

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

JOSE R. MANZANO, JR. AND GMD
CONSTRUCTION, INC.,

Petitioners,

DOCKET NO. PR 13-112

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 June 7, 2013,

RESOLUTION OF DECISION

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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APPEARANCES

Jose R. Manzano, Jr., petitioner *pro se* and for GMD Construction, Inc.

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

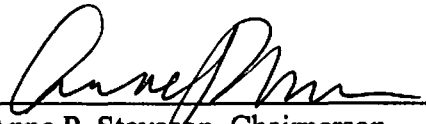
WHEREAS:

The above proceeding was commenced on August 6, 2013, when the petitioners 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 two orders issued by the respondent Commissioner of Labor against Jose R. Manzano, Jr. and GMD Construction Inc. on June 7, 2013.

The petition alleges that the petitioners did not employ Donald Johnson as listed in the orders, and that Donald Johnson was supplied by Continental co-op, who insisted that "one of their employees be present while I was fulfilling a contractual obligation with a tenant at the Continental building." By letter dated September 17, 2013, the respondent stated that he agrees with petitioners' allegations in the petition and with petitioners' conclusions that: "Petitioner(s) did not employ Donald Johnson" and that "Mr. Johnson was never an employee of the Petitioner(s)." Accordingly, the Board grants the petition and revokes the orders.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The orders against Jose R. Manzano, Jr. and GMD Construction, Inc are revoked; and
2. The petition of Jose R. Manzano, Jr. and GMD Construction, Inc. be, and the same hereby is, granted.

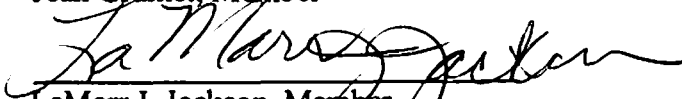


Anne P. Stevason, Chairperson

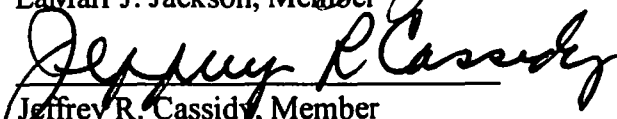
J. Christopher Meagher, Member



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
November 20, 2013.