

1 **STATE OF CALIFORNIA**  
2 Department of Industrial Relations  
3 Division of Labor Standards Enforcement  
4 EDNA GARCIA EARLEY, State Bar No. 195661  
5 320 W. 4<sup>th</sup> Street, Suite 430  
6 Los Angeles, California 90013  
7 Tel.:(213) 897-1511  
8 Fax: (213)897-2877

9 Attorney for the Labor Commissioner

10  
11 **BEFORE THE LABOR COMMISSIONER**  
12  
13 **OF THE STATE OF CALIFORNIA**

14 RUUT DEMEO, An Individual, ) Case No.: TAC 22-06  
15 )  
16 ) **DETERMINATION OF**  
17 ) **CONTROVERSY**  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )  
30 )  
31 )  
32 )  
33 )  
34 )  
35 )  
36 )  
37 )  
38 )  
39 )  
40 )  
41 )  
42 )  
43 )  
44 )  
45 )  
46 )  
47 )  
48 )  
49 )  
50 )  
51 )  
52 )  
53 )  
54 )  
55 )  
56 )  
57 )  
58 )  
59 )  
60 )  
61 )  
62 )  
63 )  
64 )  
65 )  
66 )  
67 )  
68 )  
69 )  
70 )  
71 )  
72 )  
73 )  
74 )  
75 )  
76 )  
77 )  
78 )  
79 )  
80 )  
81 )  
82 )  
83 )  
84 )  
85 )  
86 )  
87 )  
88 )  
89 )  
90 )  
91 )  
92 )  
93 )  
94 )  
95 )  
96 )  
97 )  
98 )  
99 )  
100 )  
101 )  
102 )  
103 )  
104 )  
105 )  
106 )  
107 )  
108 )  
109 )  
110 )  
111 )  
112 )  
113 )  
114 )  
115 )  
116 )  
117 )  
118 )  
119 )  
120 )  
121 )  
122 )  
123 )  
124 )  
125 )  
126 )  
127 )  
128 )  
129 )  
130 )  
131 )  
132 )  
133 )  
134 )  
135 )  
136 )  
137 )  
138 )  
139 )  
140 )  
141 )  
142 )  
143 )  
144 )  
145 )  
146 )  
147 )  
148 )  
149 )  
150 )  
151 )  
152 )  
153 )  
154 )  
155 )  
156 )  
157 )  
158 )  
159 )  
160 )  
161 )  
162 )  
163 )  
164 )  
165 )  
166 )  
167 )  
168 )  
169 )  
170 )  
171 )  
172 )  
173 )  
174 )  
175 )  
176 )  
177 )  
178 )  
179 )  
180 )  
181 )  
182 )  
183 )  
184 )  
185 )  
186 )  
187 )  
188 )  
189 )  
190 )  
191 )  
192 )  
193 )  
194 )  
195 )  
196 )  
197 )  
198 )  
199 )  
200 )  
201 )  
202 )  
203 )  
204 )  
205 )  
206 )  
207 )  
208 )  
209 )  
210 )  
211 )  
212 )  
213 )  
214 )  
215 )  
216 )  
217 )  
218 )  
219 )  
220 )  
221 )  
222 )  
223 )  
224 )  
225 )  
226 )  
227 )  
228 )  
229 )  
230 )  
231 )  
232 )  
233 )  
234 )  
235 )  
236 )  
237 )  
238 )  
239 )  
240 )  
241 )  
242 )  
243 )  
244 )  
245 )  
246 )  
247 )  
248 )  
249 )  
250 )  
251 )  
252 )  
253 )  
254 )  
255 )  
256 )  
257 )  
258 )  
259 )  
260 )  
261 )  
262 )  
263 )  
264 )  
265 )  
266 )  
267 )  
268 )  
269 )  
270 )  
271 )  
272 )  
273 )  
274 )  
275 )  
276 )  
277 )  
278 )  
279 )  
280 )  
281 )  
282 )  
283 )  
284 )  
285 )  
286 )  
287 )  
288 )  
289 )  
290 )  
291 )  
292 )  
293 )  
294 )  
295 )  
296 )  
297 )  
298 )  
299 )  
300 )  
301 )  
302 )  
303 )  
304 )  
305 )  
306 )  
307 )  
308 )  
309 )  
310 )  
311 )  
