

**SS-8 Determination—Determination for Public Inspection**

Occupation

02REC Admissions Recruiter

Determination:

☒ Employee☐ Contractor

UILC

Third Party Communication:

☒ None☐ Yes

I have read Notice 441 and am requesting:

- ☐ Additional redactions based on categories listed in section entitled "Deletions We May Have Made to Your Original Determination Letter"
- ☐ Delay based on an on-going transaction
- ☐ 90 day delay

**For IRS Use Only:****Facts of Case**

he parties agreed that training and instructions were provided by the firm additionally, they both agreed that the worker received her assignments from the firm's owner and director, the methods these assignments were to be performed was also determined by the owner and director. If a problem or complaint were to arise the worker was required to contact the owner and or director for resolution. The worker stated she was required to keep reports on daily clock ins and outs, the number of students scheduled for tours and tuition deposits. The parties generally agreed that the workers daily routine consisted of recruiting prospective students, tours, monitoring social media accounts, and phone calls, the firm added she would also travel to high schools and salons. The worker stated she began her daily routine at 9:00am. The worker stated she performed these services 100% of the time at the firm's premises, however the firm responded that 75% of the time these services were performed at their premises and 25% of the time at schools and salons recruiting prospective students. The worker stated staff meetings were required. It was agreed by both parties the services provided by the worker was performed personally. If substitutes or helpers were needed, the parties agreed it was the owner who was responsible to hire and pay them. The worker stated the firm provided all the supplies, materials and equipment, the firm agreed and added the worker provided her cell phone and car. The firm stated the worker's expenses were gas money and her cell phone bill, neither were reimbursed. The worker was not allowed a drawing account for advances. Both parties agreed that the customers paid the firm, however they gave differing responses on who established the level of payment, the worker stated the firm was responsible for this while the firm responded the worker established the level of payment. The worker stated it was unknown what economic loss or financial risk she could incur other than the normal loss of salary. The worker responded that paid vacations, personal days, and bonuses were available to her, while the firm stated paid holidays were available to her. The firm replied that the relationship could be terminated by either party without incurring a liability or penalty, the worker stated she was unsure of this. They both agreed that the worker was not performing similar services for others during the time indicated, additionally, there was no agreement between the parties prohibiting competition while the worker was performing services or during any later time. The worker advertised on the firm's social media page and the firm stated she had business cards. The worker stated if there were any assembly or processing of a product at home, the firm provided the materials and the finished product would be returned to the firm, alternatively the firm responded that they both provided materials and any finished product was returned to the person who provided the materials. The worker stated she was always represented to the firm's customers as an employee under the firm's business name, the firm stated she was represented as an admissions representative. The worker said the relationship ended when she quit, however the firm stated she was a bad worker and stole from the student's tuition.

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**Analysis**

The worker received her assignments from the owner of the firm and the owner retained the right, if necessary, to protect their business interest, to determine or change the method used by the worker in the performance of these assignments. Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business. In this case, the worker was not engaged in an independent enterprise, but rather the services performed by the worker were a necessary and integral part of the firm's business. We have considered the information provided by both parties to this work relationship. In this case, the firm retained the right to change the worker's methods and to direct the worker to the extent necessary to protect its financial investment and business reputation and to ensure its customers' satisfaction and that its contractual obligations were met. The worker was not operating a separate and distinct business; the worker did not invest capital or assume business risks, and therefore, did not have the opportunity to realize a profit or incur a loss because of the services provided.