

CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS

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DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

– against –

ARTIST’S AGENCY INC.  
247 CENTRE ST., 2<sup>ND</sup> FL.  
NEW YORK, NY 10013

Respondent.  
-----X

CONSENT ORDER

Violation Number: **05349512**

License Number: **0830823**

1. The New York City Department of Consumer Affairs (the “Department” or “DCA”) served THE ARTIST’S AGENCY INC. (“Respondent”) with the above Notice of Hearing (“NOH”) charging Respondent with violating the New York State General Business Law (“GBL”) Section 170 *et seq.* (“Employment Agency Law”), New York City Administrative Code (“Code”) Section 20-101 *et seq.* (the “License Enforcement Law”), Code Section 20-700 *et seq.* (the “Consumer Protection Law”), and/or Title 6 of the Rules of the City of New York (the “Rules”).
2. Respondent consents to this Consent Order (“CO”) to settle the charges in the NOH,
3. This CO supersedes all prior settlement agreements that Respondent entered into with the Department.
4. [REDACTED], as [REDACTED] of Respondent is authorized to settle this violation and to enter into this CO on behalf of Respondent.
5. This CO applies to Respondent and its officers.

DEFINITIONS

6. “Job applicant” or “applicant” means a consumer seeking employment services.
7. “Advertisement” means all promotional materials, statements, visual descriptions, or other representations of any kind in print, orally, or electronically by or on behalf of Respondent to consumers including, but not limited to, mailings, flyers, hand-outs, brochures, business cards, classified ads, in-store and window signage, print advertisements, television advertisements, internet advertisements, radio advertisements, text messaging and social media.

8. “Conspicuous” and “conspicuously” mean that the statement, signage, or term (collectively, the “disclosure”) is made in a manner that is readily apparent and understandable by an ordinary person from any distance from which a consumer is able to view the main message of the disclosure. Considerations relevant to whether a disclosure is conspicuous include, but are not limited to, relative type size, font, color contrast, and location of disclosure.

### **INJUNCTIVE RELIEF**

9. Respondent must comply with this CO, and all applicable laws and rules related to employment agencies operating in New York City, including the Employment Agency Law, the License Enforcement Law, and the Consumer Protection Law and the Rules.
10. Respondent will review the “Inspection Checklist: Employment Agencies,” available on the Department’s website at <http://www.nyc.gov/BusinessToolbox>.
11. Respondent must comply with the requirements of the Earned Sick Time Act (Paid Sick Leave Law) as set forth in Code Section 20-911 *et seq.*

#### **A. Signs**

12. Respondent must display conspicuously in its reception or waiting area the “Job Hunter’s Bill of Rights” once it becomes available on the Department’s website at: <http://www.nyc.gov/BusinessToolbox>.
13. Respondent will conspicuously display the “New York Employment Agencies Law” poster available at the Department’s Licensing Center located at 42 Broadway, 1<sup>st</sup> Floor, New York, NY 10004 and on the Department’s website at: <http://www.nyc.gov/BusinessToolbox>.

#### **B. Fees**

14. Respondent will not charge job applicants: a registration fee, an application fee, or a fee for arranging a job interview. Respondent may only charge a job applicant a fee if the applicant is placed in a job by Respondent.
15. Respondent will not require job applicants to pay for any additional service or product, including but not limited to:
  - a. resume assistance;
  - b. certification courses or trainings of any kind;
  - c. uniforms, photographs, or products of any kind; and/or
  - d. publications, advertisings, or website listings.
16. If Respondent places or attempts to place applicants in jobs that require training,

certifications, licenses, etc. (e.g., security guard jobs), Respondent may not charge applicants a fee for referring them to a particular instructor or school.

17. Respondent will not tell job applicants, orally or in writing, that they are not entitled to a refund. Respondent cannot make any of the following statements to job applicants, orally or in writing:
  - a. "No Refunds,"
  - b. the fee is "good for two referrals only," and/or
  - c. "No Refunds after thirty days."