312 )  
313 )  
314 )  
315 )  
316 )  
317 )  
318 )  
319 )  
320 )  
321 )  
322 )  
323 )  
324 )  
325 )  
326 )  
327 )  
328 )  
329 )  
330 )  
331 )  
332 )  
333 )  
334 )  
335 )  
336 )  
337 )  
338 )  
339 )  
340 )  
341 )  
342 )  
343 )  
344 )  
345 )  
346 )  
347 )  
348 )  
349 )  
350 )  
351 )  
352 )  
353 )  
354 )  
355 )  
356 )  
357 )  
358 )  
359 )  
360 )  
361 )  
362 )  
363 )  
364 )  
365 )  
366 )  
367 )  
368 )  
369 )  
370 )  
371 )  
372 )  
373 )  
374 )  
375 )  
376 )  
377 )  
378 )  
379 )  
380 )  
381 )  
382 )  
383 )  
384 )  
385 )  
386 )  
387 )  
388 )  
389 )  
390 )  
391 )  
392 )  
393 )  
394 )  
395 )  
396 )  
397 )  
398 )  
399 )  
400 )  
401 )  
402 )  
403 )  
404 )  
405 )  
406 )  
407 )  
408 )  
409 )  
410 )  
411 )  
412 )  
413 )  
414 )  
415 )  
416 )  
417 )  
418 )  
419 )  
420 )  
421 )  
422 )  
423 )  
424 )  
425 )  
426 )  
427 )  
428 )  
429 )  
430 )  
431 )  
432 )  
433 )  
434 )  
435 )  
436 )  
437 )  
438 )  
439 )  
440 )  
441 )  
442 )  
443 )  
444 )  
445 )  
446 )  
447 )  
448 )  
449 )  
450 )  
451 )  
452 )  
453 )  
454 )  
455 )  
456 )  
457 )  
458 )  
459 )  
460 )  
461 )  
462 )  
463 )  
464 )  
465 )  
466 )  
467 )  
468 )  
469 )  
470 )  
471 )  
472 )  
473 )  
474 )  
475 )  
476 )  
477 )  
478 )  
479 )  
480 )  
481 )  
482 )  
483 )  
484 )  
485 )  
486 )  
487 )  
488 )  
489 )  
490 )  
491 )  
492 )  
493 )  
494 )  
495 )  
496 )  
497 )  
498 )  
499 )  
500 )  
501 )  
502 )  
503 )  
504 )  
505 )  
506 )  
507 )  
508 )  
509 )  
510 )  
511 )  
512 )  
513 )  
514 )  
515 )  
516 )  
517 )  
518 )  
519 )  
520 )  
521 )  
522 )  
523 )  
524 )  
525 )  
526 )  
527 )  
528 )  
529 )  
530 )  
531 )  
532 )  
533 )  
534 )  
535 )  
536 )  
537 )  
538 )  
539 )  
540 )  
541 )  
542 )  
543 )  
544 )  
545 )  
546 )  
547 )  
548 )  
549 )  
550 )  
551 )  
552 )  
553 )  
554 )  
555 )  
556 )  
557 )  
558 )  
559 )  
560 )  
561 )  
562 )  
563 )  
564 )  
565 )  
566 )  
567 )  
568 )  
569 )  
570 )  
571 )  
572 )  
573 )  
574 )  
575 )  
576 )  
577 )  
578 )  
579 )  
580 )  
581 )  
582 )  
583 )  
584 )  
585 )  
586 )  
587 )  
588 )  
589 )  
590 )  
591 )  
592 )  
593 )  
594 )  
595 )  
596 )  
597 )  
598 )  
599 )  
600 )  
601 )  
602 )  
603 )  
604 )  
605 )  
606 )  
607 )  
608 )  
609 )  
610 )  
611 )  
612 )  
613 )  
614 )  
615 )  
616 )  
617 )  
618 )  
619 )  
620 )  
621 )  
622 )  
623 )  
624 )  
625 )  
626 )  
627 )  
628 )  
629 )  
630 )  
631 )  
632 )  
633 )  
634 )  
635 )  
636 )  
637 )  
638 )  
639 )  
640 )  
641 )  
642 )  
643 )  
644 )  
645 )  
646 )  
647 )  
648 )  
649 )  
650 )  
651 )  
652 )  
653 )  
654 )  
655 )  
