STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
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BEFORE THE LABOR COMMISSIONER

STATE OF CALIFORNIA

GREGALAN WILLIAMS aka GREG ALAN WILLIAMS; TRAVIS ENTERTAINMENT, a Georgia corporation, Petitioners, vs. GREGG EDWARDS PERRIE individually and dba GREGG EDWARDS MANAGEMENT, Respondent.	**CASE NO.: TAC-52732** **DETERMINATION OF CONTROVERSY**

On November 9, 2020 and November 30, 2020, the above-captioned matter, a Petition to Determine Controversy under Labor Code section 1700.44, came before the undersigned attorney for the Labor Commissioner assigned to hear this case. Petitioner GREGALAN WILLIAMS, an individual (hereinafter, referred to as "Williams" or "Petitioner") was represented by Robert Ackermann. Respondent GREGG EDWARDS PERRIE (hereinafter, referred to as "Perrie" or "Respondent") appeared in pro per.

The matter was taken under submission. Based on the evidence presented at this hearing and on the other papers on file in this matter, the Labor Commissioner hereby adopts the following decision.

I. FINDINGS OF FACT

1. This case arises out of a dispute between an actor, Petitioner GregAlan Williams, and his former manager, Gregg Edwards Perrie. Williams alleges that Perrie acted as an unlicensed talent agent.

2. In 2016, Williams and Perrie entered into an oral agreement for Perrie to serve as Williams's manager.

3. The parties dispute the nature of the agreement. Williams testified that Perrie would help him procure work outside of the Southeast United States, as he wanted to increase his profile in Los Angeles. Williams maintained that Susan Tolar Walters, from STW Talent Agency, was his sole representative in the Southeast. In contrast, Perrie described the contract as a personal management contract in which he provided advice and counsel for Williams regardless of geography. He stated that he worked with Walters whenever he attempted to procure work for Williams.

4. In his role as manager, Perrie performed some typical managerial tasks for Williams. He reviewed which professional photographs Williams should use, ensured Williams had appropriate travel accommodations, and pushed Williams for awards.

5. By his own admission, Perrie also worked to obtain employment for Williams. During the two years that Perrie served as Williams's manager, Perrie submitted over 500 emails to casting on Williams's behalf. He called casting each time to ensure that casting received the emails and to pitch Williams personally to the casting directors. In an email to Williams, Perrie summarized that his "whole goal during this time was of course to try and get you [Williams] another series after Greenleaf ended…That had always been the goal and of course to work on movies as well."

6. Perrie had some success with these efforts. The parties identified four productions in which Perrie had a role in obtaining Williams employment: *Freshman Year*, *Chicago Med*, *My Brother's Keeper*, and *I See You*.

7. Walters seemed minimally involved in most of Perrie's submissions of Williams

for possible employment as well as the negotiation of the successful projects in which Perrie had a role.

8. For the over 500 submissions and employment opportunities, Perrie testified that Walters was consulted in each instance. The email correspondence presented by both parties does not support that testimony.

9. According to the email correspondence, Perrie and Walters did discuss employment opportunities for Williams in *Mr. Mercedes* and *My Brother's Keeper*; however, on the vast majority of projects, Perrie appears to have submitted Williams for employment opportunities and negotiated on Williams's behalf.

10. For example, in 2017, Perrie negotiated on behalf of Williams for the show *Chicago Med*. After "the original booking," he then asked Williams whether he wanted to "loop Susan in." Although Perrie did email Walters with Williams's permission, she does not appear to have been involved in the submission or the original booking of the show.

11. In 2018, Perrie also negotiated on behalf of Williams for the show *Freshman Year*. For these negotiations, Perrie emailed the casting agent with specific terms, including the amount per episode, the need for escrow upfront, as well as back end profits. Walters does not appears in any email correspondence regarding the negotiations for this show.

12. While the emails between Walters and Perrie reference being on the same "team," the majority of the emails concern Williams's scheduling for various productions as well as special events, including award shows and screenings.

13. In late 2018, Williams obtained employment with *Righteous Gemstones*, a series on HBO. Neither party disputes that Walters obtained this employment opportunity. Perrie testified that, as part of the management contract, he was entitled to—and did not receive—his ten percent. Williams testified that Perrie was not entitled to this booking as it was based out of the Southeast.

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II. LEGAL DISCUSSION

This case raises the following legal issues:

A. Has the Respondent procured entertainment engagements without a talent agency license under the Talent Agencies Act (the Act)?

B. Whether Respondent's actions on behalf of Petitioner fall within the activities described at Labor Code §1700.44(d), exempting persons conducting certain traditional talent agency functions from the licensing requirement?

