

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 137 7th AVENUE CORPORATION, :
 :
 Petitioner, :
 :
 To Review Under Section 101 of the Labor Law: :
 An Order to Comply with Article 19 of the Labor Law :
 and an Order Under Article 19 of the Labor Law, both :
 dated October 26, 2011, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
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DOCKET NO. PR 11-399

INTERIM
RESOLUTION OF DECISION

APPEARANCES

Samuel S.H. Ahne, Esq., for the petitioner.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Benjamin A. Shaw of counsel), for the respondent.

WHEREAS:

The above proceeding was commenced on December 27, 2011, when petitioner 137 7th Avenue Corporation filed a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (12 NYCRR Part 66) of two orders to comply issued by the respondent Commissioner of Labor against Renato Vilardo and 137 7th Ave Corporation (T/A Joe's Pizza). Renato Vilardo has not appealed.

On January 20, 2012, the Board served the petition on respondent, who moved on February 23, 2012, for an order granting the respondent permission to amend and reissue the orders to comply. Specifically, the respondent seeks to amend the orders to include "Joe's Pizza Park Slop, Inc." [sic.] as a liable party.

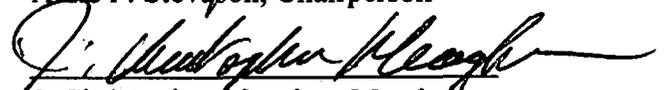
The petitioner does not oppose the motion.

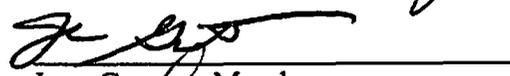
Accordingly, the Board approves the amendment and reissuance of the orders as requested by the respondent, effective the date of this decision, but suspends any interest that has accrued between February 23, 2012, and the date the respondent files an answer with the Board.

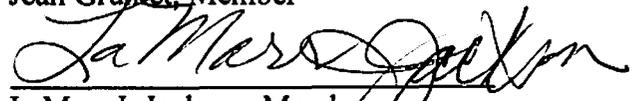
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

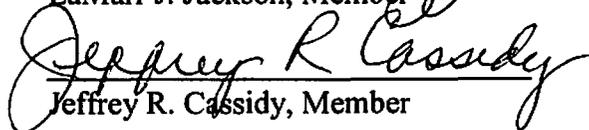
1. Effective the date of this Interim Resolution of Decision, the Board approves respondent's amendment of the orders to include "Joe's Pizza Park Slop, Inc." as a liable party, and upon amendment of the orders, their reissuance; and
2. No later than sixty days from respondent's service on petitioner of the amended orders, petitioner shall file with the Board either an amended petition or a writing advising the Board that it will rely on the petition that was filed in December 2011, with proof of service of the petition or the writing, as appropriate, on respondent; and
3. Upon receipt of petitioner's amended petition or writing advising of its reliance on the earlier filed petition, respondent shall file an answer in accordance with Rule 66.5; and
4. The amended orders shall be served on Joe's Pizza Park Slop, Inc. in accordance with Labor Law § 33; and
5. Any petition filed by Joe's Pizza Park Slop, Inc. shall be consolidated with the petition of 137 7th Avenue Corporation under Board docket number PR 11-399; and
6. The accrual of interest in the amended orders is suspended from February 23, 2012 until the date that respondent files an answer with the Board, with proof of service on the petitioner(s).


Anne P. Stevason, Chairperson


J. Christopher Meagher, Member


Jean Grunet, Member


LaMarr J. Jackson, Member


Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
July 16, 2012.