### **C. Discriminatory Practices**

18. Respondent must comply fully with the requirements of Title VII of the Civil Rights Act, 42 U.S.C. Section 2000e *et seq.*; the New York State Human Rights Law, New York Executive Law Section 290 *et seq.*; the New York City Human Rights Law, Code Section 8-101 *et seq.*; and Section 5-248 of the Rules.
19. Respondent will not discriminate when referring applicants for jobs on the basis of the applicant's age, race, creed, color, national origin, gender, gender identity, disability, marital status, partnership status, sexual orientation, alienage or citizenship status ("Protected Categories"). Discrimination includes, but is not limited to: asking applicants questions about any of the Protected Categories; asking employers about their preferences for applicants based on the Protected Categories; or expressing in advertising or on a website a preference for applicants based on any of the Protected Categories.
20. Respondent will not base its decision to refer or place a job applicant on the applicant's current or past unemployment history.

### **D. Minimum Wage**

21. Respondent will not refer any job applicant to an employer that pays less than the current minimum wage. Information regarding current state and federal minimum wage is available at the New York State Department of Labor and United States Department of Labor's websites: [www.labor.ny.gov](http://www.labor.ny.gov) and [www.dol.gov](http://www.dol.gov).
22. In addition to refusing the employer's request, Respondent will record the name of the employer in its register and report the name of the employer to the Department by mail to: Department of Consumer Affairs, Regulatory Compliance Division, 9<sup>th</sup> floor, New York, NY 10004 or by email to: [regcmplea@dca.nyc.gov](mailto:regcmplea@dca.nyc.gov).
23. Respondent will record in its applicant and employer register the following information for each applicant:
  - a. hourly pay rate, including tip information, if any;
  - b. hours of work per day; and
  - c. hours of work per week.

### **E. Job Orders**

24. Prior to referring a job applicant to an employer, Respondent will confirm with the employer that the job is still available.
25. Respondent will record in each job order received from an employer the following information for each position:
  - a. hourly pay rate, including tip information, if any;
  - b. hours of work per day; and
  - c. hours of work per week.

### **F. Advertising**

26. Respondent will not advertise that it can “guarantee” jobs or placement.
27. Respondent will not advertise that there is “no fee” for applicants, unless it is an employer fee paid employment agency, as defined in Section 191 of the GBL.

### **G. Documents**

28. Respondent will provide all documents and forms to job applicants in English and in every language in which Respondent advertises or conducts business with consumers.

#### 1. Application Forms

29. If Respondent provides application forms, Respondent’s application form must include:
  - a. the word “Application” clearly and conspicuously at the top;
  - b. the job applicant’s first and last name;
  - c. the job applicant’s mailing address, telephone number, and email address;
  - d. the position the job applicant is seeking; and
  - e. the fee(s) or deposit paid by job applicant.
30. Respondent must clearly and conspicuously state at the top of the application form or above the signature line, in fourteen (14) point bold, easily read font:

#### NOTICE TO JOB APPLICANT --- READ BEFORE SIGNING

This Application Form is a separate document from a Contract. This Application Form may not serve as a substitute for a Contract. The law requires employment agencies to give you a Contract.

It is **against the law** for the Employment Agency to:

- ask you questions about your age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, or alienage or citizenship status;
- charge you a registration or application fee, or
- refer you to jobs that pay less than the minimum wage as set by New York State and federal law.

YOU ARE ENTITLED TO A REFUND. IF A REFUND IS NOT MADE WITHIN SEVEN (7) DAYS AFTER A DEMAND OR IF YOU HAVE A COMPLAINT ABOUT THIS EMPLOYMENT AGENCY OR NEED MORE INFORMATION, CALL 3-1-1 OR VISIT [www.nyc.gov/consumers](http://www.nyc.gov/consumers).