C. If Respondent violated the Act, is the appropriate remedy to void the entire contract ab initio, or sever the offending practices under the principles articulated in *Marathon Entertainment, Inc. v. Blasi*, 42 Cal.4th 974 (2008)?

A. Did the Respondent Procure Entertainment Engagements without a Talent Agency License?

The first issue is whether, based on the evidence presented at this hearing, Perrie operated as a "talent agency" within the meaning of Labor Code section 1700.4(a). Based on the evidence and testimony presented at hearing, Perrie acted as a talent agency without a license by procuring entertainment engagements for Williams.

Labor Code section 1700.4(a) defines "talent agency" as:

> "a person or corporation who engages in the occupation of procuring, offering, promising, or attempting to procure employment or engagements for an artist or artists."

The term "procure," as used in this statute, means to get possession of: obtain, acquire, to cause to happen or be done: bring about." *Wachs v. Curry*, 13 Cal.App.4th 616, 628 (1993), *abrogated on other grounds as recognized by Marathon*, 42 Cal. 4th at 987. Thus, "procuring employment" under the statute includes attempting to attain employment on behalf of an artist, negotiating for employment, sending an artist's work to prospective employers and entering into discussions regarding employment contractual terms with a prospective employer.

Labor Code section 1700.5 provides that "[n]o person shall engage in or carry on the occupation of a talent agency without first procuring a license therefor from the Labor Commissioner." In *Waisbren v. Peppercorn Production, Inc.*, 41 Cal.App.4th 246 (1995), the court held that any single act of procuring employment subjects the agent to the Talent Agencies Act's licensing requirements, thereby upholding the Labor Commissioner's longstanding interpretation that a license is required for any procurement activities, no matter how incidental such activities are to the agent's business as a whole.

In contrast, a person may counsel and direct artists in the development of their professional careers, or otherwise "manage" artists – while avoiding any procurement activity (procuring, promising, offering, or attempting to procure artistic employment of engagements) – without the need for a talent agency license. In addition, such person may procure non-artistic employment or engagements for the artist, without the need for a license. *Styne v. Stevens*, 26 Cal.4th 42 (2001).

At the outset, it is undisputed that Perrie lacked a talent agency license from the Labor Commissioner and that Williams is an artist. The question is therefore whether Perrie "engaged in the occupation of procuring, offering, promising, or attempting to procure employment or engagements" for Williams.

Applying *Waisbren*, it is clear Respondent acted as a talent agency within the meaning of Labor Code section 1700.4(a). By his own admission, Perrie submitted Williams for over 500 employment opportunities and individually called casting directors to follow up on these submissions. He also procured at least four shows for Williams and performed the primary negotiations on at least three of those shows. It is also clear that the Respondent procured employment without a license in violation of Labor Code section 1700.5 on these occasions.

Generally, an agreement that violates the licensing requirements of the Talent Agencies Act is illegal and unenforceable. "Since the clear object of the Act it to prevent improper persons from becoming [talent agents] and to regulate such activity for the protection of the public, a contract between and unlicensed [agent] and an artist is void." *Buchwald v. Superior Court*, 254

Cal. App 2d 347, 351 (1967).

B. Did the Respondent Fall Under the Safe Harbor of Labor Code Section 1700.44(d)?

Perrie argues that any alleged procurement on his part was done in concert with or as part of a team, including Perrie and Walters. Perrie therefore argues his actions on Williams's behalf were exempt from licensure under the safe harbor provision at Labor Code section 1700.44(d). Consequently, the Commissioner must examine whether Perrie's procurement efforts on behalf of Williams fall within the activities described at Labor Code §1700.44(d), exempting persons conducting certain traditional talent agency functions from the licensing requirement.

Labor Code §1700.44(d) states:

> [I]t is not unlawful for a person or corporation which is not licensed pursuant to this chapter to act in conjunction with and at the request of a licensed talent agency in the negotiation of an employment contract.

When analyzing the legislative intent of Labor Code section 1700.44(d), the Commissioner must look at both legislative history and the statutory scheme within which the statute is to be interpreted. In 1982, AB 997 established the California Entertainment Commission. Labor Code Section 1702 directed the Commission to report to the Governor and the Legislature as follows:

> The Commission shall study the laws and practices of this state, the State of New York, and other entertainment capitals of the United States relating to the licensing of agents, and representatives of artists in the entertainment industry in general ... so as to enable the commission to recommend to the Legislature a model bill regarding this licensing.

Pursuant to statutory mandate, the Commission studied and analyzed the Talent Agencies Act in minute detail. The Commission concluded that the Talent Agencies Act of California is a sound and workable statute and that the recommendation contained in their report would, if enacted by the California Legislature, transform that statute into a model statute of its kind in the United States. All recommendations were reported to the Governor and subsequently signed into law.

