

## Memorandum in Support

May 23, 2024

S. 9662

By: Senator Kavanagh  
Senate Committee: Consumer Protection  
Effective Date: Immediately

**AN ACT** to amend the general business law and the arts and cultural affairs law, in relation to exempting attorneys from the definition of theatrical employment agency.

**LAW AND SECTIONS REFERRED TO:** Subdivision 8 of Section 171 of the General Business Law

The New York State Bar Association supports this bill which would exempt attorneys from the definition of theatrical employment agency and prevent attorneys who practice in the entertainment industries who negotiate employment agreements from being exposed to civil and criminal sanctions in the course of their everyday work.

Current New York laws recognize the realities of the entertainment industry and that personal managers may procure employment opportunities for new artists on an ancillary basis, even though their primary role is to advise, counsel and manage the career development of artists. However, no such similar exemption exists for attorneys from the definition of a “Theatrical Employment Agency”. In California, an attorney was found to violate a talent agency license requirement for negotiating an employment contract for an artist without a talent agency license. Though not binding upon the New York courts or regulatory agencies, such a finding may be followed by the New York administrative agencies or courts to impose civil or criminal sanctions, or both, against attorneys who may be found to violate the New York theatrical employment agency statutes while negotiating employment agreements on behalf of their artist clients.

Personal managers have been exempted from the licensing requirements since 1917. All the reasons for the personal manager exemption apply to attorneys. In addition, given that attorneys are already held to stringent ethical requirements to ensure protection of potential or actual clients, the intent of the employment agency licensing requirement is already satisfied through the attorney licensing process. Therefore, there is no need for an additional and unnecessary licensing requirement for attorneys duly admitted in the State of New York.

For the above reasons, the New York State Bar Association **SUPPORTS** S9662.