## 2. Contracts

31. Respondent will provide every job applicant with a contract that includes all information required by Article 11 of the New York General Business Law Sections 181(1) and 181(2) and the Arts and Cultural Affairs Law Section 37.03.

## 3. Receipts

32. Respondent will provide every job applicant who pays a fee with the Department's Model Receipt, as updated, attached as Exhibit A and available on the Department's website at <http://www.nyc.gov/BusinessToolbox>. Respondent must complete all fields and leave no spaces blank in every receipt provided to applicants.

## 4. Register and Refund Log

33. Respondent will record in the Department's Model Register and Refund Log information about every applicant who pays a fee, regardless of whether the applicant is placed in a job, and every employer to whom applicants are referred. The Model Register and Refund Log is attached as Exhibit B and available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.
34. Respondent must record in the Department's Model Register and Refund Log every instance when an applicant requests a refund or Respondent provides a refund.

## 5. Statement of Employee Rights and Employer Responsibilities

35. Respondent will provide every job applicant seeking employment as a domestic or household employee the Department's Statement of Employee Rights and Employer Responsibilities ("Statement of Employee Rights") Form, as updated, attached as Exhibit C and made available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.

6. Statement of Job Conditions

36. Respondent will provide every job applicant seeking employment as a domestic or household employee with the Department's approved Statement of Job Conditions (Job Description Form), as updated, attached as Exhibit D and available on the Department's website at: <http://www.nyc.gov/BusinessToolbox>.

**COMPLIANCE AND TRAINING**

37. Within 60 days of the date of this CO, Respondent will send to the Department, copies of the following records covering a 30 consecutive day period beginning on the first full month, after executing this CO:
- a. applicant and employer register and refund log;
  - b. job orders received from employers;
  - c. contracts executed with every applicant;
  - d. receipts provided to applicants;
38. Respondent will send the records by mail to: the Department of Consumer Affairs, Regulatory Compliance Division, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004, or by email to: [regcmplea@dca.nyc.gov](mailto:regcmplea@dca.nyc.gov).
39. If the Department conducts an employment agency training in the future, Respondent's owner or an employee with management responsibility must attend the training.
40. Respondent will train its staff on the requirements of this CO, and all applicable laws and rules related to employment agencies operating in New York City, within two (2) days of signing this CO or the new employee's start date.
41. Respondent will notify the Department within ten (10) days of any pending action, proceeding, or investigation by a government agency against Respondent. Respondent will send the notification by mail to: Department of Consumer Affairs, Regulatory Compliance Division, 42 Broadway, 9<sup>th</sup> floor, New York, NY 10004, or by email to: [regcmplea@dca.nyc.gov](mailto:regcmplea@dca.nyc.gov).
42. Respondent must make all documents that Respondent is required to maintain by this CO and applicable laws, including but not limited to, registers, job orders, records or logs, available for inspection at the Department's offices or at Respondent's place of business upon demand, in the form requested by the Department. All documents, registers, records, or logs maintained by Respondent must be maintained on Respondent's premises for three years, except job orders shall be maintained for one year from the date received.
43. In response to any Department issued subpoena *duces tecum*, request for

information, or investigation, Respondent must provide truthful and complete responses and documents.

44. Respondent will not provide false answers or information on any document or form submitted to the Department, including but not limited to the "Employment Agency Self-Certification: Compliance with Employment Agency Laws."

### **PENALTY**

#### **A. Fines**

45. Respondent will pay a fine of \$1,250.00 to the Department when it signs this CO. Payment may be made by bank check, certified check or money order.

### **CONSEQUENCES OF BREACH**

46. If, after notice and a hearing, Respondent is found to have breached any provision of this CO, Respondent will be ordered to pay a penalty of \$500. This penalty will be in addition to the fine ordered for Respondent's violation of a particular law or rule.
47. If Respondent fails to produce the documents and records required by paragraph 37, the Department may, without further notice to Respondent or a hearing, suspend Respondent's license until Respondent produces the records and documents.
48. A future violation of any provision of the Consumer Protection Law and Rules will be deemed a "knowing violation" subject to a penalty of \$500.

