

1 STATE OF CALIFORNIA
2 DEPARTMENT OF INDUSTRIAL RELATIONS
3 DIVISION OF LABOR STANDARDS ENFORCEMENT
4 William A. Reich, Esq. (SBN 51397)
5 1901 N. Rice Avenue, Suite 200
6 Oxnard, California 93030
7 Telephone No. (805) 973-1244
8 Facsimile No. (805) 973-1251

9 Special Hearing Officer for the Labor Commissioner

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA

11 BJANKA MURGEL,

12 Petitioner,

13 vs.

14 THE PINKERTON MODEL AND TALENT
15 COMPANY, LLC aka PINKERTON MODEL
AND TALENT CO., LLC,

16 Respondent.

CASE NO.: TAC-33185

DETERMINATION OF
CONTROVERSY

19 The above-captioned matter, a petition to determine controversy under Labor Code
20 §1700.44, came on regularly for hearing on June 2, 2015 in Los Angeles, California,
21 before the undersigned attorney for the Labor Commissioner assigned to hear this case.
22 Petitioner BJANKA MURGEL (hereinafter "Petitioner") appeared personally, along with
23 her representative, New York attorney Raymond J. Markovich, who stood in for
24 Petitioner's attorney of record, Peter M. Hoffman. Respondent THE PINKERTON
25 MODEL AND TALENT COMPANY, LLC aka PINKERTON MODEL AND TALENT
26 CO., LLC (hereinafter "Respondent"), having filed a response to the petition, failed to
27 appear for the hearing.

1 payment of \$5,000.00. Once Petitioner completed the work, a check for \$5,000.00 was
2 sent to Respondent.

3
4 c. The third engagement was the Volvo Motors project on March 3,
5 2013, for which Petitioner was to be paid the net amount of \$1,000.00 after deducting
6 Respondent's 20% commission of \$250.00 from the gross payment of \$1,250.00. After
7 the work was completed by Petitioner, a check for \$1,250.00 was sent to Respondent.

8
9 d. The fourth engagement was the Jacob's Coffee project on April 3
10 and 4, 2013, for which Petitioner was to be paid the net amount of \$5,952.00 after
11 deducting Respondent's 20% commission of \$1,400.00 from the gross payment of
12 \$7,440.00. Petitioner completed the work, after which a check for \$7,440.00 was sent to
13 Respondent.

14
15 5. Although Respondent received the above-described net amounts totaling
16 \$11,952.00 on behalf of Petitioner, it did not deposit these funds in a trust account, but
17 instead diverted these funds to other purposes and failed to promptly pay Petitioner the
18 money it owed to her. As a result of Petitioner's repeated demands for payment,
19 Respondent gradually and sporadically made various payments. The total amount of
20 these payments was \$6,950.00, leaving an unpaid balance of \$5,002.00 due and owing to
21 Petitioner.

22 23 LEGAL ANALYSIS

- 24
- 25 1. Respondent operated as a licensed talent agency.
 - 26
 - 27 2. Petitioner was an artist who was represented by Respondent.

1
2 3. This case is within the jurisdiction of the Labor Commissioner under Labor
3 Code section 1700.44, subdivision (a).

4
5 4. Under the arrangement entered into at the time Respondent became
6 Petitioner's talent agent, Respondent agreed to accept payments on behalf of Petitioner
7 for the services she rendered and to promptly remit to Petitioner her share of those
8 payments, after deducting Respondent's commission. This was also Respondent's
9 statutory obligation under Labor Code section 1700.25, subdivision (a).

10
11 5. The evidence unequivocally establishes that as of May 1, 2013, Respondent
12 had become indebted to Petitioner in the amount of \$11,952.00 for monies received by
13 Respondent in payment for Petitioner's services. This amount of \$11,952.00 representing
14 Petitioner's share of the payments made to the Respondent should have been remitted in
15 full to Petitioner forthwith. Instead, Respondent made intermittent payments which
16 totaled only \$6,950.00, leaving an unpaid balance of \$5,002.00.

17
18 6. No part of the \$5,002.00 balance was ever paid to Petitioner, and that entire
19 sum is due, owing, and unpaid.

20
21 7. Labor Code section 1700.25, subdivision (e) provides that where there is a
22 willful failure on the part of a talent agent to pay funds to an artist within 30 days of
23 receipt, as mandated by subdivision (a) of section 1700.25, the Labor Commissioner may
24 award the artist interest on the wrongfully withheld funds. Here, there is no question that
25 respondent wrongfully withheld monies belonging to petitioner. This plainly constituted
26 a willful violation of section 1700.25, subdivision (a). Accordingly, petitioner is entitled
27 to interest at 10% per annum on the withheld funds from May 31, 2013.

1
2 8. The total accumulated interest now due is \$1,104.55.
3

4 **ORDER**

5
6 For the reasons set forth above, **IT IS HEREBY ORDERED** that:
7

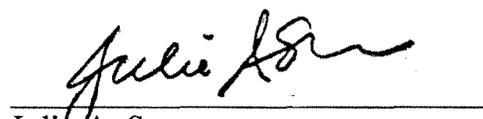
8 Respondent THE PINKERTON MODEL AND TALENT COMPANY, LLC aka
9 PINKERTON MODEL AND TALENT CO., LLC pay to Petitioner BJANKA MURGEL
10 the sum of \$5,002.00, plus interest in the amount of \$1,104.55, for a total of \$6,106.55.
11

12 Dated: 7/31/2015
13


14 William A. Reich
Special Hearing Officer
for the Labor Commissioner

15 Adopted:
16

17
18 Dated: 7/31/2015
19


20 Julie A. Su
State Labor Commissioner
21
22
23
24
25
26
27
28