conversations he had had with Respondent, in which Respondent promised and assured Pryor that he would get him work and would negotiate his employment agreements in the entertainment fields as well as handling Pryor's other business affairs.

Respondent was hired to perform those services and did in fact procure employment for Pryor for a period of almost five years, as will be discussed more fully hereinbelow.

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1 Respondent did not offer any evidence to challenge or  
2 contradict Pryor's testimony or the substance of the June 1,  
3 1975 memorandum that outlined some of the things that  
4 Respondent would do to procure employment for Petitioners. In  
5 fact, even Respondent's own sworn testimony<sup>8</sup> included an  
6 admission that he had made an oral agreement with Pryor "to  
7 represent him in his career endeavors, [and] negotiate  
8 contracts..." among other things, that Respondent was  
9 compensated for these services under his oral agreement with  
10 Pryor, and that during the period of Respondent's  
11 representation Pryor did not have any other agents or artists'  
12 managers.<sup>9</sup> There was additional evidence that Respondent had  
13 even referred to himself as Pryor's "agent" and had resisted  
14 attempts by other agents to establish an agency relationship  
15 with Pryor for the reason that he, Respondent, was already  
16 performing those services. Moreover, almost immediately upon  
17 beginning his representation of Petitioners, Respondent  
18 presided at the termination of the other representatives that  
19 Pryor had previously used to procure employment and Respondent  
20 also controlled the hiring of Petitioners other  
21 representatives,, including an accountant and attorneys who  
22 handled litigation, and corporate matters for Petitioners.

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24  
25 8/ Offered in the form of a deposition of Respondent  
26 taken in another proceeding.

27 9/ Exhibit "AAA", pp. 13-15.

1 The unchallenged and unimpeached evidence that  
2 Respondent did in fact promise and agree to procure employment  
3 for Petitioners, in violation of Section 1700.5, is also  
4 corroborated by the overwhelming and unrefuted evidence that  
5 Respondent actually did procure employment for Petitioners over  
6 a period of almost five years in motion pictures, television,  
7 live concerts and recordings, and was paid substantial sums of  
8 money for those services.

9 Pryor's testimony also followed the evolution or  
10 change in the contractual relationship between Respondent and  
11 Pryor, based on Pryor's increasing activity in motion pictures,  
12 which prompted Respondent to increase his own compensation  
13 because of his expectation of receiving more for additional  
14 responsibilities in procuring employment for Pryor in motion  
15 pictures, as well as in live concerts and in connection with  
16 sound recordings.

17 Now we will turn to the question as to whether  
18 Respondent's actual conduct or activity (as contrasted with his  
19 promises and representations) constituted procurement and  
20 attempted procurement of employment. Petitioners submitted  
21 testimony and documentary evidence, again unchallenged by  
22 Respondent, proving that Respondent had procured and attempted  
23 to procure employment for Pryor at Universal Studios, Paramount  
24 Pictures, Twentieth Century Fox Film Corporation, Columbia  
25 Pictures, Tandem Productions, Steven Krantz Productions, Hanna  
26 Weinstein Productions, Rastar Productions, Marble Arch  
27 Productions, Special Event Entertainment, Mel Brooks

1 Productions, Warner Bros. Records, National Broadcasting  
2 Company, and had set up a tour of approximately 75 live  
3 concerts throughout the United States.<sup>10</sup>

4 Respondent even admitted in his Response to the  
5 Petition and in his sworn deposition testimony that he had  
6 negotiated the employment agreements and engagements for  
7 Petitioners during the period 1975 through September 1980.  
8 Furthermore, Respondent's counsel conceded at the hearing that  
9 Respondent had been Petitioners' "sole and exclusive  
10 negotiator".

11 The evidence of Respondent's active and continuous  
12 participation in the process of negotiating the terms of  
13 Pryor's employment over the five year period would, standing

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17 10/ Respondent procured employment for Petitioners in  
18 connection with the following motion pictures: Adios Amigo,  
19 Bingo Long and the Travelling Allstars & Motor Kings, Cyrano de  
20 Bergerac, Greased Lightning, Which Way Is Up, Blue Collar,  
21 Silver Streak, California Suite, The Wiz, Car Wash, In God We  
22 Trust, Wholly Moses, The Muppet Movie, History of the World -  
23 Part I, Stir Crazy, Richard Pryor Live In Concert, Bustin'  
24 Loose, and the contract which eventually resulted in the  
25 Paramount release entitled "Some Kind Of Hero". In addition to  
26 motion pictures, Respondent procured employment for Pryor in  
27 connection with television specials on NBC and procured and  
renegotiated employment for Pryor in connection with sound  
recordings for Warner Bros. Records. Not only did Respondent  
procure employment for Pryor on motion picture, television, and  
sound recording engagements which actually came to fruition,  
but Respondent also attempted to procure employment for Pryor  
on some projects which were not made, including the Charlie  
Parker Story, Macho Man, Purple Heart, Nobody, Gordon  
Entertaining Nightly, Animal Farm, the writing of a book, a  
live concert film for Warner Bros., the Lilly Palmer film, and  
other projects.