The major and most difficult issue before the Commission, the discussion of which consumed a substantial portion of the time, was this first issue: When, if ever, may a personal manger or, for that matter, anyone other than a licensed Talent Agent, procure employment for an artist without obtaining a talent agent's license from the Labor Commissioner? (ommission Report at 15.

The Commission considered and rejected alternatives which would have allowed the personal manager to engage in "casual conversations" concerning the suitability of an artist for a role or part; and rejected the idea of allowing the personal manager to act in conjunction with the talent agent in the negotiation of employment contracts **whether or not requested to do so by the talent agent**. Commission Report at 18-19 (emphasis added).

As noted, all of these alternatives were rejected by the Commission. The Commission concluded:

> [I]n searching for the permissible limits to activities in which an unlicensed personal manger or anyone could engage in procuring employment for an artist without being license as a talent agent,... there is no such activity, there are no such permissible limits, and that the prohibitions of the Act over the activities of anyone procuring employment for an artist without being licensed as a talent agent must remain, as they are today, total. Exceptions in the nature of incidental, occasional or infrequent activities relating in any way to procuring employment for an artist cannot be permitted: one either is, or is not, licensed as a talent agent, and, if not so licensed, one cannot expect to engage, with impunity, in any activity relating to the service which a talent agent is licensed to render. There can be no 'sometimes' talent agent, just as there can be no 'sometimes' doctor or lawyer or any other licensed professional.

Commission Report at 19-20.

The Commission was very clear in its conclusion that a personal manager may not negotiate an employment contract unless that negotiation is done "at the request" of a licensed talent agent. The agent must advise the manager or request the manager's activity for each submission. At the minimum, an agent must be aware of the manager's procurement activity.

Based on this legislative history, the Labor Commissioner construes Labor Code Section

1700.44(d) narrowly. All elements of the statute must be independently met. The exemption is not satisfied when a licensed talent agent appears to finalize a deal after submission by the manager. The manager is relieved of liability when the manager "negotiates an employment contract," not solicits one, unless that solicitation is "at the request of" and "in conjunction with" a licensed talent agent. Here, the burden of proof is on the Respondent when invoking Labor Code section 1700.44(d).[1]

Perrie's procurement efforts do not fall under this safe harbor provision for several reasons.

First, Perrie failed to prove that Walters is a licensed talent agent in California. He did not present a talent agent search or put on Walters as a witness to testify to her license. Because Perrie did not prove that Walters was a talent agent during the relevant time period, he cannot prove that he acted "in conjunction with and at the request of" a talent agent.

Second, even if Walters were a licensed agent, Perrie has not proven that he acted in conjunction with and at the request of Walters. Neither party called Walters—arguably the key witness on this issue—to testify. The Commissioner therefore must look to the evidence provided by the parties and the parties' testimony.

For the vast majority of submissions and projects, Perrie has not proven that he acted in conjunction with and at the request of Walters. While Perrie credibly testified that he worked hard to find work for Williams, the evidence does not support his testimony that he worked at the request of Walters. He has not produced evidence that he asked Walters about twenty—much less 500—submissions or that he frequently checked with Walters whether he should call the casting director to ensure they obtained the submissions for employment. Except for *My*

[1] The proper burden of proof is found at Evidence Code §115 which states, "[e]xcept as otherwise provided by law, the burden of proof requires proof by preponderance of the evidence." Further, *McCoy v. Board of Retirement of the County of Los Angeles Employees Retirement Association*, 183 Cal.App.3d 1044, 1051 (1986) states, "the party asserting the affirmative at an administrative hearing has the burden of proof, including both the initial burden of going forward and the burden of persuasion by preponderance of the evidence." The "preponderance of the evidence" standard of proof requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence. *In re Michael G*. 74 Cal.Rptr.2d 642, 63 Cal.App.4th 700 (1998).

Brother's Keeper and *Mr. Mercedes*, the evidence failed to show that Perrie and Walters worked as a "team" to procure work, as is necessary to fall under this exception. Indeed, Perrie negotiated the terms for *Freshman Year* and asked Williams whether he should involve Walters *after* the original booking for *Chicago Med.* The evidence therefore does not support Perrie's claim that he fell under the safe harbor provision of Labor Code Section 1700.44(d).[2]

C. What is the Appropriate Remedy for Respondent's Violation of the Act?

In *Marathon Entertainment, Inc. v. Blasi*, 42 Cal.4th 974 (2008) (*Marathon*), the Supreme Court held that a violation of the Talent Agencies Act does not automatically require invalidation of the entire contract. The Court explained that the Act does not prohibit application of the equitable doctrine of severability and that therefore, in appropriate cases, a court is authorized to sever the illegal parts of a contract from the legal ones and enforce the parts of the contract that are legal. *Id*. at 990-96.

