

The orders sought to be reviewed were issued on December 3, 2010, and therefore, any petition for review filed with the Board after February 1, 2011 would be untimely (Board Rules of Procedure and Practice 65.5 and 65.3 [a]; [12 NYCRR 65.5 and 65.3 (a)]). There is no dispute that the petition was received by the Board after February 1, 2011; however, the affidavit of service attached to the Commissioner's reply affirmation indicates that the orders were served on petitioner Pjeter Vulaj at his home address. We have previously ruled that it is not proper service under Labor Law § 33 for an order to be served by mail on an individual at his home address (*see Matter of Angelo A. Gambino et al.*, Docket No. PR 10-150 [interim decision, November 18, 2010]). Accordingly, the motion to dismiss is denied with respect to petitioner Vulaj and his petition is deemed timely filed.

Since the Commissioner has not provided an affidavit of service for petitioner Veteti Corp., we grant her leave to submit an affirmation as to whether Veteti Corp. was properly served pursuant to Labor Law § 33.

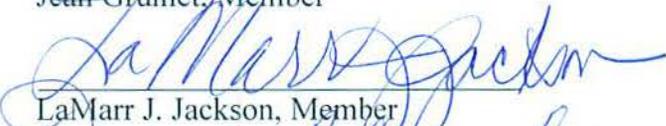
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

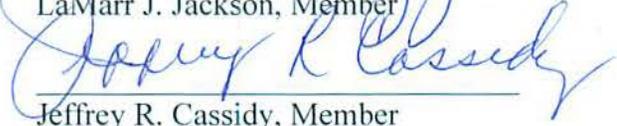
1. Respondent Commissioner of Labor's motion to dismiss the petition of Pjeter Vulaj be, and hereby is, denied; and
2. Respondent Commissioner of Labor is granted leave until November 15, 2011 to file an affirmation as to whether Veteti Corp was properly served under Labor Law § 33; and;
3. Respondent Commissioner of Labor's motion to dismiss the petition of Veteti Corp. is not decided by this interim resolution of decision; and
4. Respondent Commissioner of Labor is not required to answer the petition of Pjeter Vulaj pending decision on the motion to dismiss the petition of Veteti Corp.


Anne P. Stevason, Chairperson


J. Christopher Meagher, Member


Jean Grumet, Member


LaMarr J. Jackson, Member


Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
October 11, 2011.