

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :
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 :
 FILIPPO LIA A/K/A PHILIP LIA AND :
 FILIPPO'S, INC., :
 :
 : DOCKET NO. PR 15-238
 :
 :
 : Petitioners, :
 :
 :
 : RESOLUTION OF DECISION
 To Review Under Section 101 of the Labor Law: An :
 Order to Comply with Article 19 and an Order Under :
 Articles 6 and 19 of the Labor Law, both dated June :
 11, 2015, :
 :
 :
 : - against - :
 :
 :
 : THE COMMISSIONER OF LABOR, :
 :
 :
 : Respondent. :
 :
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APPEARANCES

Pitta & Giblin LLP (Jane Lauer Barker of counsel), for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Taylor A. Waites of counsel), for respondent.

WHEREAS:

1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR Part 66) on August 10, 2015; and
2. Respondent Commissioner of Labor (Commissioner) filed an answer to the petition on October 23, 2015; and
3. Upon notice by the Board to the parties issued on August 9, 2016, a hearing was scheduled for November 29, 2016. The notice was sent to petitioners, care of their attorney Jane Lauer Barker, at Pitta & Giblin, LLP, 120 Broadway, 28th Floor, New York, New York 10271, the attorney's address of record with the Board; and
4. On November 28, 2016, Ms. Lauer Barker sent a letter by facsimile to the Board stating that petitioner Filippo Lia a/k/a Philip Lia died on December 3, 2015 and "left no estate", and that

petitioner Filippo's, Inc. was dissolved in October 2016. Ms. Lauer Barker stated that she would not appear at the hearing on November 29, 2016; and


5. Petitioners failed to attend or otherwise appear at the hearing; and
6. Pursuant to Labor Law § 103 and Board Rule 65.30, the burden of proof is on petitioners to prove that the orders under review are not valid or reasonable; and
7. Pursuant to Board Rule 65.24, "the failure of a party to appear shall be deemed a waiver of all rights except the rights to be served with a copy of the decision of the Board and to request Board review" pursuant to Rule 65.41, unless application for reinstatement is made within five days after the scheduled hearing; and
8. Petitioners have not made any application for reinstatement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

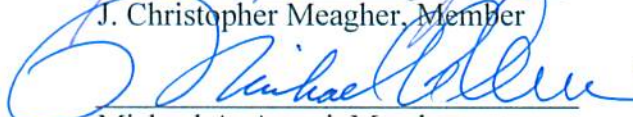
This petition be, and the same hereby is, denied in accordance with the Board's Rules.



Vilda Vera Mayuga, Chairperson



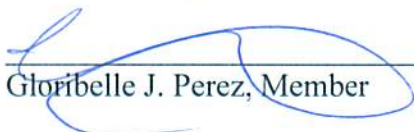
J. Christopher Meagher, Member



Michael A. Arcuri, Member

Absent

Molly Doherty, Member



Gloribelle J. Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
in New York, New York, on
January 25, 2017.