1 alone, constitute sufficient evidence of unlawful procurement  
2 and attempted procurement to warrant and justify a finding that  
3 Respondent had engaged in the occupation of an artist's manager  
4 and talent agent without a license and in so doing had  
5 flagrantly violated the Act.

6 We reject Respondent's contention that to prove  
7 unlawful procurement or attempted procurement one must offer  
8 evidence of solicitation or an initiated contact. This  
9 argument runs afoul of well established principles which we  
10 choose to follow, namely, that the furthering of an offer  
11 constitutes a significant aspect of procurement prohibited by  
12 law since procurement includes the entire process of reaching  
13 an agreement on negotiated terms where the intended purpose is  
14 to market an artist's talent. These principles are totally in  
15 accordance with the purposes of the Act.

16 To use Respondent's narrow and restrictive  
17 interpretation of "procurement" would mean that many artists  
18 would lose much of the protection that the Act was intended to  
19 afford, particularly the most sought after artists whose  
20 services are in the greatest demand. We decline Respondent's  
21 invitation to adopt such a restrictive view, for the reasons  
22 mentioned herein.

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1                    However, we should note that even if we adopted  
2 Respondent's argument<sup>11</sup> we would still find that Respondent  
3 has committed numerous acts of unlawful procurement by  
4 soliciting employment for Pryor, that is by initiating contacts  
5 that were logically intended to market Pryor's talents as an  
6 artist and by initiating or demanding material changes in  
7 existing employment agreements.<sup>12</sup> Respondent offered no  
8 evidence to dispute or impeach Pryor's testimony that  
9 Respondent had even conceived and sought to implement an  
10 "overall strategy" with regard to Respondent's concurrently  
11 obtaining multiple picture commitments from various motion  
12 picture studios and producers, doing a live concert tour,

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14                    11/            That is, the argument that to constitute unlawful  
15 procurement there must be evidence of solicitation or initiated  
16 contact rather than just negotiations of an employment,  
initially proposed by an employer.

17                    12/            The testimony and documentary evidence established  
18 that Respondent had engaged in solicitation-type of conduct on  
19 the following projects among others: a writing and acting  
20 development deal and multiple picture agreement with Universal  
21 Studios, and a similar agreement with Paramount Pictures, a  
22 motion picture for Warner Bros. entitled "A Day In The  
23 Life...", a motion picture entitled "The Charlie Parker Story",  
24 a motion picture entitled "Bustin' Loose", 75 of the  
25 approximately 80 live concerts done by Pryor in 1978, the  
writing of a book based on comedy characters created by Pryor,  
26 a recording agreement and renegotiation and renewal of that  
27 agreement with Warner Bros. Records, a motion picture of a  
Richard Pryor live concert, a proposed film entitled "Nobody",  
several films that Respondent proposed to Warner Bros.  
Pictures, several motion pictures that Respondent proposed to  
Universal, the motion pictures "Bingo Long", "Bustin' Loose",  
"Blue Collar", "Nobody", and "Gordon Entertaining Nightly".

In addition, there was extensive testimony and  
documentation establishing that Respondent had often initiated  
requests to amend and sometimes significantly change or replace  
an employment agreement.



1 and doing recordings of Pryor's performances as well as a  
2 motion picture of a live concert, and juggling these various  
3 commitments to keep Pryor in demand, and keep employers on the  
4 hook. Respondent's both conceiving and implementing an  
5 "overall strategy" concerning Pryor's employment and career,  
6 represents an illustration of Respondent's dual activities in  
7 both advising, counseling or directing Pryor in the development  
8 or advancement of his professional career, while at the same  
9 time Respondent was engaged in procuring and attempting to  
10 procure employment for Pryor in various entertainment fields.

11 We reject Respondent's arguments wherein Respondent  
12 attempts to justify his engaging in unlawful procurement  
13 activities by characterizing those activities as the services  
14 of an attorney at law or an officer and general counsel of  
15 Richard Pryor Enterprises, Inc.<sup>13</sup> In exercising the Labor  
16 Commissioner's duty and power to "search out illegality lying  
17 behind the form in which a transaction has been cast for the  
18 purpose of concealing such illegality"<sup>14</sup> we find and determine  
19 that these characterizations by Respondent of his services in  
20 procuring employment for Petitioners constitute blatant  
21 subterfuge.

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25  
26 13/ The predecessor of Petitioner Indigo, Incorporated.  
27 14/ Buchwald vs. Superior Court, 62 Cal. Rptr. at p. 370.

1 Respondent admitted, in his sworn deposition testimony  
2 that was accepted into evidence, that he was not licensed to  
3 practice law in California or in Georgia and, thus, Respondent  
4 is not in a position to urge that he pursued his procurement  
5 activities as an attorney, since such a contention could invite  
6 both civil and criminal proceedings and since any underlying  
7 contract for such services would be void and unenforceable.  
8 Furthermore, Respondent did not offer evidence to support the  
9 contention that his procurement activities were, in actuality,  
10 the legal services of an attorney.

11 Because of these considerations, we do not need to  
12 reach the question as to whether Respondent's conduct would  
13 have constituted a violation of the Act if he had been licensed  
14 to practice law in the state of California -- a professional  
15 status which would have rendered him subject to another panoply  
16 of regulatory statutes, rules and judicial decisions.