656 )  
657 )  
658 )  
659 )  
660 )  
661 )  
662 )  
663 )  
664 )  
665 )  
666 )  
667 )  
668 )  
669 )  
670 )  
671 )  
672 )  
673 )  
674 )  
675 )  
676 )  
677 )  
678 )  
679 )  
680 )  
681 )  
682 )  
683 )  
684 )  
685 )  
686 )  
687 )  
688 )  
689 )  
690 )  
691 )  
692 )  
693 )  
694 )  
695 )  
696 )  
697 )  
698 )  
699 )  
700 )  
701 )  
702 )  
703 )  
704 )  
705 )  
706 )  
707 )  
708 )  
709 )  
710 )  
711 )  
712 )  
713 )  
714 )  
715 )  
716 )  
717 )  
718 )  
719 )  
720 )  
721 )  
722 )  
723 )  
724 )  
725 )  
726 )  
727 )  
728 )  
729 )  
730 )  
731 )  
732 )  
733 )  
734 )  
735 )  
736 )  
737 )  
738 )  
739 )  
740 )  
741 )  
742 )  
743 )  
744 )  
745 )  
746 )  
747 )  
748 )  
749 )  
750 )  
751 )  
752 )  
753 )  
754 )  
755 )  
756 )  
757 )  
758 )  
759 )  
760 )  
761 )  
762 )  
763 )  
764 )  
765 )  
766 )  
767 )  
768 )  
769 )  
770 )  
771 )  
772 )  
773 )  
774 )  
775 )  
776 )  
777 )  
778 )  
779 )  
780 )  
781 )  
782 )  
783 )  
784 )  
785 )  
786 )  
787 )  
788 )  
789 )  
790 )  
791 )  
792 )  
793 )  
794 )  
795 )  
796 )  
797 )  
798 )  
799 )  
800 )  
801 )  
802 )  
803 )  
804 )  
805 )  
806 )  
807 )  
808 )  
809 )  
810 )  
811 )  
812 )  
813 )  
814 )  
815 )  
816 )  
817 )  
818 )  
819 )  
820 )  
821 )  
822 )  
823 )  
824 )  
825 )  
826 )  
827 )  
828 )  
829 )  
830 )  
831 )  
832 )  
833 )  
834 )  
835 )  
836 )  
837 )  
838 )  
839 )  
840 )  
841 )  
842 )  
843 )  
844 )  
845 )  
846 )  
847 )  
848 )  
849 )  
850 )  
851 )  
852 )  
853 )  
854 )  
855 )  
856 )  
857 )  
858 )  
859 )  
860 )  
861 )  
862 )  
863 )  
864 )  
865 )  
866 )  
867 )  
868 )  
869 )  
870 )  
871 )  
872 )  
873 )  
874 )  
875 )  
876 )  
877 )  
878 )  
879 )  
880 )  
881 )  
882 )  
883 )  
884 )  
885 )  
886 )  
887 )  
888 )  
889 )  
890 )  
891 )  
892 )  
893 )  
894 )  
895 )  
896 )  
897 )  
898 )  
899 )  
900 )  
901 )  
902 )  
903 )  
904 )  
905 )  
906 )  
907 )  
908 )  
909 )  
910 )  
911 )  
912 )  
913 )  
914 )  
915 )  
916 )  
917 )  
918 )  
919 )  
920 )  
921 )  
922 )  
923 )  
924 )  
925 )  
926 )  
927 )  
928 )  
929 )  
930 )  
931 )  
932 )  
933 )  
934 )  
935 )  
936 )  
937 )  
938 )  
939 )  
940 )  
941 )  
942 )  
943 )  
944 )  
945 )  
946 )  
947 )  
948 )  
949 )  
950 )  
951 )  
952 )  
953 )  
954 )  
955 )  
956 )  
957 )  
958 )  
959 )  
960 )  
961 )  
962 )  
963 )  
964 )  
965 )  
966 )  
967 )  
968 )  
969 )  
970 )  
971 )  
972 )  
973 )  
974 )  
975 )  
976 )  
977 )  
978 )  
979 )  
980 )  
981 )  
982 )  
983 )  
984 )  
985 )  
986 )  
987 )  
988 )  
989 )  
990 )  
991 )  
992 )  
993 )  
994 )  
995 )  
996 )  
997 )  
998 )  
999 )  
1000 )

