



AB 1319 - ADVANCE FEE TALENT SERVICES: SCAM PREVENTION

Co-Authors: Asm. Mike Davis & Asm. Fiona Ma

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ISSUE

With the unprecedented popularity of “American Idol” and other reality television programming, the false promise of instant stardom has increasingly become a fertile ground for talent peddlers to scam the public, victimizing children and young adults in particular. This fraud is accomplished through deceptive newspaper, Internet and radio advertisements and by phony "talent scouts", who descend upon parents at shopping malls and community fairs, offer the unsolicited opinion that their child has star potential, and invite them to an "audition"- which turns out to be a "bait and switch" attempt to sell photographs, classes and listing services.

While the number of consumers swindled multiplies, talent scams run rampant because our current laws do not address the types of fraud they employ and do not provide law enforcement with the tools to address the problem.

BACKGROUND

According to statistics from the Better Business Bureau of the Southland, complaints about acting and modeling scams have doubled every year since 2006, and are expected to do so again in 2009. During that time, in Southern California alone, there have been approximately 1,000 complaints and an additional 143,000 inquiries, revealing a massive public interest in businesses that promote instant stardom. Since the amount of loss to an individual victim frequently amounts to \$1,000 or more, this is a crime that results in millions of dollars in loss.

Aside from causing substantial monetary loss, – usually to persons who can least afford it – talent scams cause severe emotional harm to victims, who go from the initial feeling of elation after learning they have passed the "audition," to extreme disappointment when it is revealed that the audition and promise of acting jobs was a lie to sell them photos, classes or websites.

Obviously, this has even a greater impact upon children. Even when a parent chooses not to pay

for the service, the resentment of their children strains relationships.

Another byproduct of the talent scam is that offenders obtain personal information about their clients which can lead to identity theft.

Plus, there is a genuine concern expressed by parent's groups that the failure to adequately regulate this industry allows pedophiles and other unscrupulous persons a means to gain access to minors.

AB 1319 is a comprehensive solution to the problem of abusive business practices and fraud that permeates the advance-fee talent industry. It provides law enforcement with the tools necessary to protect the public and children in particular.

EXISTING LAW

Existing law makes it a misdemeanor offense, punishable by up to 1 year in county jail and a maximum fine of \$10,000 for talent representation services (agents, managers) and career counselors to charge potential actors and models fees for classes, photos, auditions or registration, or for failing to comply with other consumer protection laws, including the requirement they use written contracts containing a 10-day right of cancellation, maintain certain business records and post a \$10,000 bond with the State Labor Commissioner. In addition, current law (L.C. 1701.16) provides consumers with a private right of action, with remedies of treble and punitive damages.

At present, there are no laws which regulate talent training services or talent listing services, avenues which have been extensively exploited by talent scammers.

SOLUTION

AB 1319 breaks down talent services into four basic categories:

- 1) Talent Representation
- 2) Talent Training
- 3) Talent Counseling
- 4) Talent Listing

AB 1319 does not affect, and is not intended to affect, legitimate talent agents or talent managers who earn money strictly through commissions and do not charge their client's advance fees.

AB 1319 prohibits Talent Representation services that **do** charge advance fees from operating, since these businesses serve only to defraud the public.

AB 1319 recognizes that the three remaining types of talent services (training, counseling and listing) serve legitimate functions provided they comply with the bill's consumer protection sections.

AB 1319 addresses fraudulent advertising practices by requiring that talent services claiming to hold "auditions" or claiming that successful artists have used their service maintain supporting proof that the claims are true and make the supporting proof available to law enforcement for inspection and copying. Talent services must also maintain records identifying the "talent scouts" they employ.

AB 1319 promotes consumer protection by requiring every contract with an artist provide conspicuous notice of cancellation and refund procedures, and by prohibiting automatic renewal of terms without the artist's affirmative assent. It also requires talent services post a \$50,000 bond with the Labor Commissioner.

AB 1319 curbs bait and switch business practices by prohibiting talent services from requiring clients to purchase photographs, websites and other promotional materials as a condition for using the talent service or for obtaining preferential treatment from the talent service.

AB 1319 ensures that talent listing services provide accurate information to clients by requiring them to obtain written permission for each job listing and maintain written proof of same for inspection and copying by law enforcement.

AB 1319 also helps protect children by requiring talent services to remove the website of an artist within ten days of a written request by that artist or his/her parent or guardian.

BILL STATUS

2/27/2009: Introduced
4/22/2009: ASM Labor & Employment (5-1)
4/28/2009: ASM Arts, Entertainment, Sports, Tourism & Internet Media (7-2)
5/13/2009: ASM Appropriations (12-4)
6/01/2009: ASM Floor (58-21)
6/23/2009: SEN Judiciary (4-1)
7/08/2009: SEN Labor Committee (4-1)
8/17/2009: SEN Appropriations Committee

SUPPORT

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Co-Sponsors:

Better Business Bureau

Screen Actors Guild

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- BizParentz Foundation
- CA District Attorney's Association
- Marin County District Attorney Edward Berberian
- Orange County District Attorney Tony Rackauckas
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- San Francisco District Attorney Kamala Harris
- The Walt Disney Company
- The Motion Picture Association of America, Inc. includes:
 - o Walt Disney Studios Motion Pictures
 - o Paramount Pictures Corporation
 - o Sony Pictures Entertainment, Inc.
 - o Twentieth Century Fox Film Corp.
 - o Universal Studios LLLP
 - o Warner Bros. Entertainment Inc.

OPPOSITION

Association of Talent and Modeling Agencies

FOR MORE INFORMATION

Office of Assistant Majority Leader Krekorian
Josefina Ramirez, (916) 319-2043

Office of Los Angeles City Attorney
Mark Lambert, Deputy City Attorney
(213) 978-8092