STATE OF NEW YORK INDUSTRIAL BOARD OF APPEALS	
In the Matter of the Petition of:	x :
AMBUSH ALARM & ELECTRONICS, INC,	
Petitioner,	DOCKET NO. PR 11-264
To Review Under Section 101 of the Labor Law: Order to Comply No. 11-00851 dated August 3, 2011,	. RESOLUTION OF DECISION : ON MOTION FOR : RECONSIDERATION
- against -	
THE COMMISSIONER OF LABOR,	
Respondent.	· ·

APPEARANCES

Jory Garelick, petitioner pro se.

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

WHEREAS:

On August 15, 2011, the petitioner filed a letter with the Board asking "...to receive a detailed breakdown of all charges to us." A copy of the Order to Comply No. 11-00851 dated August 3, 2011, was not attached to the August 15th letter. By letter dated September 12, 2011, enclosing a copy of the Board's Rules of Practice and Procedure (Rules) (12 NYCRR Part 66), the Board directed the petitioner to file an amended petition and a copy of the order(s) sought to be reviewed in accordance with the Rules. The letter directed the petitioner to file an amended petition on or before October 12, 2011, or the appeal could be dismissed without further notice.

No amended petition having been filed, the Board dismissed the matter by Resolution of Decision dated December 14, 2011. The petitioner by its accountant Daniel Samela, CPA, filed a letter dated April 3, 2012, that the Board received on April 10, 2012, requesting that the Board "reopen the case" because the petitioner's clerical staff did not follow through on the paperwork necessary for the appeal and the matter had not been attended to due to the absence of the president of the petitioner because of "an extraordinary [sic] amount of stress due to an impending divorce..." By letter dated April 16, 2012, counsel for the Board advised petitioner of the proper means to apply for reconsideration under Board Rule 65.41 and of the need for submission of a designation of representative form if Mr. Samela was to represent petitioner.

Respondent obtained a judgment against petitioner on August 2, 2012, in Supreme Court, Kings County in the amount of \$43,010.09 and notice of that judgment was sent to Mr. Samela on September 27, 2012.

On October 22, 2012, the petitioner filed a Petition for Review dated July 26, 2012, that the Board treated as a Motion for Reconsideration. Respondent filed a Reply Affirmation on October 29, 2012, in opposition to Petitioner's request for reconsideration of the Board's Resolution of Decision dated December 14, 2011.

By Resolution of Decision dated December 14, 2012, the Board affirmed the decision of December 14, 2011. The petitioner filed a motion for reconsideration of the December 14, 2012 decision on January 28, 2013, requesting the Board to reconsider its decision based upon the timely filing of the original petition and referencing the defenses it has to the claims, its long-standing good business record, and the impact on its business from Hurricane Sandy.

The Board taking all matters into consideration and being especially cognizant of the desire of the government of the State of New York to help citizens and businesses recover from the devastating impact of Hurricane Sandy on many communities in the state, has reconsidered our earlier denial and now wishes to reopen this matter for a hearing.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

- 1. The petitioners' motion for reconsideration is granted; and
- 2. The Board's Resolution of Decision in this matter issued December 14, 2011 and Resolution of Decision on Motion for Reconsideration of December 14, 2012, are both revoked; and
- 3. The matter will be scheduled by the designated Hearing Officer for a pre-hearing conference and hearing as soon as possible.

Anne P. Stevason, Chairperson

J. Christopher Meagher, Member

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Jean Grumet, Member

LaMarr J. Jackson, Member

Dated and signed in the Office of the Industrial Board of Appeals at New York, New York, on April 29, 2013.

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Anne P. Stevason, Chairperson

J. Christopher Meagher, Member

Jean Grumet, Member LaMarr J. Jackson, Member

Jeffrey R. Cassidy, Member

Dated and signed by a Member of the Industrial Board of Appeals at Rochester, New York, on April 29, 2013.