

Talent Agent Laws: Are You A Player?

By Judith Silver, Esq.¹

Think you're a big Hollywood agent type? Ferrari. Lots of lunches. Drinks by the pool. Schmoozing, schmoozing, schmoozing. The Player. Most people laugh at the thought, but lots of the laughter is from people who, in fact, *are* talent agents – they just don't know it. Huh?

If you're trying to get employment or engagements for artists, models or others, you are, by law, a talent agent in most states. And here's the kicker: you are subject to regulation and licensing by the state.

For our discussion, let's use California as an example. Many states have talent agency acts, but presumably due to the large number of actors and artist, California's talent agency act, California Labor Code Section 1700 and 1701, is among the most restrictive in the country,

License Application

Any person or company engaging in the work of procuring employment or engagements for artists, models, actors, etc. is governed by the talent agent section of the labor code and is required to be licensed by the State of California.

To obtain a license, the applicant must provide typical contact information; information regarding shareholders, directors and officers of the corporation applicant; fingerprints; and affidavits from two residents of the city or county recommending the character of the applicant for fair dealing; and a bond in the amount of \$10,000 to cover charges of fraudulent or inappropriate acts by the agent.

Other Professional Requirements

After becoming licensed by the state, the fun is just beginning. Like other professionals such as lawyers, accountants, doctors and others, every move an agent makes may be monitored and/or approved by the California Labor Commission. Most people and, probably even most agents, are unaware of these regulations.

Some highlights of the regulated and required activities are:

- 1) Submission of the agents' contracts with the artist to the Labor Commissioner for approval and inclusion of certain contract clauses notifying artists of their legal rights.
- 2) Submission of a listing of fees to be charged and collected by the agent to the Labor Commissioner.

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- 3) Maintenance by the agent of a separate artist trust account for any funds received on behalf of the artist and requirements regarding disbursement of funds and record keeping.
- 4) Posting by the agent of the legal rights of the artist under these sections at the agent's office in an easily seen location.

Regulation of Conduct

In addition to the submission and other requirements, talent agents are, of course, subject generally to contract law, defamation, fraud, copyright and other laws and subject to civil and criminal penalties. Their actions are further regulated and penalized if inappropriate under the talent agency act.

Some of the major grounds for violation in the California Labor Code include:

- 1) No agent shall knowingly commit any illegal acts.
- 2) No agent shall publish misleading or fraudulent information in relation to the artist or his or her services.
- 3) No agent shall send an artist to any location which may adversely affect the health, safety or welfare of the artist.
- 4) No agent shall knowingly permit any persons of bad character, prostitutes, gamblers or intoxicated persons to be in or employed by the agency.
- 5) No agent shall refer an artist to any person or company in which the agent has a direct or indirect financial interest and no agent may receive a referral fee for photography, audition tapes, demonstration reels, management, coaching, drama school, brochures, directories, or other printing referrals.

Penalties

Penalties for violating the talent agent labor code statutes can be serious. The Labor Commissioner may revoke the license of a talent agent, may fine the talent agent for each violation, and the agent may be guilty of misdemeanor crime resulting in payment of restitution to the artist and up to one year in jail for each violation. Additionally, agents should consider that for most violations under the act, other civil and/or criminal violations are probably under other state and federal laws, so that the cumulative financial penalty or jail time may be very significant.

Conclusion

If you are engaged in actions which make you a talent agent, be sure to ask your attorney to look into the regulations in any state in which you have an office or do business. Understanding your risks and obligations with the help of your attorney is the first step in making wise decisions for your business and personal future. You may consider also that purchasing business insurance is wise. Most business insurance plans will cover acts discussed in this article and help to further reduce your risks.