20 The above-captioned matter, a Petition to Determine Controversy under Labor  
21 Code §1700.44, came on regularly for hearing on August 20, 2007 in Los Angeles,  
22 California, before the undersigned attorney for the Labor Commissioner assigned to hear  
23 this case. Petitioner RUUT DEMEO, An Individual, appeared and was represented by  
24 Max J. Sprecher, Esq. of Law Offices of Max J. Sprecher. Respondent RANDY  
25 SPENCER, individually and dba PITCH MUSIC, who was properly served with the  
26 Petition and Notice of Hearing and who confirmed with this office on August 17, 2007  
27 that he would appear at this hearing, failed to appear.  
28

1 Based on the evidence presented at this hearing and on the other papers on file in  
2 this matter, the Labor Commissioner hereby adopts the following decision.

3 **FINDINGS OF FACT**

4 1. Petitioner RUUT DEMEO, An Individual, (hereinafter, "Petitioner"), is a  
5 singer and songwriter. Petitioner resided in Maryland until June 2006, when she moved  
6 to Los Angeles, California.

7 2. The Division of Labor Standards Enforcement's Licensing and Registration  
8 Unit does not show that Respondent RANDY SPENCER, individually and dba PITCH  
9 MUSIC, (hereinafter, "Respondent"), has ever been licensed as a talent agent with the  
10 State of California. At all times relevant, Respondent has been a resident of the State  
11 of California.

12 3. The parties entered into a Personal Management Agreement, (hereinafter,  
13 "Agreement"), on January 22, 2005 for a two year term. Pursuant to the Agreement,  
14 Respondent promised to advise, counsel and direct Petitioner in connection with all  
15 matters relating to Petitioner's professional career in all branches of the entertainment  
16 industry, including without limitation, (a) in the selection of literary, artistic and musical  
17 material; (b) concerning publicity, public relations and advertising; (c) with respect to the  
18 adoption of proper formats for the presentation of Artist's artistic talents and in the  
19 determination of the proper style, mood, setting and characterization in keeping with  
20 Artist's talents; (d) in the selection of musical and other talent to assist, accompany or  
21 embellish Artist's musical presentation; (e) with regard to general practices in the  
22 entertainment and amusement industries; (f) with respect to compensation and privileges  
23 extended for artists of similar stature in the industry; (g) with respect to the selection of  
24 theatrical agencies, talent agencies, and other persons, firms and corporations who will  
25 counsel, advise, seek and procure employment and engagements for Artist; and (h)  
26 concerning any other matters as to which Artist may request Manager's advice and which  
27 relate to Artist's activities in the entertainment industry.

28 4. In exchange for the aforementioned services Respondent agreed to provide

1 Petitioner, Petitioner agreed to pay Respondent 20% of all gross monies earned during  
2 the term of the Agreement.

3 5. On or about May 17, 2006, Petitioner formally terminated the Agreement  
4 by sending Respondent a letter. Shortly thereafter, Respondent made several monetary  
5 demands from Petitioner. Approximately 3-4 weeks before Petitioner filed the instant  
6 Petition to Determine Controversy, Respondent demanded \$75,000.00 in unpaid  
7 commissions. Consequently, on June 30, 2006, Petitioner filed this Petition to Determine  
8 Controversy alleging that the Agreement between the parties was void due to  
9 Respondent's unlawful attempts to procure engagements for Petitioner during the period  
10 of January 2005 to May 2006.

11 6. On November 27, 2006, Respondent submitted a letter to the hearing  
12 officer requesting an immediate dismissal of the Petition based on a provision contained  
13 in the Agreement providing that any disputes between the parties be handled by the  
14 American Arbitration Association. The request was denied.

