



**Department of
Consumer Affairs**

Jonathan Mintz
Commissioner

██████████
Staff Attorney

42 Broadway
New York, NY 10004

Dial 311 (in NYC) or 212-
NEW-YORK (outside NYC)

nyc.gov/consumers

November 16, 2011

BY E-MAIL ██████████

Attn: ██████████

Re: Non-Profit Organization Operating as Employment Agency

Dear Ms. ██████████

The New York City Department of Consumer Affairs (the "Department") issues this letter in response to your recent inquiry regarding whether a nonprofit organization, based in New York City, which receives a fee for placement of an artist at venues outside the City, must be licensed by the Department. Based upon the specific information you provided, ██████████ is exempt from the employment agency licensing requirement.

You described ██████████ as a nonprofit arts organization interested in providing services as a booking agent for artists. You stated that the employment may take place outside of New York, the artist may be booked with either a nonprofit or for-profit employer, and the fees provided for the booking service may come from the artist directly or from the employer.

Section 172 of the New York General Business Law ("GBL") requires a business that operates an employment agency in New York City to obtain a license from the Department, regardless of where job applicants are being sent for employment. GBL Section 171(2)(d) further provides that the licensing requirement is applicable to a "theatrical employment agency" which is defined to include "any person ... who procures or attempts to procure employment or engagements for circus, vaudeville, the variety field, the legitimate theater, motion pictures, radio, television, phonograph recordings, transcriptions, opera, concert, ballet, modeling or other entertainments or exhibitions or performances[.]" GBL 171(8).

However, GBL Section 171(2)(e)(3) exempts organizations which are "operated by or under the exclusive control of a bona fide nonprofit educational, religious, charitable or eleemosynary institution." Because you stated that ██████████ is a nonprofit arts organization, your services as a booking agent are exempt from the employment agency licensing requirement. This exemption applies even if the artist is booked at a for-profit venue and regardless of the fee arrangement.

Thank you for your inquiry.

Sincerely,

██████████
Staff Attorney