17 As to those purely business and corporate matters  
18 which Respondent may have handled for Richard Pryor  
19 Enterprises, Inc. -- which we emphatically distinguish from  
20 services constituting procurement of employment -- we do not  
21 find a violation of the Act. However, the evidence established  
22 that the dominant purpose for the existence and use of Richard  
23 Pryor Enterprises, Inc., was to loan out or furnish Pryor's  
24 services, as an artist, and to obtain the benefits of  
25 advantageous tax planning. Thus, we find that almost all of  
26 the "corporate" business of Richard Pryor Enterprises, Inc. was  
27 the marketing of Pryor's services as an artist.

1 Respondent did not offer evidence as to any corporate  
2 services or purported legal services which he rendered for  
3 Richard Pryor Enterprises, Inc., which did not have the  
4 intended purpose of marketing Pryor's services and procuring  
5 employment for him.

6 Neither do we find that Respondent violated the Act by  
7 referring Petitioners' legal and corporate matters to be  
8 handled by other attorneys, such as Michael Ashburne and  
9 attorneys in Georgia. But these referral activities were  
10 certainly not the focal point, or even a significant aspect, of  
11 Respondent's services on behalf of Petitioners, and  
12 Respondent's attempts to characterize them as such must fail.  
13 To accept Respondent's arguments we would have to elevate form  
14 over substance, which would emasculate the Act and permit wide  
15 ranging abuses through subterfuge and artifice.

16 Having found that Respondent's conduct constituted  
17 unlawful procurement in violation of Section 1700.5, we now  
18 turn to Respondent's other violations of the Act.

19 Respondent used his position as Pryor's influential  
20 representative to secure for himself and some of Respondent's  
21 other entertainment clients, employment opportunities and other  
22 valuable consideration. Respondent did not attempt to refute  
23 Petitioners' evidence that Respondent had secured for himself  
24 the position of executive producer on the motion picture  
25 "Bustin' Loose", without having to render any services, by  
26 using his position and influence as Petitioners' sole  
27 representative, and thereby obtaining compensation for himself

1 in the amount of Seventy-Five Thousand (\$75,000) Dollars, which  
2 monies would have otherwise been payable to Petitioners for  
3 Pryor's services in the Film. Respondent further abused his  
4 position as Pryor's representative to obtain commitments from  
5 Paramount Pictures and from Warner Bros. Pictures to use  
6 Respondent as executive producer on motion pictures in which  
7 Pryor was to render acting services, under contracts which  
8 Respondent negotiated as Pryor's talent agent. We have taken  
9 into account this conduct evidencing conflict of interest and  
10 blatant self-dealing in fashioning an appropriate remedy, as  
11 will be discussed hereinbelow.

12 Another way in which Respondent violated his duties to  
13 Petitioners and abused his trust, and at the same time violated  
14 the Act, was his refusal to turn over Petitioners' books and  
15 records or to even permit inspection of the records. By  
16 maintaining the records which disclosed Respondent's  
17 involvement in Petitioners' contractual and financial affairs  
18 in Georgia, beyond the effective reach and subpoena power of the  
19 California Labor Commissioner, Respondent not only frustrated  
20 Petitioners' attempts to obtain records and information from  
21 Respondent, but thwarted the purpose of Section 1700.27 which  
22 requires that such books and records not only be available for  
23 inspection, but also, be furnished on request and be available  
24 for copying. The seriousness of this violation and abuse by  
25 Respondent is not lessened by the fact that Petitioners were  
26 able to obtain contractual and financial documents by

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subpenaing records from employers that had used Pryor's services under contracts procured by Respondent.

Finally, Respondent used and abused his position of trust and power, which included his principal role as Petitioners' talent agent, to obtain from motion picture producers and other employers substantial amounts of money which were payable to Petitioners in connection with Pryor's services as an artist. Petitioners offered evidence, which Respondent did not challenge or impeach, that Respondent did not account to Petitioners or return monies belonging to Petitioners amounting to more than One Million Eight Hundred Fifty Thousand (\$1,850,000) Dollars. It is precisely these types of egregious abuses that the Talent Agencies Act and the Administrative Code were intended to prevent.

We find and determine that because of Respondent's violations of the Act, as discussed above, the agreement between Petitioners and Respondent pursuant to which Respondent procured and attempted to procure employment for Pryor is void and unenforceable.

In view of the unconscionable and continuing wrongful conduct by Respondent including numerous acts of embezzlement, fraud and defalcation while acting in a fiduciary capacity, and in view of Respondent's numerous violations of the Act, we hold

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1 that this an appropriate case for the exercise of the broadest  
2 remedy of restitution.<sup>15</sup> Although the Petitioner did not  
3 specifically allege misappropriation of money by Respondent,  
4 that part of the Determination ordering that Respondent make  
5 restitution to Petitioners is warranted and justified for  
6 several reasons.

