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DIVISION OF LABOR STANDARDS ENFORCEMENT By: FRANK C. S. PEDERSEN, Special Hearing Officer 525 Golden Gate Avenue - Room 606 San Francisco, California 94102

Telephone: (415) 557-2516

Attorneys for the Labor Commissioner

BEFORE THE LABOR COMMISSIONER

STATE OF CALIFORNIA

JOEL NICE, DAVID STRELZ, and MARK LARSEN,

Petitioners,) NO. TAC 22-81) SF MP 119

vs.

SKID ROW STUDIOS, INC.,

DETERMINATION

Respondents.

The above-entitled controversy came on regularly for hearing in San Francisco, California, on May 25, 1983, before the Labor Commissioner of the State of California by Frank C. S. Pedersen, Counsel for the Division of Labor Standards Enforcement, serving as Special Hearing Officer under the provisions of Section 1700.44 of the Labor Code of the State of California; petitioners appearing in person and by their attorney Allen Schwartz, and respondent not appearing. The Notice of Hearing addressed to respondent was returned, with no forwarding address.

Evidence, both oral and documentary, having been intro-

DURY PAPER "ATE OF CALIFORNIA D. 113 (REV. 8-72)

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RT PAPER TE OF CALIFORNIA 3, 313 (REV 8-73) duced and the matter having been reopened on May 12, 1983, for the submission of evidence by respondent because of the fact that respondent had a current mailing address on file with the Licensing Section at the time of the previous hearing. Petitioners did not desire to appear on May 12, 1983, and the matter being submitted on said date, the following determination is made:

It is the determination of the Labor Commissioner:

- 1. That respondent procured employment for petitioners at various locations in the San Francisco Bay Area in the months of May, June and July of 1981, at which time respondent was not licensed as a talent agency.
- 2. That petitioners were artists within the meaning of Section 1700.4 of the Labor Code and earned a total of \$1,008.00 from the bookings arranged by respondent, none of which earnings were ever paid to petitioners by respondent save and excepting the sum of \$75.00.
- 3. Respondent is therefore directed to pay to petitioners the sum of \$933.00.
- 4. That the oral contracts between the parties of April 4, 1981 and June 1, 1981 are unenforceable by respondent.

I

INTRODUCTION

On October 8, 1981 petitioners filed a Petition to Determine Controversy pursuant to Labor Code Section 1700.44 alleging that respondent had, acted as a talent agency and failed to pay petitioners monies collected for their bookings.

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COURT PAPER STATE OF CALIFORNIA STD. 113 (REV. 8-72) Respondent filed a response denying that it took monies due petitioners.

II

DISCUSSION

Petitioners submitted a financial statement and testimony in support of said financial statement which showed that respondent had procured employment for petitioners on nine (9) different occasions for a total earnings of \$1,008.00 and that none of said money was ever paid to petitioners save \$75.00 from an engagement on June 25, 1981 at Niles Station, Fremont.

Dennis Barry appeared for respondent at the hearing of May 12, 1983, alleging he was a stockholder of respondent and that he was in the process of dissolving the corporation. He denied the allegations of petitioners and denied that Tony Van Lit, the former president of respondent, had ever received any money from the engagements of petitioners. He conceded that his testimony was entirely told to him by Tony Van Lit or others and that he could not testify directly to the above alleged facts.

The Hearing Officer now makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

- 1. The petitioners were artists within the definition of Labor Code Section 1700.4.
- 2. Respondent was not licensed as a talent agency during the period of time the bookings for the petitioners

were made.

- 3. Respondent was paid the sum of \$1,008.00 from the bookings, none of which amount save \$75.00 was paid to petitioners.
- 4. All evidence introduced by respondent was hearsay evidence which will not support a finding.

CONCLUSIONS OF LAW

- 1. The contracts entered into on April 4, 1981 and June 1, 1981, are of no force and effect and respondent is not entitled to recover anything under said contracts.
- Respondent is ordered to pay to petitioners the sum of \$933.00.

DATED: June 22, 1983.

Frank C. S. Pedersen Special Hearing Officer

ADOPTED: UNAR 23 1983

Or Robert Simpson

Labor Commissioner State of California

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