### **WAIVER OF APPEALS**

49. Respondent waives any further right to a hearing or appeal on the above-referenced citation under Section 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.

### **MISCELLANEOUS**

50. This matter will be considered settled upon execution of this CO and payment of the fine and restitution, if applicable.
51. This CO only resolves the violations in the above referenced NOH. The Department may still seek relief for other injured consumers.

Accepted for Respondent by:

MAXINE GAWER  
Print name

AUTHORIZED REP  
Title

[Signature]  
Signature

6/9/2015  
Date

Accepted for Julie Menin,  
Commissioner of Consumer Affairs  
for the City of New York by:

[Redacted]  
Print name

Compliance Support Associate  
Title

[Redacted]  
Signature

6/10/2015  
Date

**Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 1st Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at [www.nyc.gov/consumers](http://www.nyc.gov/consumers). License application requirements for employment agencies are available at [www.nyc.gov/html/dca/html/licenses/034.shtml](http://www.nyc.gov/html/dca/html/licenses/034.shtml).**

RECEIVED  
OFFICE OF CONSUMER AFFAIRS  
15 JUN 10 PM 1:03

# Exhibit A

# Receipt

Employment Agency Information (to be completed by Employment Agency)		
Name of Employment Agency _____		
Telephone Number _____ License Number _____		
Name of Agency Staff or Salesperson _____		
Address _____ _____		
Name of Applicant:		Date:
Name of Employer (if known):		
Address of Employer:		Telephone:
E-mail Address, if available:		
Job Title:	Salary:	Employment Class:
Amount of Fee:		
Purpose of Fee:		
<p><b>It is against the law for the employment agency to charge a registration or application fee. The agency can only collect a deposit if you are applying for certain types of jobs. YOU ARE ENTITLED TO A REFUND. IF A REFUND IS NOT MADE WITHIN SEVEN (7) DAYS OR YOU HAVE A COMPLAINT OR NEED MORE INFORMATION, CALL 3-1-1.</b></p>		

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

I confirm that any and all fees the Employment Agency requires Applicant to pay are consistent with the law.

\_\_\_\_\_  
Employment Agency Representative's Signature

\_\_\_\_\_  
Date

# Exhibit B



# Employment Agency Register and Refund Log

# Exhibit C



**Department of  
Consumer Affairs**

## **Domestic or Household Employees: Statement of Employee Rights and Employer Responsibilities**

This handout describes some of the basic rights of domestic or household employees and some responsibilities that their employers must fulfill under New York City, New York State, and federal law. Please note that this document does not list every employee right or employer responsibility. For more information about a specific right or responsibility, you should contact the relevant agency listed on the back.

**Minimum Wage:** All employees are entitled to be paid at least the minimum wage of \$8.75 per hour.

**Overtime:** Employees who work overtime are entitled to be paid at one and one-half times the regular rate of pay. An employee who does not live in the employer's home is entitled to this overtime rate after working 40 hours per week. An employee who lives in the employer's home is entitled to this overtime rate after working 44 hours per week.

**Timely Payment:** Employees must be paid their full salary on a weekly basis, and within seven calendar days of the concluding workweek. Employers must also provide a statement that shows the employee's gross wages, deductions, and net wages.

**Time Off:** Employees are entitled to at least one day of rest (24 consecutive hours) every week and at least three days of paid rest after one year of work for the same employer.

**Paid Sick Leave:** Employees who have worked for the same employer for at least one year and who work more than 80 hours a calendar year in New York City are entitled to two days of paid sick leave. Paid Sick Leave is in addition to the three days of paid rest required under New York State Labor Law.

**Meals and Lodging:** There are minimum standards for meals and lodging which, in part, provide that employees who work a six-hour shift are entitled to a meal break of at least 30 minutes during the course of the shift.

