

1 DIVISION OF LABOR STANDARDS ENFORCEMENT  
2 Department of Industrial Relations  
3 State of California  
4 BY: DAVID L. GURLEY (Bar No. 194298)  
5 455 Golden Gate Ave., 9<sup>th</sup> Floor  
6 San Francisco, CA 94102  
7 Telephone: (415) 703-4863

8 Attorney for the Labor Commissioner

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
BEFORE THE LABOR COMMISSIONER  
OF THE STATE OF CALIFORNIA

10	SEAN P. HAYES, an individual,	)	Case No. TAC 26-00
		)	
11	vs.	)	DETERMINATION OF
	Petitioner,	)	CONTROVERSY
12		)	
		)	
13	VANGUARD TALENT MANAGEMENT, a	)	
	business entity of unknown form;	)	
14	and STEVEN VAIL, an individual,	)	
		)	
15	Respondent.	)	
		)	
16		)	

17  
18 The above-captioned petition was filed on August 16,  
19 2000, by SEAN P. HAYES (hereinafter "Petitioner"), alleging that  
20 VANGUARD TALENT MANAGEMENT, and STEVEN VAIL, an individual,  
21 (hereinafter "Respondents"), acted in the capacity of a talent  
22 agency without possessing the required California talent agency  
23 license pursuant to Labor Code §1700.5. Petitioner seeks from the  
24 Labor Commissioner a determination voiding the agreement *ab initio*,  
25 requests disgorgement of commissions made to respondent arising  
26 from this agreement, interest and attorneys' fees.

27 The respondent filed his answer on September 27, 2000,

1. alleging several affirmative defenses. A hearing was scheduled  
2 before the undersigned attorney, specially designated by the Labor  
3 Commissioner to hear this matter. The hearing commenced on April  
4 30, 2001 through May 3, 2001, in Los Angeles, California.  
5 Petitioner was represented by Michael J. Plonsker and Andrew F.  
6 Kim, of Alschuler Grossman Stein & Kahan LLP; respondent appeared  
7 through his attorney Jerry Kaplan of Kaplan, Kenegos & Kadin. Due  
8 consideration having been given to the testimony, documentary  
9 evidence, arguments and briefs presented, the Labor Commissioner  
10 adopts the following determination of controversy.

11  
12 DETERMINATION

13  
14 It is determined through credible evidence that the  
15 respondent offered, promised and attempted to procure entertainment  
16 engagements for the petitioner without a talent agency license as  
17 required under Labor Code §1700.5. Either party may request that  
18 findings of fact be made by the Labor Commissioner pursuant to  
19 Title 8 of the California Code of Regulation §12032, within 10 days  
20 of receipt of this Determination.

21  
22 ORDER

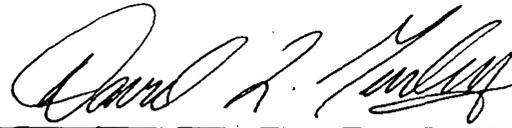
23 IT IS HEREBY ORDERED that the contract between petitioner  
24 SEAN P. HAYES and VANGUARD TALENT MANAGEMENT, and STEVEN VAIL, is  
25 unlawful and void *ab initio*. Respondent has no enforceable rights  
26 under that contract.

27 Within 10 days of receipt of this Determination, the

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

petitioner is entitled to an accounting of all commissions paid to the respondent during the one-year period prior to filing of the Petition on August 16, 2000. The Respondent is required to disgorge that amount to the petitioner within 30 days of receipt of this Determination. Attorneys' fees and interest are denied.

Dated: 10/11/01

  
\_\_\_\_\_  
David L. Gurley  
Attorney for the Labor Commissioner

ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER

Dated: 10-11-01

  
\_\_\_\_\_  
ARTHUR S. LUJAN  
State Labor Commissioner

