



There is no dispute that the petition was filed more than 60 days after the orders were issued. Respondent’s affidavit of service indicates that one copy of the orders was served by mail on “Gabriela Bancescu and R.Y.M. American Inc. (T/A Transylvania Restaurant),”<sup>1</sup> at petitioner’s residential address.

Gabriela Bancescu  
55-07 69<sup>th</sup> Pl., Apt. #1  
Maspeth, NY 11378

We have repeatedly held that Labor Law § 33 allows the Commissioner to serve orders on individuals by mail only at their last known place of business (*Matter of Mosquera et al.*, PR 12-031 [interim decision, September 10, 2012]; *Matter of Angelo A. Gambino et al.*, PR 10-150 [interim decision, November 18, 2010]; *Matter of Pjeter Vulaj et al.*, PR 11-034 [interim decision, October 11, 2011]; *Matter of Jacinto Abreu et al.*, PR 10-356 [interim decision, June 7, 2011]). Mailing an order to an individual at his or her residence is not permitted by the statute. In this case, the record shows that the Commissioner mailed one copy of the orders to petitioner at Bancescu’s former place of residence. We further note that service also was improper because one copy of the orders was served on two petitioners. We have held repeatedly that “proper service requires each individual and entity named in an order to be served with a copy of such order” (*Matter of Mosquera et al.*, PR 12-031 [interim decision, September 10, 2012] [*citing Raschel v Rish*, 69 NY2d 694 (1986); *McCormack v Gomez*, 137 AD2d 504 (2d Dept 1988)]; *Matter of Patricia Towle et al.*, PR 14-329 [interim decision, April 29, 2015]).

We find that service of the orders on petitioner was defective and hold that the limitations period did not begin to run. We deem the petition timely filed with the Board, and the Board’s review proceedings have been commenced.

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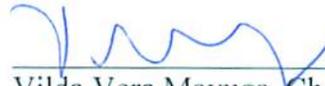
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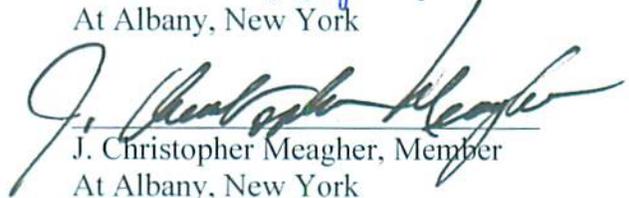
<sup>1</sup> The orders being appealed name Gabriela Bancescu and R.Y.M. American Inc. (T/A Transylvania Restaurant), but the petition before the Board was filed only on behalf of Gabriela Bancescu.

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

1. Respondent Commissioner of Labor's motion to dismiss the petition be, and hereby is, denied; and
2. Respondent Commissioner of Labor be, and hereby is, required to answer the petition within 30 days of the service of this Interim Resolution of Decision upon her.



Vilda Vera Mayuga, Chairperson  
At Albany, New York



J. Christopher Meagher, Member  
At Albany, New York

Absent

LaMarr J. Jackson, Member  
At Rochester, New York



Michael A. Arcuri, Member  
At Albany, New York

Dated and signed by the Members  
of the Industrial Board of Appeals  
on October 28, 2015.