

New York State  
Industrial Board of Appeals

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Chairman



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STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

WILLIAM BRENNER AND BRENNER INCOME  
TAX CENTERS, INC.

Petitioner,

To Review Under Section 101 of the Labor Law:  
Two Orders under Article 6 of the Labor Law, dated  
December 7, 2007,

- against -

THE COMMISSIONER OF LABOR,

Respondent.  
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DOCKET NO. PR 08-016

RESOLUTION OF DECISION

WHEREAS:

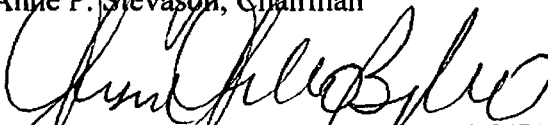
1. On February 12, 2008 the Board received a petition in the above-referenced matter dated February 6, 2008 by United States Postal Service Priority Mail. The petition was served on the Respondent on May 6, 2008; and
2. The Respondent filed a motion to dismiss dated June 9, 2008 that was received by the Board on June 12, 2008. Respondent alleges in its motion that the petition should be dismissed as untimely; and
3. By letter dated June 13, 2008, the Board required that the Petitioner's response to the motion to dismiss, if any, must be received by the Board no later than June 18, 2008. However, to date, the Petitioner has not responded; and


4. Labor Law § 101 provides that a petition for review must be filed with the Board no later than sixty days after the issuance of the Orders to be reviewed. The Orders to be reviewed were issued by the Respondent on December 7, 2007; therefore the time to appeal expired on February 5, 2008; and
5. The Petition is untimely as it was not mailed on or before February 5, 2008, as required by Labor Law § 101 and Board Rules 65.5 (c) and (d).


NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

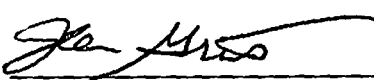
1. The Orders to Comply with Article 6 of the Labor Law, dated December 7, 2008 are hereby affirmed; and
2. The petition is hereby dismissed.

  
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Anne P. Stevason, Chairman

  
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Susan Sullivan-Bisceglia, Member

  
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J. Christopher Meagher, Member

  
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Mark G. Pearce, Member

  
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Jean Grumet, Member

Dated and signed in the Office of the Industrial Board of Appeals, at New York, New York, on September 24, 2008.