**Notice:** Employers must notify employees at the time of hiring of the rate of pay and regular payday. Employers must give employees the required Notice of Employee Rights created by the Department of Consumer Affairs (DCA). The notice outlines employees' minimum rights under New York City's Paid Sick Leave Law. Additionally, employers must notify employees in writing of the employer's policy on sick leave, vacation, personal leave, holidays, and hours of work. Employers must also notify employees in writing of the date of termination from employment and the date of cancellation of employee benefits, not more than five working days after the date of termination from employment.

**Record Keeping:** Employers must maintain accurate records for three years, showing the hours worked; the rate of pay; the deductions taken from wages; and the name, address, and date of birth of every employee.

**Social Security:** Social Security and Medicare taxes must be paid for all employees earning more than \$1,400 annually. Employees must pay half of the amount due, or 7.65% of the gross wages, which is to be deducted from wages earned. Additionally, employers must pay half of the amount due, or 7.65% of the gross wages, which is to be paid from the employer's own funds. Employers must obtain an employer i.d. number from the Social Security Administration and must keep an accurate accounting of tax deductions.

**Income Taxes:** Employers are not required to withhold income taxes from an employee's wages unless the employee asks the employer to do so in writing and both parties agree.

**Workers' Compensation:** Employers must buy workers' compensation coverage for employees who work more than 40 hours per week. Workers' Compensation provides compensation for injuries or death that occur during the course of employment. Employers cannot deduct the cost of these payments from the employee's salary.

**Disability Benefits Insurance:** Employees who work at least 40 hours per week and are injured or become sick or pregnant outside of the workplace and miss more than seven days of work as a result are entitled to disability benefits.

**Unemployment Insurance:** Employees who earn more than \$500 in a quarter of a calendar year are covered by unemployment insurance if they lose their jobs. Employers must make quarterly unemployment insurance payments following a formula set by the New York State Department of Taxation and Finance. Employers cannot deduct the cost of these payments from the employee's salary.

**No Retaliation:** Employers are prohibited from retaliating against employees who assert their rights under City, state, and federal law.

If you have questions about these rights or responsibilities and how they apply to you, contact the following government agencies:

**U.S. Department of Labor: 212-264-8185**

**U.S. Social Security Administration: 212-264-2500**

**Internal Revenue Service: 1-800-829-1040**

**New York State Department of Labor: 1-888-52-LABOR (1-888-525-2267)**

**New York State Workers' Compensation Board: 718-802-6933**

**New York City Department of Consumer Affairs: Call 311 (212-NEW-YORK outside NYC). Employees can also email [PaidSickLeave@dca.nyc.gov](mailto:PaidSickLeave@dca.nyc.gov) with questions about New York City's Paid Sick Leave Law.**

# Exhibit D

# Domestic or Household Employees: Job Description Form (Statement of Job Conditions)

An Employment Agency must give a completed Job Description Form with all of the information below to every job applicant the Agency refers to a position as a Domestic or Household Employee.

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Amount of Fee \$ \_\_\_\_\_

Employment Agency Information	
Name of Employment Agency _____	
Name of Agency Staff _____	
Telephone Number _____	DCA License Number _____
Address _____	

Job Information	
Name of Employer _____	
Telephone Number _____	Email Address _____
Address _____	
Hourly Pay Rate \$ _____ (minimum \$8.75/hour)  Lodging: <input type="checkbox"/> Live In <input type="checkbox"/> Live Out	Employer will provide (check box that applies): <input type="checkbox"/> No meals <input type="checkbox"/> One meal per working day <input type="checkbox"/> Two meals per working day <input type="checkbox"/> Three meals per working day
Start Date ____/____/____  Employment Status (check all that apply): <input type="checkbox"/> Part-time <input type="checkbox"/> Full-time  <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent	_____ Hours/Day  Weekly Schedule (check all that apply): <input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Saturday <input type="checkbox"/> Sunday
Description of Duties _____ _____ _____ _____ _____	