

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

GREGORY A. GEORGE A/K/A GREGORY A.
GEORGE, SR.,

Petitioner,

DOCKET NO. PR 18-011

To Review Under Section 101 of the Labor Law:
An Order to Comply with Article 6 of the Labor Law,
dated January 26, 2018,

RESOLUTION OF DECISION

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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APPEARANCES

Underberg & Kessler LLP, Rochester, (*Alina Nadir* of counsel), for petitioner.

Pico Ben-Amotz, General Counsel, NYS Department of Labor, Albany (*Steven J. Pepe* of counsel),
for respondent.

WHEREAS:

The above proceeding was commenced on February 22, 2018, when petitioner 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) challenging an order issued against him and Mariellen Cupini, together t/a Stepping Stones and t/a Stepping Stones Learning Center (SSLC). George is the sole petitioner in this matter.

The petition alleges that petitioner was never an employee, executive, or manager of SSLC. Rather, petitioner served as an uncompensated member of SSLC's Board of Directors prior to SSLC's dissolution. The petition further alleges that petitioner is immune from liability "... pursuant to Not-for-Profit Corporation Law Section 720-a, which provides that no uncompensated director of a 501(c)(3) organization 'shall be liable to any person other than such ... organization ... based solely on his or her conduct in the execution of such office.'"

On May 9, 2018, the Board served the petition on respondent Commissioner of Labor. Respondent filed an answer to the petition on June 8, 2018. On November 9, 2018, respondent

moved the Board to withdraw the order to comply as to petitioner. In her papers, respondent stated that “[p]ursuant to a review of Petitioner, Gregory George’s assertions, the Respondent finds no basis for liability.” Petitioner did not oppose the motion.

After review of the motion, the petition and all papers and correspondence, and after full consideration of the Board’s Rules of Procedure and Practice, the Board grants the motion and the order is amended to remove the name of petitioner Gregory A. George a/k/a Gregory A. George, Sr. from the order. The order named another individual, Mariellen Cupini, who has separately petitioned the Board to review the order pursuant to Labor Law § 101(1) under Board Docket No. 18-014. The order as issued against Mariellen Cupini remains valid unless declared invalid in a proceeding before the Board under Labor Law § 103(1). Thus, the Board is granting the petition and revoking the order only as to the named individual Gregory A. George a/k/a Gregory A. George, Sr.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

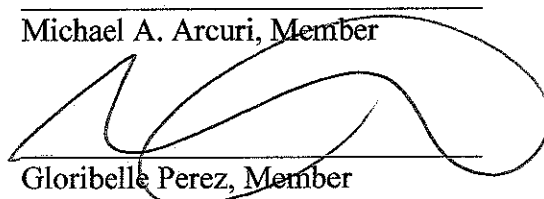
1. Effective as of the date of this Resolution of Decision, the Board approves respondent’s motion to amend the Order Under Article 6 of the Labor Law issued January 26, 2018 to remove the name of Gregory A. George a/k/a Gregory A. George, Sr.; and
2. The petition of Gregory A. George a/k/a Gregory A. George, Sr. is granted.



Molly Doherty, Chairperson

RECUSED

J. Christopher Meagher, Member

Michael A. Arcuri, Member


Gloribelle Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
in New York, New York, on
December 12, 2018.

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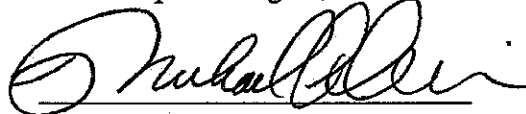
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Gloribelle Perez, Member

~~Dated and signed by a Member~~
of the Industrial Board of Appeals
in Utica, New York, on
December 12, 2018.