

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

DOUBLE R. ENTERTAINMENT, LLC (T/A RICK'S
TALLY-HO),

Petitioner,

To Review Under Section 101 of the Labor Law:
An Amended and Reissued Order to Comply with
Article 6 of the Labor Law and an Amended and
Reissued Order to Comply with Article 19 of the Labor
Law, both dated September 13, 2012,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 12-183

RESOLUTION OF DECISION

APPEARANCES

Darweesh, Lewis, Kelly & Von Dohlen LLP (Joseph N. Darweesh of counsel), for the petitioner.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Jeffrey G. Shapiro of counsel), for respondent.

WHEREAS:

By resolution of decision dated June 7, 2011 in *Matter of Double R. Entertainment, LLC*, Docket No. PR 08-156, we reviewed two orders issued against the petitioner by the respondent on August 29, 2008. After an evidentiary hearing and the submission of legal briefs, we instructed the respondent to recalculate and issue amended orders consistent with our decision of June 7, 2011 except to the extent that we revoked the civil penalty portion of one of the orders. The petitioner now seeks review of the amended and reissued orders of September 13, 2012, which were served on the petitioner by the respondent as directed by our resolution of decision, by a new petition which was filed with the Board on November 15, 2012. The respondent, by motion dated December 31, 2012, seeks an order dismissing the petition on the grounds that the petition raises no objection to the calculations the respondent has made as set forth in the amended and reissued orders, and the legal issues raised are barred by collateral estoppel. The petitioner failed to respond to the motion.

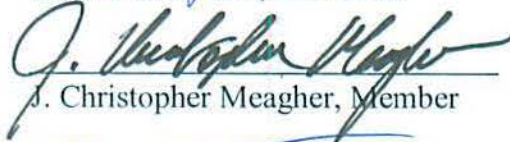
We grant the respondent's motion to dismiss the petition. The issues raised were fully litigated and decided by our resolution of decision of June 7, 2011.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The petition for review be, and the same hereby is, denied.



Anne P. Stevason, Chairman

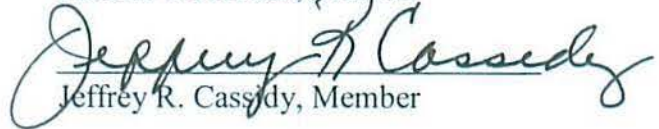


J. Christopher Meagher, Member



Jean Grumet, Member

LaMarr J. Jackson, Member



Jeffrey R. Cassidy, Member

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



We grant the respondent's motion to dismiss the petition. The issues raised were fully litigated and decided by our resolution of decision of June 7, 2011.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The petition for review be, and the same hereby is, denied.

Anne P. Stevason, Chairman

J. Christopher Meagher, Member

Jean Grunet, 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.