In accord with *Marathon*, Respondent urges the Commissioner to apply the doctrine of severability if the Commissioner concludes Respondent violated the Act in any of the identified engagements at issue herein. The Commissioner is unconvinced.

In discussing how severability should be applied in Talent Agencies Act cases involving disputes between managers and artists as to the legality of a contract, the Court in *Marathon* recognized that the Labor Commissioner may invalidate an entire contract when the Act is violated. The Court left it to the discretion of the Labor Commissioner to apply the doctrine of severability to preserve and enforce the lawful portions of the parties' contract where the facts so warrant. As the Supreme Court explained in *Marathon:*

> Courts are to look to the various purposes of the contract. If the central purpose of the contract is tainted with illegality, then the

[2] Perrie presented two witnesses that testified to Perrie's work as a manager on their behalf and how Perrie typically works with agents. The witnesses did not, and could not, testify to the specific relationship between Perrie and Walters. Moreover, to the degree the witnesses were intended to show the necessity of managers procuring work as part of their job, the Labor Commissioner's role is to enforce the Talent Agencies Act, not question or determine its wisdom.

> contract as a whole cannot be enforced. If the illegality is collateral to the main purpose of the contract, and the illegal provision can be extirpated from the contract by means of severance or restriction, then such severance and restriction are appropriate.
>
> [. . . .]
>
> Inevitably, no verbal formulation can precisely capture the full contours of the range of cases in which severability properly should be applied, or rejected. The doctrine is equitable and fact specific and its application is appropriately directed to the sound discretion of the Labor Commissioner and trial court in the first instance.

Marathon, 42 Cal.4th at 996, 998.

In assessing the appropriateness of severance, two important considerations are (1) whether the central purpose of the contract was pervaded by illegality and (2) if not, whether the illegal portions of the contract are such that they can be readily separated from those portions that are legal.

Here, the central purpose of the contract, as admitted by Perrie, was pervaded by illegality. In an email to Williams, Perrie stated that the "whole goal during this time was of course to try and get you [Williams] another series after Greenleaf ended…That had always been the goal and of course to work on movies as well." Perrie wrote this after categorizing all of the submissions that he had made on Williams's behalf. He did not emphasize managerial work, such as creating general industry connections or working in concert with Walters. While Perrie testified that he frequently counseled Williams on his career, the email correspondence as well as the testimony of both parties demonstrated that this was a peripheral part of Perrie's work for Williams.

Because, by Perrie's admission, the goal of his contract with Williams was to obtain Williams "another series," the contract was tainted by illegality. The Commissioner therefore cannot sever the agreement.

III. CONCLUSION

Perrie acted as an unlicensed talent agent for Williams. Because Perrie did not fall into the safe harbor in Labor Code Section 1700.44(d) and because the central purpose of the contract

was pervaded by illegality, the contract as a whole is null and void. Perrie has no rights to any monies arising from the contract.

Dated: January 4, 2021

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT

Casey Raymond Digitally signed by Casey Raymond Date: 2021.01.04 09:33:05 -08'00'

By: _____
CASEY RAYMOND,
Attorney for the Labor Commissioner

ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER

Dated: January 4, 2021

By: _____
LILIA GARCIA-BROWER
California State Labor Commissioner

PROOF OF SERVICE

(Code of Civil Procedure § 1013A(3))

STATE OF CALIFORNIA)
) S.S.
COUNTY OF LOS ANGELES)

I, Jhonna Lyn Estioko, declare and state as follows:

I am employed in the State of California, County of Los Angeles. I am over the age of eighteen years old and not a party to the within action; my business address is: 320 W. 4th Street, Suite 600; Los Angeles, California 90013.

On January __, 2021, I served the foregoing document described as: **DETERMINATION OF CONTROVERSY,** on all interested parties in this action as follows:

Robert Ackermann, Esq. LAW OFFICE OF ROBERT ACKERMANN 11040 Santa Monica Blvd., Ste. 320 Los Angeles, CA 90025 videolaw@aol.com	Gregg Edwards gemmngt@pacbell.net

☐ **(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our office address in Long Beach, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

☐ **(BY E-MAIL SERVICE)** I caused such document(s) to be delivered electronically via e-mail to the e-mail address of the addressee(s) set forth above.

☐ **(STATE)** I declare under penalty of perjury, under the laws of the State of California that the above is true and correct.

Executed this __th day of January 2021, at Los Angeles, California.

_____
Jhonna Lyn Estioko
Declarant