7 First, it was alleged in the Petition that Respondent  
8 receive "no less than" the designated sums of money referred to  
9 in the Petition, and Petitioners went on to allege that since  
10 the agreement was void and unenforceable and since Respondent  
11 had violated the Labor Code on repeated occasions throughout  
12 the period 1975 through 1980, all monies previously paid to  
13 Respondent by Petitioners "must be returned to Petitioners".  
14 In addition, in the prayer to the Petition, Petitioners request  
15 an accounting of all things of value received by Respondent  
16 from Petitioners during the period of representation and  
17 requested an order requiring Respondent to return to  
18 Petitioners all monies and things of value received

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19  
20 15/ Lewis & Queen vs. N.M. Ball & Sons, 48 Cal. 2d 141,  
21 150-151, 308 P.2d 713, 719 (1957); Homestead Supplies vs.  
22 Executive Life Insurance Company, 81 Cal. App. 3d 978, 990, 147  
23 Cal. Rptr. 22, 28-29 (1978); Buchwald vs. Superior Court, 254  
24 Cal. App. 2d at 357, 62 Cal. Rptr. at 371. The courts have  
25 recognized the broad powers of the Labor Commissioner to settle  
26 controversies arising out of the Artists' Managers Act. Garson  
27 vs. Division of Labor Law Enforcement, 33 Cal. 2d 861, 864, 206  
P.2d 363 (1949); Buchwald vs. Superior Court, 254 Cal. App. 2d  
347, 62 Cal. Rptr. 364, 371 (1967). There is a very strong  
presumption that the judicial construction and interpretation  
of these powers have been adopted by the legislature when the  
Act was amended in 1978. Greve vs. Leger, Ltd., 64 Cal. 2d  
853, 965, 52 Cal. Rptr. 9, 17; Buchwald vs. Superior Court, 62  
Cal. Rptr. at 371.

1 by Respondent pursuant to the agreement and/or in connection  
2 with the representation of Petitioners. Taken in context with  
3 the broad grant of power under the Labor Code, the allegations  
4 and prayer in the Petition are broad enough to permit an award  
5 by which Respondent is ordered to make full restitution of not  
6 only those monies which Respondent received with Petitioners'  
7 knowledge and consent but also the monies which Respondent  
8 wrongfully misappropriated without Petitioners' knowledge or  
9 consent.

10 Secondly, Petitioners proceeded at the hearing,  
11 without objection by Respondent, on the theory that the request  
12 for restitution of all monies and things of value received by  
13 Respondent included such amounts as had been misappropriated by  
14 Respondent. Respondent as much as conceded during the hearing  
15 that if it were determined that he had in fact acted as an  
16 unlicensed talent agent and was liable for unlawful procurement  
17 of employment in violation of the Labor Code, that the Labor  
18 Commissioner could order and require Respondent to make full  
19 restitution to Petitioners not only of compensation received  
20 with Petitioners' knowledge but also of monies misappropriated  
21 by Respondent. Expressed differently, by the conduct of the  
22 parties at the hearing and by Respondent's acquiescence and  
23 implied agreement, the Petition was amended to conform to the  
24 evidence with regard to the claim of misappropriation.

25 Thirdly, Petitioners and Respondent were requested to  
26 set forth all issues to be determined when they prepared the  
27 Post Hearing Memorandum of Points and Authorities. Respondent

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did not raise as an issue, or assert any legal argument, to the effect that Petitioners were barred from seeking recovery of monies in addition to the salary compensation on the grounds there was no specific allegation of misappropriation of such monies in the Petition. Rather, Respondent merely asserted that Petitioners had not proven that Respondent had been guilty of misappropriation or conversion with sufficient credible evidence and that there were claims of misappropriation in a legal proceeding pending in another jurisdiction which might result in a double recovery. We reject both of Respondent's arguments in that regard and find that Respondent waived any argument that the claim of wrongful misappropriation was not properly alleged in the Petition.

We find that Petitioners were not in pari delicto and that Respondent is solely culpable for the numerous violations of law and Petitioners do not share in any of the blame or guilt. As evidenced by a memorandum which was prepared for Respondent in 1975 and which discussed in detail the Artists' Managers Act and consequences of violating the Act, we conclude that Respondent even had actual knowledge of the Act and the regulatory scheme which Respondent then proceeded to disregard and violate in numerous respects.

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Accordingly, we grant restitution to Petitioners of all compensation which Respondent received from Petitioners for his services in procuring and attempting to procure employment, which we find to be the amount of Seven Hundred Fifty-Three Thousand Two Hundred Seventeen (\$753,217) Dollars<sup>16</sup>. In addition, we grant restitution to Petitioners of all monies which Respondent misappropriated from Petitioners and which would have been payable to Petitioners for services rendered by Pryor as an artist, or payable pursuant to contracts of employment negotiated for Petitioners by Respondent, which we

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16/ The order of restitution of all compensation previously paid to Respondent does not include an award of pre-judgment interest, which, at the legal rate of seven (7%) percent per annum would have amounted to almost Two Hundred Thousand (\$200,000) Dollars.

