

1 **STATE OF CALIFORNIA**
Department of Industrial Relations
2 Division of Labor Standards Enforcement
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5 Attorney for the Labor Commissioner
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8 **BEFORE THE LABOR COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**
10

11 MIKE LANE,
12
13 Petitioner,

CASE NO. TAC 14-03

**DETERMINATION OF
CONTROVERSY**

14 vs.

15
16 DAVID SEALS AKA BELLADONNA
MANAGEMENT,
17
18 Respondent.

19 The above-captioned matter, a petition to determine controversy under Labor Code
20 §1700.44, came on regularly for hearing on December 19, 2005 in Los Angeles, California,
21 before the undersigned attorney for the Labor Commissioner assigned to hear this case.

22 Petitioner MIKE LANE appeared in pro per. Respondent DAVID SEALS AKA
23 BELLADONNA MANAGEMENT, who was properly served with the petition, failed to
24 appear.

25 Based on the evidence presented at this hearing and on the other papers on file in this
26

1 matter, the Labor Commissioner hereby adopts the following decision.

2 **FINDINGS OF FACT**

3 1. Petitioner MIKE LANE, (hereinafter, referred to as "petitioner"), is an actor.

4 2. Respondent DAVID SEALS a.k.a. BELLADONNA MANAGEMENT,
5 (hereinafter, referred to as "respondent"), is not licensed as a talent agent in the State of
6 California.

7 3. On or about September 1, 2002, petitioner and respondent entered into an oral
8 contract wherein respondent promised to procure employment for petitioner as an actor in
9 exchange for which petitioner promised to pay respondent a commission on all earnings.

10 4. Pursuant to the parties' oral contract, in early September of 2002, respondent
11 procured employment for petitioner as an actor on a Coors Light television commercial
12 entitled "Wonderful World," (hereinafter, referred to as "the commercial").

13 5. On September 5, 2002, petitioner performed services as an actor on the
14 commercial.

15 6. In accordance with their oral contract, petitioner directed that payment of his
16 salary and residuals be sent to respondent, with the understanding that respondent would
17 then forward monies due to petitioner.

18 7. Since September 23, 2002, residuals totaling \$4,774.49¹ have been issued to
19 petitioner in the care of respondent. Respondent has cashed all the checks received on behalf
20 of petitioner but has failed to pay petitioner any amounts.

21 _____
22 ¹The evidence provided at the hearing shows that the following gross amounts were paid to
23 respondent on behalf of petitioner, on the following dates: \$500.00 paid on 9/30/02; \$414.75 paid on
24 10/24/02; \$97.35 paid on 10/30/02; \$389.40 paid on 10/30/02; \$831.36 paid on 10/30/02; \$292.05 paid
25 on 11/04/02; \$186.60 paid on 11/21/02; \$93.30 paid on 11/27/02; \$46.65 paid on 11/27/02; another
26 \$93.30 paid on 11/27/02; \$1,113.13 paid on 12/02/02; \$93.30 paid on 12/04/02; \$500.00 paid on
27 12/4/02; and \$93.30 paid on 12/6/02 for a total of \$4,774.49.

1 8. Petitioner has repeatedly requested payment of all residuals collected by
2 respondent on petitioner's behalf, to no avail.

3 9. Petitioner's residual earnings were reflected on petitioner's 2002 W-2 Wage
4 and Tax statement.

5 LEGAL ANALYSIS

6 1. Petitioner, an actor, is an "artist" within the meaning of Labor Code
7 §1700.4(b).

8 2. Labor Code §1700.4(a) defines "talent agency" as "a person or corporation
9 who engages in the occupation of procuring, offering, promising, or attempting to procure
10 employment or engagements for an artist or artists."

11 3. Labor Code §1700.5 provides that "[n]o person shall engage in or carry on the
12 occupation of a talent agency without first procuring a license...from the Labor
13 Commissioner."

14 4. The uncontroverted evidence established that respondent procured
15 employment for petitioner as an actor on a Coors Light commercial without having obtained
16 a license as a talent agent from the State of California. As such, respondent is in violation of
17 the Talent Agencies Act.

18 5. An agreement that violates the licensing requirement of the Talent Agencies
19 Act is illegal and unenforceable. "Since the clear object of the Act is to prevent improper
20 persons from becoming [talent agents] and to regulate such activity for the protection of the
21 public, a contract between an unlicensed [agent] and an artist is void." *Buchwald v. Superior*
22 *Court* (1967) 254 Cal.App.2d 347, 351. Since respondent engaged in procurement activities
23 without the requisite talent agency license, the agreement between the parties is void *ab*
24 *initio*, and respondent has no enforceable rights thereunder.

25 6. The evidence established that respondent received residuals totaling \$4,774.49
26 on behalf of petitioner and continues to withhold said monies from petitioner. Since the
27

1 contract between the parties is void *ab initio*, petitioner is entitled to restitution of all fees
2 collected by respondent on petitioner's behalf.

3 **ORDER**

4 For the reasons set forth above, IT IS HEREBY ORDERED that the oral contract
5 between petitioner and respondent is void *ab initio*, that respondent has no enforceable rights
6 thereunder, and that respondent pay petitioner restitution in the sum of \$6,263.42 reflecting
7 \$4,774.49 in residuals respondent collected on behalf of petitioner plus \$1,488.93 in legal
8 interest, (10%), calculated from the date each residual check was received from respondent,
9 (see footnote 1 of this decision), to the date of this decision, December 30, 2005.

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12 Dated: December 30, 2005


EDNA GARCIA EARLEY
Special Hearing Officer

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15 **Adopted:**

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17
18 Dated: 12/30/05


ROBERT JONES
Acting State Labor Commissioner

