

1 **EDNA GARCIA EARLEY, Bar No. 195661**  
STATE OF CALIFORNIA  
2 DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF LABOR STANDARDS ENFORCEMENT  
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8 BEFORE THE LABOR COMMISSIONER  
9 OF THE STATE OF CALIFORNIA  
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11 BRUCE K. CAMPBELL,

CASE NO. TAC 21759

12 Petitioner,

**DETERMINATION OF  
CONTROVERSY**

13 vs.  
14

15 SYLVIA FERGUSON & ASSOCIATES,

16 Respondent.  
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18 The above-captioned matter, a Petition to Determine Controversy under Labor  
19 Code §1700.44, came on regularly for hearing on October 11, 2011 in Los Angeles,  
20 California, before the undersigned attorney for the Labor Commissioner assigned to hear  
21 this case. Petitioner BRUCE K. CAMPBELL appeared in pro per. Respondent SYLVIA  
22 FERGUSON & ASSOCIATES, who was served by publication pursuant to California  
23 Code of Regulations, Title 8, §12024 and Code of Civil Procedure §415.50, failed to  
24 appear. At the conclusion of the hearing, the matter was taken under submission.

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

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1 **FINDINGS OF FACT**

2 1. Petitioner BRUCE K. CAMPBELL, (hereinafter, "Campbell") is an actor.

3 2. Respondent SYLVIA FERGUSON & ASSOCIATES, (hereinafter,  
4 "Ferguson"), was licensed as a talent agent in the State of California until September 17,  
5 2010.

6 3. On October 3, 2006, the parties entered into a 2 year General Services  
7 Agreement wherein Ferguson agreed to act as Campbell's talent agent in exchange for  
8 payment of a 10% commission on all gross compensation received by Campbell. The  
9 parties continued their relationship through early 2011.

10 4. On September 27, 2010, Ferguson emailed Campbell an audition notice for  
11 the role of the grandfather in a Microsoft "Family Images" ad. Campbell attended the  
12 audition the following day in Los Angeles.

13 5. On October 4, 2010, Ferguson telephoned Campbell and told him that she  
14 booked him the role of the grandfather for the Microsoft ad that he auditioned for on  
15 September 28, 2010.

16 6. On October 7, 2010, Campbell spent the entire day in Malibu, California  
17 shooting the Microsoft "Family Images" ad.

18 7. Thereafter, Campbell attempted to contact Ferguson requesting payment for  
19 the shoot. Each time Campbell attempted to contact Ferguson, he was transferred to her  
20 voicemail.

21 8. On January 11, 2011, Ferguson emailed Campbell asking whether he had  
22 received a check at home from the ad agency for the Microsoft "Family Images" ad job.  
23 Ferguson wrote on the email that she had not received payment. Campbell responded to  
24 Ferguson by email informing her that he also had not received payment. Campbell  
25 continued to call Ferguson about the payment but each time he called, he received her  
26 voicemail. Ferguson never returned any of Campbell's calls.

27 9. On February 1, 2011, after still not having received payment for his role on  
28 the Microsoft "Family Images" ad, Campbell called Crispin, Porter & Bogosy, the ad

1 agency that handled the shoot and inquired as to when he could expect payment. Soon  
2 thereafter, Amber Heinert from Crispin, Porter & Bogosy informed Campbell by email  
3 that Check #347216 in the sum of \$3,000 had been sent to Ferguson on January 11, 2011  
4 and had cleared the bank on January 26, 2011.

5 10. Since February 1, 2011, Campbell has called Ferguson several times  
6 attempting to collect his money, to no avail. As such, Campbell filed the instant petition  
7 on March 7, 2011.

### 8 LEGAL ANALYSIS

9 1. Labor Code §1700.4(b) defines "Artists" as "actors and actresses  
10 rendering services on the legitimate stage and in the production of motion pictures, radio  
11 artists, musical artists, musical organizations, directors of legitimate stage, motion picture  
12 and radio productions, musical directors, writers, cinematographers, composers, lyricists,  
13 arrangers, models, and other artists and persons rendering professional services in motion  
14 picture, theatrical, radio, television and other entertainment enterprises." Petitioner  
15 Campbell, who is an actor, is considered an "artist" under Labor Code §1700.4(b).

16 2. Labor Code §1700.4(a) defines a "talent agency" as "a person or  
17 corporation who engages in the occupation of procuring, offering, promising, or  
18 attempting to procure employment or engagements for an artist or artists, except that the  
19 activities of procuring, offering, or promising to procure recording contracts for an artist  
20 or artists shall not of itself subject a person or corporation to regulation and licensing  
21 under this chapter. Talent agencies may, in addition, counsel or direct artists in the  
22 development of their professional careers."

23 3. Labor Code §1700.5 provides that "[n]o person shall engage in or carry  
24 on the occupation of a talent agency without first procuring a license....from the Labor  
25 Commissioner."

26 4. Respondent Ferguson was a licensed talent agency until her license  
27 expired on September 10, 2010. Labor Code §1700.44(a) provides that all controversies  
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1 arising under the Talent Agencies Act (“Act”) must be referred to the Labor  
2 Commissioner.

3 5. The undisputed evidence establishes that Ferguson booked Campbell for  
4 the role of the grandfather on a Microsoft “Family Values” ad in September 2010 *after* her  
5 talent agency license expired.

6 6. The evidence also establishes that Campbell completed the shoot on  
7 October 7, 2010. Furthermore, the undisputed evidence establishes that the ad agency in  
8 charge of the shoot mailed a check to Ferguson on January 11, 2011 for \$3,000.00 which  
9 cleared the bank on January 26, 2011. Ferguson failed to forward the earnings to  
10 Campbell, as required under their contract.

11 7. While Labor Code §1700.25(a) requires a licensee who receives any  
12 payment of funds on behalf of an artist to disburse the funds to the artist less the agency’s  
13 commission, within 30 days after receipt, Ferguson was no longer licensed as a talent  
14 agency when she booked the Microsoft “Family Values” ad for Campbell. As such, she  
15 unlawfully procured employment for Campbell without the requisite license from the  
16 Labor Commissioner. Accordingly, we find that Ferguson is not entitled to a commission  
17 on this job and must disburse the entire amount of \$3,000.00 that she was paid by the ad  
18 agency for Campbell’s work on the Microsoft “Family Values” ad.

19 8. We also find that Campbell is entitled to \$257.26 in interest on the  
20 unpaid sum of \$3,000.00 calculated at 10% from the date he should have been paid, on or  
21 about January 12, 2011 until the date of this determination, November 21, 2011.

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ORDER

For all the reasons set forth above, IT IS HEREBY ORDERED that Respondent SYLVIA FERGUSON AND ASSOCIATES immediately pay Petitioner BRUCE C. CAMPBELL the sum of \$3,257.26 which reflects \$3,000.00 in unpaid earnings and \$257.26 in interest.

DATED: November 21, 2011

Respectfully submitted,

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

ADOPTED AS THE DETERMINATION OF THE LABOR COMMISSIONER

Dated: Nov. 22, 2011

By: Julie Su  
JULIE SU  
State Labor Commissioner