1 find to be the amount of One Million Eight Hundred Fifty  
2 Thousand Seven Hundred Seventy-Two (\$1,850,772) Dollars  
3 together with interest at the legal rate in the amount of Five  
4 Hundred Six Thousand Nine Hundred Twenty-Nine (\$506,929)  
5 Dollars.<sup>17</sup>

6 In determining the amount of monies misappropriated by  
7 Respondent and which related to Petitioners' employment, we  
8 considered the following circumstances and have granted  
9

10 17/ Since Respondent had been entrusted by Petitioners  
11 with fiduciary obligations and because of this relationship  
12 which required the highest degree of loyalty and trust,  
13 Respondent should have expected that an award against him for  
14 violation of the Labor Code, and for grossly abusing his  
15 position as a trusted fiduciary, would justifiably and  
16 necessarily include an order for restitution of the maximum  
17 amount allowed by law and justified by the evidence.  
18 Certainly, an award of interest on monies embezzled or  
19 misappropriated by Respondent over the years is justified and  
20 permitted by law and we find that this is an appropriate case  
21 to exercise our discretionary power to include an award of  
22 interest, but limited to the misappropriated monies. In fact  
23 it would be a clear injustice to Petitioners to allow  
24 Respondent to keep the interest on embezzled monies. An award  
25 of pre-judgment interest is proper under Civil Code Section  
26 3287 and Section 3336, since the amount and date of each  
27 misappropriation are known. Interest is allowable from the  
date of each misappropriation. Newberry vs. Evans, 97 Cal.  
App. 120, 275 P. 465 (1929); Murphy vs. Wilson, 153 Cal. App.  
2d 132, 314 P.2d 507 (1957); See also Cambrosa County Water  
District vs. Southwest Welding & Manufacturing Company, 49 Cal.  
App. 3d 951, 123 Cal. Rptr. 93 (1975); Levy-Zentner Company vs.  
Southern Pacific Transportation Company, 74 Cal. App. 3d 762,  
142 Cal. Rptr. 1 (1977). To be entitled to recover  
pre-judgment interest it is not necessary to have included an  
allegation or prayer in the Complaint or Petition. Shell  
Chemical Corp. vs. Owl Transfer Company, 173 Cal. App. 2d Supp.  
796, 344 P.2d 108, 114 (1959); Deaux vs. Trinidad Beam &  
Elevator Company, 8 Cal. App. 2d 149, 47 P.2d 535, 536 (1935).  
By not awarding pre-judgment interest to Petitioners on the  
return of compensation in the amount of \$753,217 we are, in  
effect, allowing Respondent to keep the sum of One Hundred  
Ninety-Seven Thousand Two Hundred Nine (\$197,209) Dollars.

1 restitution as to the following sums of money received by  
2 Respondent:

3 1. The sum of all checks from motion picture  
4 producers and other employers who used Pryor's services as an  
5 artist in the entertainment fields, which checks were deposited  
6 into Respondent's bank accounts, and amounted to the sum of One  
7 Million One Hundred Ten Thousand Six Hundred Eighty-Seven  
8 (\$1,110,687).<sup>18</sup>

10  
11 18/ The evidence showed that Respondent received the  
12 following checks belonging to Petitioners but for which  
13 Respondent never accounted to Petitioners and that Respondent  
never repaid these monies:

<u>DATE</u>	<u>PAYOR</u>	<u>AMOUNT</u>
8/21/79	Universal City Studios	\$ 70,000.00
4/24/80	Columbia Pictures	\$ 100,000.00
3/2/78	Warner Bros. Pictures	\$ 25,000.00
7/12/77	Warner Bros. Records	\$ 100,000.00
11/14/77	Warner Bros. Records	\$ 75,000.00
1/18/80	Warner Bros. Records	\$ 117,118.00
5/27/80	Warner Bros. Records	\$ 100,000.00
8/22/80	Warner Bros. Records	\$ 55,671.19
5/25/77	National Broadcasting Co.	\$ 25,000.00
3/11/80	Columbia Pictures	\$ 100,000.00
6/7/78	Columbia Pictures	\$ 15,000.00
7/16/77	Warner Bros.	\$ 25,000.00
8/31/79	Special Event Entertainment	\$ 50,000.00
9/2/77	Warner Bros. Records	\$ 20,000.00
3/20/78	Warner Bros. Records	\$ 16,505.64
8/25/79	Warner Bros. Records	\$ 1,926.03
2/26/79	Warner Bros. Records	\$ 4,462.92
8/15/79	Warner Bros. Records	\$ 4,469.37
9/27/79	Warner Bros. Records	\$ 16,454.06
2/13/80	Warner Bros. Records	\$ 5,602.47
11/20/75	Warner Bros. Records	\$ 1,500.00
11/21/75	Warner Bros. Records	\$ 60,000.00
9/2/77	Warner Bros. Records	\$ 100,000.00
9/2/77	Warner Bros. Records	\$ 20,000.00
	TOTAL.....	\$1,110,687.03

