

1 EDNA GARCIA EARLEY, Bar No. 195661
STATE OF CALIFORNIA
2 DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
3 320 W. 4th Street, Suite 430
Los Angeles, California 90013
4 Telephone: (213) 897-1511
Facsimile: (213) 897-2877

5 Attorney for the Labor Commissioner
6
7

8 **BEFORE THE LABOR COMMISSIONER**
9 **OF THE STATE OF CALIFORNIA**
10

11 JENNIFER DIMASE, on behalf of minor
12 JAMES DIMASE,

13 Petitioner;

14 vs.
15

16 JET SET ENTERPRISES, LLC; JET SET
17 WORLD, LLC,

18 Respondents.
19

CASE NO. TAC 26207

**DETERMINATION OF
CONTROVERSY**

20 The above-captioned matter, a Petition to Determine Controversy under
21 Labor Code §1700.44, came on regularly for hearing on July 24, 2012 in Los Angeles,
22 California, before the undersigned attorney for the Labor Commissioner assigned to hear
23 this case. Petitioner JENNIFER DIMASE, on behalf of minor JAMES DIMASE
24 appeared in pro per. Respondents JET SET ENTERPRISES, LLC; JET SET WORLD,
25 LLC were properly served with the Petition but failed to appear.

26 Based on the evidence presented at this hearing and on the other papers on
27 file in this matter, the Labor Commissioner hereby adopts the following decision:
28

FINDINGS OF FACT

1
2 1. Petitioner JENNIFER DIMASE, (hereinafter, "Petitioner"), is the
3 mother of minor, JAMES DIMASE and files this petition on his behalf.

4 2. Respondent JET SET ENTERPRISES, LLC is a licensed talent
5 agency currently operating under Talent Agency license number 105270.¹

6 3. In April 2008, Petitioner agreed to have Respondents JET SET
7 ENTERPRISES, LLC and JET SET WORLD, LLC, (hereinafter, "Respondents") act as a
8 talent agent for her minor son. From 2008 until November 2011, Respondents booked
9 various print and commercial jobs for minor JAMES DIMASE and always forwarded
10 payments received from third party employers to Petitioner less Respondents'
11 commission.

12 4. Respondents charged a 20% commission on all print jobs procured
13 for minor JAMES DIMASE.

14 5. On November 8, 2011 and November 11, 2011, minor JAMES
15 DIMASE worked on a print job for *The Children's Place*, which was booked by
16 Respondents. Petitioner provided two invoices for this job showing the amounts earned
17 and owed to minor JAMES DIMASE for this job. The first invoice showed that minor
18 JAMES DIMASE earned \$350.00 less 20% commission for a total of \$280.00 owed for
19 work performed on November 8, 2011. The second invoice showed that minor JAMES
20 DIMASE earned \$200.00 less 20% commission plus a \$50.00 travel reimbursement for a
21 total of \$210.00 owed for work performed on November 11, 2011.

22 6. Petitioner provided a copy of her written contract with Respondents
23 granting Respondents the authority to collect and receive all sums payable to her minor
24 son, JAMES DIMASE.

25 7. Petitioner testified that she never received the aforementioned
26 payments from Respondents even after learning that the payments had been made to

27 ¹ The evidence established that licensed talent agency JET SET ENTERPRISES, LLC also
28 operates as JET SET WORLD, LLC. Absent any evidence to the contrary, for purposes of
this petition, they will be treated as the same entity.

1 Respondents by *The Children's Place* approximately 1 month after the job, as was
2 standard practice. Petitioner also testified that she called and emailed Respondents
3 numerous times to inquire about the payments, to no avail.

4 8. Petitioner filed the instant Petition to Determine Controversy on February
5 10, 2012 seeking a total of \$490.00 for both print jobs that her minor son performed on
6 November 8 and 11, 2011 for *The Children's Place*.

7 LEGAL ANALYSIS

8 1. Minor, JAMES DIMASE is a model and therefore, is an "artist"
9 within the meaning of Labor Code §1700.4(b).

10 2. Respondents are a licensed talent agency. Labor Code §1700.25(a)
11 provides:

12 (a) A licensee who receives any payment of funds on
13 behalf of an artist shall immediately deposit that
14 amount in a trust fund account maintained by him or
15 her in a bank or other recognized depository. The
16 funds, less the licensee's commission, shall be
17 disbursed to the artist **within 30 days after receipt**.
However, notwithstanding the preceding sentence, the
licensee may retain the funds beyond 30 days of receipt
18 in either the following circumstances:

19 (1) To the extent necessary to offset an
20 obligation of the artist to the talent agency that is
then due and owing.

21 (2) When the funds are the subject of a
22 controversy pending before the Labor
23 Commissioner under Section 1700.44
concerning a fee alleged to be owed by the artist
to the licensee.

24 The evidence presented establishes that Respondents received payment for the two
25 print jobs at *The Children's Place* performed by minor JAMES DIMASE on November 8,
26 2011 and November 11, 2011 and failed to turn over a total of \$490.00 (\$280 for 11/8/11
27 and \$210 for 11/11/11) to Petitioner JENNIFER DIMASE.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Labor Code §1700.25(e) provides:

If the Labor Commissioner finds, in proceedings under Section 1700.44, that the licensee's failure to disburse funds to an artist within the time required by subdivision (a) was a willful violation, the Labor Commissioner may, in addition to other relief under Section 1700.44, order the following:

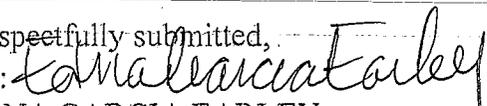
- (1) Award reasonable attorney's fees to the prevailing artist.
- (2) Award interest to the prevailing artist on the funds wrongfully withheld at the rate of 10 percent per annum during the period of the violation.

Respondents' failure to pay Petitioner the outstanding monies owed constitutes a willful violation under Labor Code §1700.25(e). Respondents have failed to pay the amounts owed to date. Accordingly, we award Petitioner \$490.00 plus \$27.52 in interest (calculated at 10 percent per annum from January 11, 2012² to the present) for a total of \$517.52.

ORDER

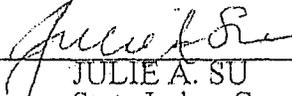
For the foregoing reasons, Petitioner JENNIFER DIMASE on behalf of minor, JAMES DIMASE is entitled to collect \$517.52 from Respondents JET SET ENTERPRISES, LLC and JET SET WORLD, LLC.

DATED: August 7, 2012

Respectfully submitted,
By: 
EDNA GARCIA EARLEY
Attorneys for the Labor Commissioner

ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER

Dated: August 6, 2012.

By: 
JULIE A. SU
State Labor Commissioner

² January 11, 2012 is 30 days from the date Respondents would have received payment from *The Children's Place*, approximately 30 days from date of the last job performed by minor JAMES DIMASE on November 11, 2011.

