

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

RICHARD GEIST AND ARMYNAVYDEALS.COM
CORP.,

Petitioners,

DOCKET NO. PR 10-373

To Review Under Section 101 of the Labor Law:
Two Orders to Comply with Article 19 of the Labor
Law and an Order Under Articles 6 and 19 of the
Labor Law, each dated August 12, 2010,

INTERIM
RESOLUTION OF DECISION

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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APPEARANCES

Richard Geist, pro se petitioner, and for ARMYNAVYDEALS.COM Corp.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Larissa C. Bates of counsel),
for respondent.

WHEREAS:

The above proceeding was commenced on November 29, 2010, when petitioners Richard Geist and ARMYNAVYDEALS.COM Corp. 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 three orders issued by the respondent Commissioner of Labor against them. The respondent moved to dismiss the petition as untimely, and such motion was denied by letter dated July 30, 2012.

The respondent now moves for an order granting the respondent permission to amend and reissue the orders. Specifically, the respondent seeks to amend the orders to include Robert Geist and Surplus City Department Stores Buffalo, Corp. (T/A America's Largest Army Navy Store) as liable parties.

The Board approves the amendment and reissuance of the orders as requested by the respondent, effective the date of this decision, but suspends any interest that has accrued between August 9, 2012, and the date the respondent files an answer with the Board.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Effective the date of this Interim Resolution of Decision, the Board approves respondent's amendment of the orders to include "Robert Geist and Surplus City Department Stores Buffalo, Corp. (T/A America's Largest Army Navy Store)" as liable parties, and upon amendment of the orders, their reissuance; and
2. The respondent shall serve the amended orders on the petitioners in accordance with Labor Law § 33 within 30 days of this decision, with proof of service filed with the Board; and
3. No later than sixty days from respondent's service on petitioners of the amended orders, the petitioners shall file with the Board either an amended petition or a writing advising the Board that it will rely on the petition that was filed in November 2010, with proof of service of the petition or the writing, as appropriate, on respondent; and
4. Upon receipt of petitioners' amended petition or writing advising of its reliance on the earlier filed petition, respondent shall file an answer in accordance with Rule 66.5; and
5. The amended orders shall be served on Robert Geist and Surplus City Department Stores Buffalo, Corp. (T/A America's Largest Army Navy Store) within 30 days of the date of this decision in accordance with Labor Law § 33, and proof of service shall be filed with the Board; and
6. Any petition filed by Robert Geist and/or Surplus City Department Stores Buffalo, Corp. (T/A America's Largest Army Navy Store) shall be consolidated with the petition of Richard Geist and ARMYNAVYDEALS.COM Corp. under Board docket number PR 10-373; and
7. The accrual of interest in the amended orders is suspended from August 9, 2012, until the date that respondent files an answer with the Board, with proof of service on the petitioners.

Service
 ✓ DAN

Absent

 Anne P. Stevason, Chairperson

J. Christopher Meagher

 J. Christopher Meagher, Member

Jean Grumet

 Jean Grumet, Member

LaMarr J. Jackson

 LaMarr J. Jackson, Member

Jeffrey R. Cassidy

 Jeffrey R. Cassidy, Member

Dated and signed in the Office
 of the Industrial Board of Appeals
 at New York, New York, on
 December 14, 2012.