15 7. A hearing on this matter was first scheduled for April 2, 2007. However,  
16 the hearing was continued to August 20, 2007 at Respondent's request. On August 17,  
17 2007, the hearing officer's office contacted both parties and confirmed that they would be  
18 in attendance at the August 20, 2007 hearing. However, on August 20, 2007, only  
19 Petitioner, her husband, John Demeo and her attorney, Max J. Sprecher, Esq. attended the  
20 hearing. Respondent never called to inform the hearing officer that he would be delayed  
21 or would not be appearing. Likewise, a voicemail message to Respondent from the  
22 hearing officer's office was never returned.

23 8. At the hearing, Petitioner submitted the Declaration of Philip Steir, a  
24 professional composer, independent music producer, recording engineer and remixer.  
25 Mr. Steir declares that in December 2004, he received an email from Respondent  
26 introducing him to Petitioner and seeking work for Petitioner as a vocalist. A copy of the  
27 email was also submitted as evidence. The email states: "She is a 23-year-old  
28 professional model from Finland...very talented. She will be in Los Angeles in January

1 to write with a few people and meet with labels. If there is any vocal work for any of  
2 your projects or you would like to meet her, please let me know. THANKS for keeping  
3 her in mind." The email is signed by Respondent.

4 9. Petitioner testified that she first performed in Los Angeles in June 2005 at  
5 The Mint and The Cinema Bar. Both engagements were arranged for her by Respondent.

6 10. Petitioner also submitted a declaration from Ken Gorka, Manager of The  
7 Bitter End, a rock club in Greenwich Village, New York. Mr. Gorka declared that his  
8 principal job at The Bitter End for the past 25 years has been booking talent to perform  
9 live at the club. Additionally, he confirmed in his declaration that he was contacted  
10 directly by Respondent to book Petitioner, who was residing in Maryland at the time, to  
11 perform live at the club. Respondent also sent Mr. Gorka a demo recording of  
12 Petitioner's music, discussed compensation issues with him and scheduled Petitioner to  
13 perform at the club in June, 2005. Significantly, Mr. Gorka declared that all  
14 communications for this appearance were conducted only with Respondent.

15 11. At the hearing, Petitioner also submitted an unsolicited email dated January  
16 16, 2006 from Tony Martino informing Petitioner that he had been checking out her  
17 website and enjoyed her music. Notably, in the email, Mr. Martino states the following:  
18 "Not sure if you know this or not, but we actually almost worked together back in March  
19 of this past year when I was in Los Angeles with a record producer named Ed Buller  
20 recording a few of the songs that are going to be on my upcoming album (should be out  
21 in about 3 months). At the time, I was doing some temporary contracting work with  
22 Randy Spencer, and he was going to see if you would have wanted to do some  
23 background vocals on some songs for me since you also happened to be in LA at the  
24 same time."

25 12. Petitioner also testified that Respondent called her in March, 2006 to  
26 inform her that he booked a performance for her at Tangiers Club in Los Angeles.

27 13. In addition to booking live performances for Petitioner, Petitioner testified  
28 that Respondent set up a meeting for her with Limited Corporation in New York, a

1 clothing company. Petitioner testified she met with a Limited Corporation employee who  
2 stated she was a close friend of Respondent's. The purpose of this meeting was to  
3 discuss future work for Petitioner as a model.

4 14. Lastly, Petitioner submitted an email dated May 3, 2006 from Respondent  
5 to Petitioner stating the following: "I scheduled a meeting with Jim at Sony Music  
6 Publishing for you and I to see him this Friday at 11:00am, so please hold that time in  
7 your schedule. We can meet for lunch after then and I'm checking with a couple of other  
8 people to see who is free that day as well. Thanks!" Petitioner testified that this meeting  
9 was scheduled in Los Angeles for the purpose of signing a publishing agreement with  
10 Sony Music to write new material. Petitioner further testified that Respondent had  
11 previously set up a meeting in Los Angeles with another songwriter, Helene, who was  
12 also a writer for Sony, to co-write songs. An email dated May 4, 2006 from Respondent  
13 to Petitioner corroborates this testimony.

#### 14 CONCLUSIONS OF LAW

15 1. The Labor Commissioner has jurisdiction to hear and determine this  
16 controversy pursuant to Labor Code §1700.44(a).

