March 10, 1998

Matthew Miller
President
Association of Independent Commercial Producers
11 East 22nd Street, 4th floor
New York, NY 10010

Re: Split Shifts for Minors in the Entertainment Industry

Dear Mr. Miller:

This letter is in response to your letter of January 18, 1998 regarding the above referenced matter.

Initially I would like to apologize for the delay. Unfortunately, traveling has minimized my time in the office and subsequently I have fallen behind in my correspondence.

Your request for clarification in regard to split shifts for minors in the entertainment industry is best answered by quoting portions of the California Code of Regulations, (CCR) which sets forth the applicable requirements. Upon review of the CCR, work time allowed, time on set, recreation time and educational requirements vary depending on the age of the child. The facts are rather briefly set forth in your letter creating difficulty in answering your inquiry comprehensively.

Your letter asks whether the long standing practice of using split shirt scheduling for minors on days that last more than eight hours due to sporadic shooting schedules for technical reasons is legal. You maintain that the limits on work time on the set, as well as schooling time are being met. Again, the varying amount of hours on the set and the age of the child present an unlimited amount of fact patterns, all which may produce varying results. I assume you are not referring to minors under the age of two (2) years, as minors under two years of age are not permitted on the set for more than four (4) hours and may not work more than 2 hours maximum.

Title 8 Chapter 6 Subchapter 2 Article 1 #11760 of the CCR sets forth the working hours for minors in the entertainment industry. The amount of time minors are permitted at the place of employment within a twenty-four (24) hour period is limited according to age, as follows:

…….

Such six hour period shall consist of not more than three hours of work; the balance of the six hour period shall be rest and recreation and for education.

(d) Minors who have reached the age of six (6) years but have not attained the age of nine (9) years may be permitted at the place of employment for a maximum of eight (8) hours. Such eight-hour period shall consist of not more than four (4) hours of work and

at least (3) hours of schooling when the minor's school is in session. The studio teacher shall assure that the minor receives up to one (1) hour of rest and recreation. On days when the minor's school is not in session, working hours may be increased to six (6) hours with one (1) hour of rest and recreation.

(e) Minors who have reached the age of nine (9) years but who have not attained the age of sixteen (16) years may be permitted at the place of employment for a maximum of nine (9) hours. Such nine-hour period shall consist of not more than five (5) hours of work and at least (3) hours of schooling when the minor's school is in session. The studio teacher shall assure that the minor receives up to one (1) hour of rest and recreation. On days when the minor's school is not in session, working hours may be increased to seven (7) hours, with one (1) hour of rest and recreation.

(f) Minors who have reached the age of sixteen (16) years but who have not attained the age of eighteen (18) years may be permitted at the place of employment for a maximum of ten (10) hours. Such ten-hour period shall consist of not more than six (6) hours of work and at least (3) hours of schooling when the minor's school is in session, and one (1) hour of rest and recreation. On days when the school is not in session, working hours may be increased to eight (8) hours, with one (1) hour of rest and recreation.

(g) If emergency situations arise, a request may be made to the Labor Commissioner for permission for the minor to work earlier or later than such hours. Each request shall be considered individually by the Division and must be submitted in writing at least forty-eight (48) hours prior to the time needed.

If the minor is required to stay on the set and thus remains under the direction and control of the employer, all of the time on the set would count toward hours worked, excepting schooling and rest and recreation. If the minor is permitted to leave the set in between shoots, and is no longer under the direction and control of the employer, and the above time requirements are maintained, then California labor law has not been violated.

The criteria is clear under the CCR. If the split shifts in question comply with the above provisions, then the employer would be in compliance with the California labor law. When the situation presents itself that extra hours on the set are required, I would encourage the employer to utilize #11760 (g) authorizing the Labor Commissioner to permit additional time on the set.

I hope this adequately answers the issues you present. If I have misconstrued any portion of your request, do not hesitate to contact the undersigned. Thank you for your continued interest in California labor law.

Yours truly,

Jose Millan

State Labor Commissioner

Cc: Assistant Chiefs
Chief Counsel

STATE OF CALIFORNIA
GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
30 Van Ness Avenue, Suite 4400
San Francisco, CA 94102

ADDRESS REPLY TO:
P.O. Box 603
San Francisco, CA 94101

In Reply Refer To:

September 12, 1990

Polly Businger
President
IATSE Local 884, Studio Teachers
1275 NB. Hayworth Avenue
Los Angeles, CA 90046

Dear Ms. Businger:

Thank you for your letter of August 7, 1990, regarding the use of "split calls" by production companies who employ minors to work in the entertainment industry.

I share your concern that the laws protecting minors who work in the entertainment industry remain strong and effective. Indeed when this agency promulgated the administrative regulations relating to the issuance of entertainment work permits, it was with the idea that input from various components of the concerned public would be provided at the hearings held primarily for the purpose of developing these rules and regulations.

It is unfortunate that no testimony was received at these hearings regarding the use of split calls, nor for that matter was there any testimony regarding the need for the number of hours a minor may work to be on a consecutive basis. Consequently, the regulations do not specify that the hours worked by a minor need to be consecutive resulting in the increased use of split calls by production companies.

I am sure you will appreciate that our responsibility is to interpret regulations as they presently exist. On the other hand, I believe that by continuing to have our staff consulted on split calls, abuses can be more easily detected and rectified by addressing them as "special situations." I firmly believe that our offices can fulfill an advisory capacity and thereby ensure that this practice is not abused.

Thank you again for writing to us with your concerns.

Very truly yours,

James H. Curry
Acting Labor Commissioner

JHC:oa