1                   2.    In addition to the evidence of  
2 misappropriated and embezzled funds, as reflected on the copies  
3 of checks which were obtained by Petitioners through subpoena of  
4 former employers' records, and admitted into evidence at the  
5 hearing, which transactions are enumerated in footnote 18,  
6 supra, Petitioners offered additional evidence of Respondent's  
7 defalcation and conversion of Petitioners' earnings through the  
8 testimony of John Carruth who had audited certain of  
9 Respondent's bank records covering a portion of the period that  
10 Respondent was acting as Petitioners' representative. Mr.  
11 Carruth's conclusions, based on his audit of those bank  
12 records, were set forth in an exhibit referred to throughout  
13 the hearing as the Carruth Report. Based on deposits into and  
14 disbursements from Respondent's bank account during the period  
15 February 11, 1977, through April, 1980, Respondent received One  
16 Million One Hundred Eight Thousand Three Hundred Thirty-Eight  
17 Dollars Thirty Cents (\$1,108,338.30) of Petitioners' earnings,  
18 consisting of payments which were to be made directly to  
19 Petitioners but were diverted by Respondent to his own bank  
20 account. The evidence established that Respondent only  
21 returned to Petitioners, or disbursed for their benefit, the  
22 sum of Three Hundred Eleven Thousand Seven Hundred Sixty-Three  
23 Dollars Twenty-Six Cents (\$311,763.26) from his bank account.  
24 The remaining sum of Seven Hundred Ninety Six Thousand Five  
25 Hundred Seventy-Five Dollars Four Cents (\$796,575.04)  
26 Respondent converted and misappropriated without Petitioners'  
27 knowledge and consent. After deducting those transactions or

1 deposits included among the list in footnote 18, supra, which  
 2 were also enumerated in the Carruth Report, the remaining sum  
 3 of Petitioners' earnings which Respondent misappropriated, as  
 4 reflected on the Carruth Report, amounts to Seven Hundred  
 5 Thirty-Three Thousand Nine Hundred Thirteen Dollars  
 6 Eighty-Eight Cents (\$733,913.88).<sup>19</sup> Therefore, we find that

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9  
 10 19/ As reflected on the Carruth Report, the following sums  
 11 of money were deposited by Franklin into his bank account in  
 12 Georgia on the dates indicated, which monies belonged to  
 13 Petitioners and represented Petitioners' earnings and would  
 14 have otherwise been payable directly to, and received by,  
 15 Petitioners. This list does not include some of the entries on  
 16 the Carruth Report which are already included in the list of  
 transactions set forth in footnote 18, supra. The reason that  
 some of the transactions reflected on the Carruth Report were  
 itemized in footnote 18 and dealt with separately is that  
 copies of the actual checks constituting those transactions  
 were admitted into evidence at the hearing. The following are  
 the balance of transactions reflected on the Carruth Report  
 constituting wrongful misappropriation by Respondent.

17 DATE

AMOUNT

18 1977

19	February 11	\$ 1,060.00
	February 22	2,626.50
20	March 2	9,016.00
	March 29	18,841.00
21	April 15	4,100.00
	June 1	4,000.00
22	June 10	4,000.22
	June 21	3,707.22
23	June 23	1,316.44
	September 9	7,500.00
24	September 12	1,500.00
	September 16	1,077.00
25	September 21	11,100.00
	October 10	100,000.00
26	October 11	7,146.30
	November 29	500.00
27	November 29	275.47

1 the total of Petitioners' monies misappropriated by Respondent  
 2 in the form of checks deposited into his account consisting of  
 3 the transactions enumerated in footnotes 18 and 19, amount to  
 4 One Million Eight Hundred Forty-Four Thousand Six Hundred  
 5 Dollars Ninety-One Cents (\$1,844,600.91). Since the sum of  
 6 Three Hundred Eleven Thousand Seven Hundred Sixty-Three Dollars  
 7 Twenty-Six Cents (\$311,763.26) was returned to Petitioners by  
 8 Respondent, or disbursed for their benefit, as reflected on the  
 9 / / / / / /

10  
 11 19 cont./

12 1978

13	January 3	3,895.00
14	March 7	223.90
15	June 6	9,242.25
16	July 11	29.12
17	September 21	4,854.15
18	October 26	35.04
19	November 15	2,617.96
20	December 18	2,000.00

21 1979

22	January 15	2,496.15
23	January 22	250,000.00
24	February 26	7,000.00
25	February 26	10,000.00
26	March 15	250,000.00
27	May 22	2,869.66
28	July 17	450.00
29	October 8	2,500.00
30	October 17	2,644.39
31	December 11	4,330.69

32 1980

33	February 11	<u>959.64</u>
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34 TOTAL.....\$ 733,913.88

1 Carruth Report, the net amount that Respondent wrongfully  
2 obtained, withheld and failed to account for, which we order  
3 Respondent to repay to Petitioners, is the sum of One Million  
4 Five Hundred Twenty-Three Thousand Eight Hundred Thirty-Three  
5 Dollars Sixty Cents (\$1,523,833.60)<sup>20</sup>.