17 2. Petitioner, a singer and songwriter is an "artist" as that term is defined  
18 under Labor Code §1700.4(b)

19 3. At all times relevant herein, Respondent was not licensed as a talent  
20 agency. Labor Code §1700.5 provides that "[n]o person shall engage in or carry on the  
21 occupation of a talent agency without first procuring a license...from the Labor  
22 Commissioner." Labor Code §1700.4(a) defines the term "talent agency" as "a person or  
23 corporation who engages in the occupation of procuring, offering, promising or  
24 attempting to procure employment or engagements for an artist or artists, except that the  
25 activities of procuring, offering or promising to procure recording contracts for an artist  
26 or artists shall not of itself subject a person or corporation to regulation and licensing."  
27 Here, the procurement activities began even before the start of the parties' contractual  
28 relationship, and these procurement activities were ongoing and pervasive. The

1 following is evidence of attempts to procure and actual procurement of engagements for  
2 Petitioner as either a singer or songwriter:

3 \* In December, 2004, one month before the parties' entered into the  
4 Agreement, Respondent emailed Philip Steir, a profession composer,  
5 independent music producer, recording engineer and remixer to  
6 introduce Petitioner and to attempt to procure work for her as a  
7 vocalist.

8 \* Additionally, it appears from the email submitted from Tony  
9 Martino, that Respondent was attempting to procure some work for  
10 Petitioner as a background vocalist on Mr. Martino's upcoming  
11 album during a March, 2005 trip Petitioner made to Los Angeles.

12 \* Likewise, Respondent procured live performances for Petitioner in  
13 Los Angeles in June, 2005 at The Mint and The Cinema Bar.

14 \* Petitioner, who was residing in Maryland, made a trip to Los  
15 Angeles in March, 2006. The evidence supports a finding that  
16 Respondent booked Petitioner to perform live in Los Angeles at  
17 Tangiers Club during this trip.

18 \* Lastly, Petitioner made another trip to Los Angeles in May, 2006, a  
19 month before moving to Los Angeles. During this trip, Respondent  
20 set up a meeting for Petitioner with Jim Vellautao at Sony Music  
21 Publishing for the purpose of signing a publishing agreement to  
22 write new music for Sony.

23 By attempting to procure and by procuring the aforementioned  
24 engagements for Petitioner, Respondent acted as a "talent agency" within the meaning of  
25 Labor Code §1700.4(a), and by doing so without having obtained a talent agency license  
26 from the Labor Commissioner, Respondent violated Labor Code §1700.5.

27 ///

28 ///

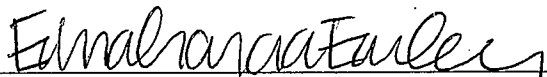
1 4. An agreement that violates the licensing requirements of the Talent  
2 Agencies Act is illegal and unenforceable. "Since the clear object of the Act is to prevent  
3 improper persons from becoming [talent agents] and to regulate such activity for the  
4 protection of the public, a contract between an unlicensed [agent] and an artist is void."  
5 *Buchwald v. Superior Court* (1967) 254 Cal.App.2d 347, 351. Having determined that a  
6 person or business entity procured, promised or attempted to procure employment for an  
7 artist without the requisite talent agency license, "the [Labor] Commissioner may declare  
8 the contract [between the unlicensed agent and the artist] void and unenforceable as  
9 involving the services of an unlicensed person in violation of the Act." *Styne v. Stevens*  
10 (2001) 26 Cal.4<sup>th</sup> 42, 55. Accordingly, since Respondent attempted to procure and  
11 procured engagements for Petitioner without having been licensed as a talent agent, the  
12 Agreement between the parties is void *ab initio*.

13 **ORDER**

14 For the reasons set forth above, IT IS HEREBY ORDERED that:

- 15 1. The Personal Management Agreement signed on January 22,  
16 2005 between Petitioner RUUT DEMEO, An Individual and Respondent RANDY  
17 SPENCER, Individually and dba PITCH MUSIC, is void *ab initio*.
- 18 2. Respondent RANDY SPENCER, Individually and dba PITCH MUSIC  
19 is not entitled to any compensation under the Management Agreement, including  
20 recoupment of any purported costs.

21 Dated: August 20, 2007

22   
EDNA GARCIA EARLEY  
23 Attorney for the Labor Commissioner

24 ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER

25  
26  
27 Dated: August 20, 2007

28   
ANGELA BRADSTREET  
State Labor Commissioner

