

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

LUISA MARTINEZ,

Petitioner,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Article 19 of the Labor
Law, and an Order under Article 19 of the Labor Law,
both dated January 14, 2015,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 15-051

RESOLUTION OF DECISION

APPEARANCES

Luisa Martinez, petitioner pro se.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Fredy Kaplan of counsel), for respondent.

WHEREAS:

1. The above proceeding was commenced on February 26, 2015, when petitioner Luisa Martinez 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) of orders issued by respondent Commissioner of Labor against Benjamin Jimenez, BJ's Cargo Express, Corp., and herself; and
2. The petition alleges that petitioner Luisa Martinez was not an employer during the relevant time period and, although she had an ownership interest in BJ's Cargo Express, Corp., she did not have authority to hire employees, set their schedules or method of payment, or to assign them work; and
3. Benjamin Jimenez and BJ's Cargo Express, Corp. did not file a petition to review the orders; and
4. Respondent filed an answer to the petition on May 29, 2015; and

5. By notice to the parties a hearing was held on February 24, 2016, in New York, New York, before Devin A. Rice, Deputy Counsel to the Board, and the designated hearing officer in this matter; and
6. At hearing respondent moved to withdraw the orders against petitioner Luisa Martinez; and
7. Respondent's motion is granted and the orders are revoked with respect to Luisa Martinez only.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The orders are revoked with respect to Luisa Martinez only; and
2. The petition for review be, and the same hereby is, granted.



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
March 2, 2016.

5. *By notice to the parties* a hearing was held on February 24, 2016, in New York, New York, before Devin A. Rice, Deputy Counsel to the Board, and the designated hearing officer in this matter; and
6. At hearing respondent moved to withdraw the orders against petitioner Luisa Martinez; and
7. Respondent's motion is granted and the orders are revoked with respect to Luisa Martinez only.

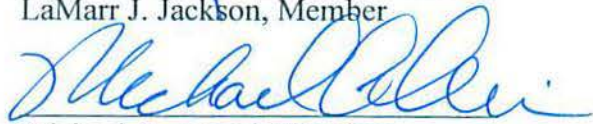
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The orders are revoked with respect to Luisa Martinez only; and
2. The petition for review be, and the same hereby is, granted.

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 Albany, New York, on
March 2, 2016.