

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

HOWARD M. FALKOW AND PMR  
ENTERPRISES LLC,

Petitioners,

To Review Under Section 101 of the Labor Law:  
Two Orders to Comply With Article 6 of the Labor  
Law and an Order Under Article 19 of the Labor  
Law, all dated August 31, 2009,

- against -

THE COMMISSIONER OF LABOR,

Respondent.

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DOCKET NO. PR 09-334

RESOLUTION OF DECISION

APPEARANCES

Howard Falkow, *pro se*, for Petitioners.

Maria L. Colavito, Counsel, New York State Department of Labor, Larissa C. Wasyl of Counsel, for Respondent.

WHEREAS:

This proceeding was commenced when the Petitioners filed a petition with the Industrial Board of Appeals (Board) on November 18, 2009 in an envelope post-marked November 17, 2009 seeking review of three orders that Respondent Commissioner of Labor (Commissioner) issued on August 31, 2009.

The petition was served on the Commissioner on December 17, 2009. The Commissioner moved on January 4, 2010 to dismiss the petition as untimely. The Petitioner did not respond to the motion.

Labor Law § 101 (1) states that:

“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner . . . . Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

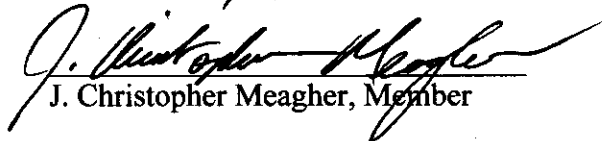
The orders sought to be reviewed were issued on August 31, 2009, and therefore, any petition for review filed with the Board after October 30, 2009 would be untimely (Board Rules 65.5 and 65.3 [a] [12 NYCRR 65.5 and 65.3 (a)]). As the petition in this proceeding was not received by the Board until November 18, 2009 in an envelope post-marked November 17, 2009, it was untimely, and the Petitioners, having failed to respond to the Commissioner’s motion to dismiss, have offered no grounds for excusing such untimely filing. Accordingly, the petition must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The Commissioner of Labor’s motion to dismiss the petition for review is granted in its entirety, and the petition for review be, and the same hereby is, dismissed.



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Anne P. Stevason, Chairman



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J. Christopher Meagher, Member



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Jean Grumet, Member

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LaMarr J. Jackson, Member

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Jeffrey R. Cassidy, Member

Dated and signed in the Office  
of the Industrial Board of Appeals  
at New York, New York, on  
October 20, 2010.

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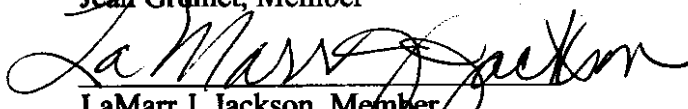
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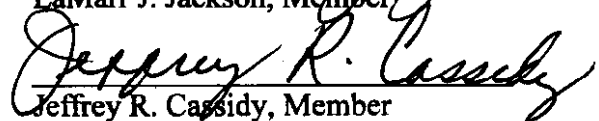
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