STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of: JOAO NOBREGA AND NOBSAN, LLC, Petitioners, To Review Under Section 101 of the Labor Law: An Order to Comply With Article 6 of the Labor Law and an Order Under Article 19 of the Labor Law, both dated July 2, 2012, - against - THE COMMISSIONER OF LABOR, Respondent.	DOCKET NO. PR 12-197 RESOLUTION OF DECISION

APPEARANCES

Joao Nobrega, petitioner *pro se*.

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

WHEREAS:

This proceeding was commenced when the petitioner filed a petition with the Industrial Board of Appeals (Board) on December 24, 2012. The petition was served on the respondent Commissioner of Labor (Commissioner) on March 4, 2013. The Commissioner moved on April 1, 2013 to dismiss the petition as untimely because it was filed more than 60 days after the order was issued.

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 July 2, 2012, and therefore, any petition for review filed with the Board after August 31, 2012 would be untimely (Board Rules of Procedure and Practice 66.3 [a], 65.5 and 65.3 [a]; [12 NYCRR 66.3 [a], 65.5 and 65.3 (a)]). As the petition in this proceeding was not received by the Board until December 24, 2012, in an envelope post-marked December 19, 2012, it was untimely.

The petitioner did not file an opposition to the motion.

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.

Anne P. Stevason, Chairperson

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
June 12, 2013.