STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of:	
LORI A. SOTTILOTTA AND ROYALE CLASS, INC. AND ROYALE CLASS CONSULTING, INC.,	
Petitioners,	DOCKET NO. PR 15-045
To Review Under Section 101 of the Labor Law: Two Orders to Comply with Article 6, One Order to Comply with Article 19, and an Order Under Articles 6 and 19 of the Labor Law, all dated January 29, 2015,	RESOLUTION OF DECISION
- against -	
THE COMMISSIONER OF LABOR,	
Respondent.	

APPEARANCES

Lori A. Sottilotta, petitioner *pro se* and for petitioners Royale Class, Inc. and Royale Class Consulting, Inc.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Benjamin T. Garry, 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 February 23, 2015; and

2. Petitioners sought to review two orders to comply with Article 6, one order to comply with Article 19, and one order under Articles 6 and 19 of the Labor Law, all issued on January 29, 2015; and

3. Respondent Commissioner of Labor (Commissioner) filed an answer to the petition on April 2, 2015; and

4. Upon notice by the Board issued to the parties on April 22, 2015, a pre-hearing conference was scheduled for June 22, 2015 and a hearing was scheduled in Rochester, New York for August 11, 2015. The notice was sent to petitioners at the address of record they supplied to the Board in their petition and was not returned; and

5. Petitioners participated in the pre-hearing conference but failed to attend the hearing on August 11, 2015; and

6. Upon notice issued by the Board on September 25, 2015, a second hearing was scheduled for October 16, 2015 in Rochester, New York to address one of the two orders to comply with Article 6 that the parties had agreed to settle but had not successfully executed and filed a settlement agreement. The notice was sent to petitioners by regular mail, and UPS next day air, at the address of record they supplied to the Board in their petition; and

7. The notices were returned to the Board by the Postal Service and UPS as not deliverable, unable to forward, and petitioners failed to contact the Board to provide a correct address where the Board may contact them; and

8. 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

9. Pursuant to Board Rule 65.24, "the failure of a party to appear at a hearing shall be deemed to be 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

10. Pursuant to Board Rule 65.4, any change in contact information must be communicated promptly to the Board and failure to furnish such information shall be deemed a waiver of the right to notice and service under the Rules; and

11. Petitioners have not made any application for reinstatement for their failure to appear at the hearing on August 11, 2015 and have therefore waived their rights pursuant to Rule 65.24 to review those orders that were the subject of that hearing; and

12. The Board also finds that petitioners have failed to notify it of correct contact information pursuant to Rule 65.24, have abandoned their appeal of the remaining order under review, and the proceeding should be dismissed under the Board's Rules.

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NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

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

Vilda Vera Mayuga, Chairperson

J. Christopher Meagher, Member

LaMarr J. Jackson, Member

Michael A. Arcuri, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
December 9, 2015.