

**EMPLOYMENT STANDARDS TRIBUNAL**  
In the matter of an appeal pursuant to Section 112 of the  
*Employment Standards Act*, R.S.B.C. 1996, c. 113

-by-

Platinum Express 1HR Printing Inc.

(“Platinum Express”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 97/901

**DATE OF HEARING:** February 23rd, 1998

**DATE OF DECISION:** March 11, 1998

**DECISION**

**APPEARANCES**

Tony Seo, General Manager	for Platinum Express 1HR Printing Inc.
Alyssa Park	on her own behalf

**OVERVIEW**

This is an appeal brought by Platinum Express 1HR Printing Inc. (“Platinum Express” or the “employer”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by the Director of Employment Standards (the “Director”) on November 13th, 1997 under file number 081-171 (the “Determination”).

The Director determined that Alyssa Park (“Park”) was owed \$541.71 in unpaid wages and that by reason of section 95 of the *Act* (the “associated corporations” provision), both Platinum Express and the partnership of Ben Her and Tony Seo were jointly and severally liable for the full amount of Ms. Park’s wage claim.

The appeal in this matter was heard at the Tribunal’s offices in Vancouver on February 23rd, 1998 at which time I heard testimony from both Tony Seo and James Wong, on behalf of Platinum Express, and from Ms. Park on her own behalf

**ISSUES TO BE DECIDED**

No appeal has been filed with respect to the section 95 determination by Mr. Ben Her; indeed, Mr. Her apparently admits that sometime in March 1997 he and Tony Seo did form a partnership to produce a monthly “Korean Magazine”. Platinum Express has appealed the Determination arguing that Ms. Park was never hired by, nor worked for, that firm. Further, Platinum Express says that the Director’s section 95 “associated employer designation” should be set aside.

**FACTS**

Ms. Park, who has an educational background in graphic design, responded to an advertisement placed in a local Korean language newspaper and was interviewed by Tony Seo at Platinum Express’ business office on May 27th, 1997. During this interview, Mr. Seo referred to Ben Her as his “partner” in a proposed Korean Magazine venture. Ms. Park understood that Platinum

Express and the Korean Magazine were going to “share” her wages, each being responsible for one-half of her earnings.

Park was offered a job and started work on May 29th working from 9:00 AM to 5 PM at the Platinum Express office doing various tasks from meeting with customers to carrying out telephone, fax and copying duties as directed by Seo--this work appeared to related solely to the business of Platinum Express. The next day, Seo introduced Park to Ben Her to whom he referred as his “partner”.

In early July 1997, Park was directed by Seo (and later also by Ben Her) to undertake certain tasks related to the proposed Korean Magazine including typing customer and advertiser lists. From about July 10th until she quit on July 16th, Ms. Park’s duties were exclusively related to the magazine.

Neither Platinum Express nor Ben Her has provided Ms. Park with a Record of Employment as required by federal law. While Ben Her has paid the sum of \$320 (in cash) toward Ms. Park’s wage claim, Platinum Express has not paid her any monies to date.

The uncontradicted evidence before me is that during the period May 19th to July 16th Platinum Express and the proposed Korean Magazine:

- occupied the same office space;
- shared a common telephone and fax number; and
- shared Ms. Park’s services;

## **ANALYSIS**

The evidence discloses that both Platinum Express and the Korean Magazine venture shared Ms. Park’s services. Further, the evidence also shows that Tony Seo was in a position of authority and control, at least during the relevant time frame, with respect to both business operations.

While the apparent partnership between Seo and Her has now seemingly dissolved into acrimony, I am satisfied that at the time when Ms. Park’s wage claim crystallized, the two firms (Platinum Express and the Korean Magazine venture) were associated within section 95 of the *Act* and, therefore, are “jointly and separately liable” for Ms. Park’s unpaid wages.

I should note that in his evidence before me Seo endeavoured to characterize his relationship with Ben Her as merely that of a landlord; Ben Her sublet some office space from Platinum Express but

there was no business relationship between himself and Her. I reject this submission for several reasons including Seo's own testimony that he alone interviewed Ms. Park, that he often dealt with Korean Magazine business on Her's behalf, and that he was "helping out" Mr. Her with respect to the Korean Magazine venture.

Further, Seo placed into evidence a Korean Magazine "flyer" (partly in Korean, partly in English) which I understand was to be sent to potential Korean Magazine advertisers; at the bottom of page 1 of this flyer the following paragraph appears:

"As note, your Advertising Representative will be contacting you in near future to discuss your specific requirements. If you have any questions in the interim, please feel free to call Ben Her or Tony Seo between our office hours to accommodate your needs."

I note that the address, telephone and fax numbers that appear across the bottom of each page of the flyer are the same as those of Platinum Express.

## **ORDER**

Pursuant to section 115 of the *Act*, I order that the Determination issued in this matter be confirmed in the amount of **\$547.71** together with whatever further interest that may have accrued, pursuant to section 88 of the *Act*, since the date of issuance.

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**Kenneth Wm. Thornicroft, *Adjudicator***  
**Employment Standards Tribunal**

KT/bls