6 3. Respondent must repay monies misappropriated  
7 from Petitioners' account at the Citizen's Trust Bank in

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14  
15 20/ In granting restitution as to monies proven to have  
16 been misappropriated, we did not include those transactions  
17 which were shown to be misappropriations of Pryor's investment  
18 monies, since the Act confers no jurisdiction over such  
19 transactions if they are not related to the artist's employment  
20 or the talent agent's unlawful procurement activities. For  
21 example, restitution is not granted as to the Sixty Thousand  
22 (\$60,000) Dollar check related to the purported Excaliber  
23 investment. Nor is Respondent ordered to repay Petitioners for  
24 any monies which he may have misappropriated or obtained  
25 through Pryor's investments in the Courtyard Shopping Center or  
26 Peyton Towers, since such transactions are beyond the  
27 jurisdiction of the Labor Commissioner. We do however grant  
restitution as to the Five Hundred Thousand (\$500,000) Dollars  
representing loan proceeds from the National Bank of Georgia,  
consisting of the two Two Hundred Fifty Thousand (\$250,000)  
Dollar transactions referred to in footnote 19, since  
Respondent obtained these monies by creating a Deferred  
Compensation Plan and channeling Petitioners' earnings from  
Warner Bros. Records to Respondent's own bank account through a  
purported loan from the National Bank of Georgia, supposedly  
for the purpose of deferring taxes. Restitution of such monies  
is clearly within the jurisdiction of the Labor Commissioner  
and is appropriate under the present circumstances.

1 Georgia totalling Thirty-One Thousand Nine Hundred Thirty-Seven  
2 Dollars and Seventy-One Cents (\$31,937.71), since those monies  
3 also represented earnings under Petitioners' contract with  
4 Warner Bros. Records which, for purported tax reasons, were  
5 channeled through the Citizen's Trust Bank account. As in the  
6 case of the two Two Hundred Fifty Thousand (\$250,000) Dollar  
7 "loans" in the form of checks issued by the National Bank of  
8 Georgia to Petitioners, and referred to in footnotes 19 and 20,  
9 the money which Respondent obtained from the Citizen's Trust  
10 Bank in the amount referred to above was, in effect, a payment  
11 by Warner Bros. Records to Petitioners for services rendered  
12 under the recording agreement that Respondent had procured and  
13 negotiated for Petitioners. The payments by Warner Bros.  
14 Records were merely structured, or disguised, as "loans",  
15 rather than payments under the employment agreement, to defer  
16 or delay recognition of income for tax purposes, at least as  
17 intended -- but more importantly, this device which was  
18 conceived and implemented by Respondent enabled Respondent to  
19 more easily embezzle monies from Petitioners and to conceal his  
20 actions until recently. We must and will disregard such sham  
21 transactions and order Respondent to repay Petitioners these  
22 misappropriated earnings.

23 4. Petitioners offered evidence which was not  
24 contradicted or challenged, that Respondent used Two Hundred  
25 Twenty Thousand (\$220,000) Dollars of monies from Warner Bros.  
26 Records which belonged to Petitioners and were payable for

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1 services rendered under the recording contract, to invest in a  
2 television cable company. This was established both by Pryor's  
3 testimony and by an August, 1979 Memorandum from Respondent.  
4 However, as indicated in the Carruth Report, based on the audit  
5 of some of Respondent's bank records, Respondent had also  
6 disbursed another Two Hundred Thousand (\$200,000) Dollars of  
7 Petitioners' monies, previously misappropriated by Respondent  
8 from Petitioners' earnings as an artist, purportedly for the  
9 same investment. Since Respondent failed to offer any evidence  
10 to account for the disbursement of the Two Hundred Twenty  
11 Thousand (\$220,000) Dollars of Petitioners' earnings under the  
12 Warner Bros. Records contract, we find that those monies were  
13 also wrongfully converted and misappropriated by Respondent,  
14 which actions were facilitated by his role as Petitioners'  
15 talent agent, and we order Respondent to repay Petitioners that  
16 sum of Two Hundred Twenty Thousand (\$220,000) Dollars.

17 5. Since we have determined that Respondent was  
18 able to secure the position of executive producer on "Bustin'  
19 Loose" only because of his position as Pryor's agent and in  
20 view of the producer's testimony that Respondent did not act as  
21 executive producer on the film, and in view of the testimony of  
22 Universal's executives that Respondent would not have been  
23 hired as executive producer but for the fact that he was  
24 Pryor's representative, we find and determine that the fee that  
25 Respondent received would have been part of Petitioners'  
26 compensation for Pryor's services in the film "Bustin Loose" if  
27 Respondent had not wrongfully diverted it to himself, and

1 therefore, we determine that Respondent is not entitled to keep  
2 the Seventy-Five Thousand (\$75,000) Dollars he received but  
3 must pay it over to Petitioners, since Petitioners were  
4 entitled to it in the first place. Respondent offered no  
5 evidence to challenge or refute Petitioners' claim and the  
6 evidence offered in support thereof that Respondent had  
7 obtained the executive producer fee only because of his  
8 representation of Pryor, that Respondent had not rendered any  
9 services as executive producer on the film, and that  
10 Petitioners would have received the additional sum of  
11 Seventy-Five Thousand (\$75,000) Dollars as compensation for  
12 Pryor's services in the film if Respondent had not obtained  
13 this fee through his self dealing.

14 6. As mentioned above, Petitioners are entitled  
15 to recover, and are hereby awarded, pre-judgment interest at  
16 the legal rate of 7% per annum on each of the amounts  
17 misappropriated by Respondent from the date of each  
18 misappropriation, which amounts to an additional Five Hundred  
19 Six Thousand Nine Hundred Twenty-Eight Dollars and Fifty-Seven  
20 Cents (\$506,928.57) as of June 21, 1982, with additional  
21 interest on the total sum accruing at the daily rate of Three

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1 Hundred Fifty-Four Dollars and Ninety-Four Cents (\$354.94).<sup>21</sup>

2  
3 21/ Because of the number of transactions involved, we  
4 have included the following schedule reflecting the interest  
5 accrued on each transaction through June 21, 1982. Some of the  
6 smaller amounts have been omitted. Thereafter, daily interest  
7 at the legal rate computed on the sum of \$1,850,772 equals  
8 \$354.94 per day.

