

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 ROBERT STEVEN LONGMUIR,

CASE NO. TAC 10367

12  
13 Petitioner,

**DETERMINATION OF  
CONTROVERSY**

14 vs.

15  
16 ADVANCE LOS ANGELES,

17 Respondent.  
18

19 The above-captioned matter, a Petition to Determine Controversy under  
20 Labor Code §1700.44, came on regularly for hearing on April 23, 2009 in Los Angeles,  
21 California, before the undersigned attorney for the Labor Commissioner assigned to hear  
22 this case. Petitioner ROBERT STEVEN LONGMUIR appeared in pro per. Respondent  
23 ADVANCE LOS ANGELES, who was properly served with the Petition, failed to appear.

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

26 ///

27 ///

28

1 **FINDINGS OF FACT**

2 1. Petitioner ROBERT STEVEN LONGMUIR, (hereinafter,  
3 “LONGMUIR”), is a professional actor.

4 2. During the relevant time period, Respondent ADVANCE LOS  
5 ANGELES, (hereinafter, “ADVANCE L.A.”), was not licensed as a talent agent with the  
6 Labor Commissioner’s office.

7 3. On or about August 14, 2007, the parties entered into an oral contract  
8 wherein ADVANCE L.A. agreed to represent LONGMUIR as his talent agent in  
9 exchange for LONGMUIR paying ADVANCE L.A. 15% commissions on all earnings  
10 received on work procured by ADVANCE L.A.

11 4. In February, 2008, ADVANCE L.A. procured a Mr. Rooter  
12 television commercial for LONGMUIR. LONGMUIR shot the commercial on February  
13 27, 2008. LONGMUIR earned \$3,000.00 for his work on this commercial.

14 5. LONGMUIR produced evidence at the hearing showing that the  
15 production company, McKee Wallwork Cleveland, sent LONGMUIR’S \$3,000.00  
16 earnings to ADVANCE L.A. on April 16, 2008.

17 6. LONGMUIR also produced emails at the hearing where ADVANCE  
18 L.A. acknowledges receiving \$3,000.00 from the production company for LONGMUIR’S  
19 services on the Mr. Rooter television commercial. In the emails, which are addressed to  
20 LONGMUIR, ADVANCE L.A. promises to cut LONGMUIR a check, but, to date, has  
21 failed to pay LONGMUIR the \$3,000.00 earnings collected on his behalf for the Mr.  
22 Rooter television commercial.

23 **LEGAL ANALYSIS**

24 1. LONGMUIR, a professional actor, is an “artist” within the meaning  
25 of Labor Code §1700.4(b).

26 2. Labor Code §1700.4(a) defines “talent agency” as “a person or  
27 corporation who engages in the occupation of procuring, offering, promising, or  
28

1 attempting to procure employment or engagements for an artist or artists, except that the  
2 activities of procuring, offering or promising to procure recording contracts for an artist or  
3 artists shall not of itself subject a person or corporation to regulation and licensing under  
4 this chapter.” Labor Code §1700.5 provides that “[n]o person shall engage in or carry on  
5 the occupation of a talent agency without first procuring a license...from the Labor  
6 Commissioner.”

7 3. The evidence establishes that ADVANCE L.A. was not licensed as a  
8 talent agency when it procured the Mr. Rooter commercial for LONGMUIR, or any time  
9 thereafter.

10 4. The evidence also establishes that ADVANCE L.A. collected  
11 \$3,000.00 in payment issued by McKee Wallwork Cleveland to LONGMUIR for work  
12 performed on the Mr. Rooter television commercial, which ADVANCE L.A. procured for  
13 LONGMUIR. To date, ADVANCE L.A. has failed to pay this amount to LONGMUIR  
14 despite numerous requests by LONGMUIR via email and telephone as well as the filing  
15 of this petition on August 15, 2008.

16 5. LONGMUIR is entitled to disgorgement of the entire \$3,000.00  
17 earnings. The oral contract between LONGMUIR and ADVANCE L.A. is deemed void  
18 *ab initio* and ADVANCE L.A. is not entitled to any commissions since it procured this  
19 employment for LONGMUIR without being licensed as a talent agency, in violation of  
20 the Talent Agencies Act. *Marathon Entertainment Inc. v. Rosa Blasi* (2008) 42 Cal.4<sup>th</sup>  
21 974.

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

**ORDER**

For the foregoing reasons, the oral contract between Respondent ADVANCE LOS ANGELES and Petitioner ROBERT STEVEN LONGMUIR is deemed void *ab initio*. Respondent ADVANCE LOS ANGELES is hereby ordered to disgorge to Petitioner ROBERT STEVEN LONGMUIR, the entire \$3,000.00 fee collected on Petitioner ROBERT STEVEN LONGMUIR'S behalf, in connection with the Mr. Rooter television commercial.

DATED: August 31, 2009

Respectfully submitted,

By: David Belfor Edna Garcia Earley  
EDNA GARCIA EARLEY  
Attorneys for the Labor Commissioner

**ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER**

Dated: August 31, 2009

By: Angela Bradstreet  
ANGELA BRADSTREET  
State Labor Commissioner

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 COUNTY OF LOS ANGELES ) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and  
5 not a party to the within action. My business address is DIVISION OF LABOR STANDARDS  
6 ENFORCEMENT, Department of Industrial Relations, 320 W. 4<sup>th</sup> Street, Suite 430, Los Angeles, CA  
7 90013.

8 On September 2, 2009, I served the following document described as:

9 **DETERMINATION OF CONTROVERSY**

10 on the interested parties in this action [ TAC 10367 ] by placing

11  the originals

12  a true copy thereof enclosed in a sealed envelope addressed as follows:

13 Robert Steven Longmuir  
14 12800 Moorpark Street, #10  
15 Studio City, CA 91604

16 Advance Los Angeles  
17 Terri Gammons, Manager  
18 Vance Payton, CEO  
19 7904 Santa Monica Blvd., Ste. 200  
20 West Hollywood, CA 90046

21  BY MAIL I deposited such envelope in the United States Mail at Los Angeles, California,  
22 postage prepaid.

23  BY MAIL I am readily familiar with the firm's business practice of collection and processing  
24 of correspondence for mailing with the United States Postal Service and said correspondence  
25 is deposited with the United States Postal Service the same day.

26 Executed on September 2, 2009 at Los Angeles, California. I declare under penalty of perjury  
27 the foregoing is true and correct.

28 \_\_\_\_\_  
Lici Morales Garcia