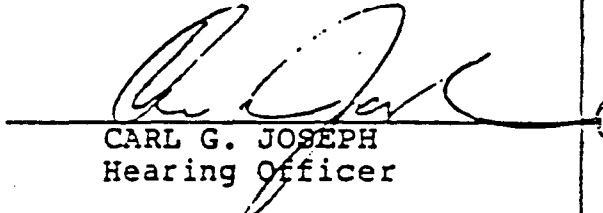
DATE	PAYOR	AMOUNT	ACCRUED INTEREST
8/21/79	Universal City Studios	\$ 70,000.00	\$ 13,881.08
8/24/80	Columbia Pictures	100,000.00	\$ 15,112.32
3/2/78	Warner Bros. Pictures	25,000.00	\$ 7,532.18
7/12/77	Warner Bros. Records	100,000.00	\$ 34,597.23
11/14/77	Warner Bros. Records	75,000.00	\$ 24,149.98
1/18/80	Warner Bros. Records	117,118.00	\$ 19,855.49
5/27/80	Warner Bros. Records	100,000.00	\$ 14,479.45
8/22/80	Warner Bros. Records	55,671.00	\$ 7,131.97
5/25/77	National Broadcasting Co.	25,000.00	\$ 8,879.45
3/11/80	Columbia Pictures	100,000.00	\$ 15,956.15
6/7/78	Columbia Pictures	15,000.00	\$ 4,240.27
7/16/77	Warner Bros. Pictures	25,000.00	\$ 8,630.13
8/31/79	Special Event Enter.	50,000.00	\$ 9,819.16
9/2/77	Warner Bros. Records	20,000.00	\$ 6,719.99
3/30/78	Warner Bros. Records	16,505.00	\$ 4,915.50
8/25/79	Warner Bros. Records	1,926.00	\$ 380.43
2/26/79	Warner Bros. Records	4,463.00	\$ 1,035.65
8/15/79	Warner Bros. Records	4,469.00	\$ 891.33
9/27/79	Warner Bros. Records	16,454.00	\$ 3,146.07
2/13/80	Warner Bros. Records	5,602.00	\$ 921.79
11/20/75	Warner Bros. Records	1,500.00	\$ 691.25
11/21/75	Warner Bros. Records	60,000.00	\$ 23,439.44
9/2/77	Warner Bros. Records	100,000.00	\$ 33,599.97
9/2/77	Warner Bros. Records	20,000.00	\$ 6,719.99
8/31/79	Warner Bros. Records	220,000.00	\$ 43,204.35
6/80	Citizen's Trust Bank (Warner Bros. Records Royalties)	31,938.00	\$ 4,416.16
1/31/80	Universal City Studios	75,000.00	\$ 12,528.07
10/77	Richard Pryor C.D.	100,000.00	\$ 32,468.47
11/15/77	Richard Pryor	75,000.00	\$ 24,135.60
6/6/78	Richard Pryor Enterprises/ Western Hemisphere Records	9,242.00	\$ 2,614.34
1/22/79	Nat'l Bank of Georgia (Warner Bros. Records Deferred Compensation)	250,000.00	\$ 59,691.78
2/26/79	UCB/Richard Pryor Enterprises	7,000.00	\$ 1,624.37
2/26/79	Special Event Enter./ Richard Pryor Enterprises	10,000.00	\$ 2,320.54
3/15/79	Nat'l Bank of Georgia/ (Warner Bros. Records Deferred Compensation)	250,000.00	\$ 57,198.62
			<u>\$506,928.57</u>

V.

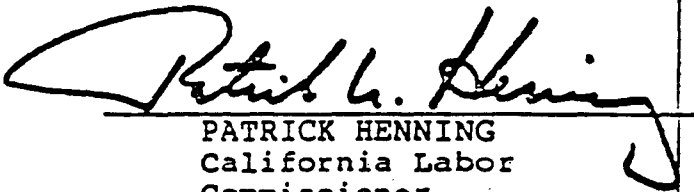
CONCLUSION

Accordingly, the agreement between Petitioners and Respondent is determined to be void and unenforceable and Respondent is ordered to pay to Petitioners the total sum of Three Million One Hundred Ten Thousand Nine Hundred Eighteen (\$3,110,918) Dollars, plus interest of seven (7%) percent per annum on the sum of One Million Eight Hundred Fifty Thousand Seven Hundred Seventy Two (\$1,850,772) Dollars accruing daily from June 21, 1982, at the rate of Three Hundred Fifty-Four Dollars and Ninety-Four Cents (\$354.94) per day.

DATED: July 27, 1982

  
CARL G. JOSEPH  
Hearing Officer

ADOPTED  
DATED: August 12, 1982

  
PATRICK HENNING  
California Labor  
Commissioner