

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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J. Christopher Meagher
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Members



Empire State Plaza
Agency Building 2, 20th Floor
Albany, New York 12223
Phone: (518) 474-4785 Fax: (518) 473-7533

Sandra M. Nathan
Deputy Counsel

Devin A. Rice
Associate Counsel

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

CARLO LAURO AND ARROWHEAD POND
FARM, INC.
(T/A ANIMALES Y AVES DE GRANJA),

Petitioner,

To Review Under Section 101 of the Labor Law:
Orders to Comply with Articles 6 and 19 of the Labor
Law, dated January 11, 2008,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 08-035

RESOLUTION OF DECISION


WHEREAS:

1. On March 17, 2008 the Board received a petition in the above-referenced matter dated March 11, 2008 by United States Postal Service Priority Mail. The petition was served on the Respondent on April 29, 2008.
2. The Respondent filed a motion to dismiss dated May 28, 2008 that was received by the Board on June 2, 2008. Respondent alleges in its motion that the petition should be dismissed as untimely.
3. By letter dated June 6, 2008, the Board required that the Petitioner's response to the motion to dismiss, if any, must be received by the Board no later than June 18, 2008. However, to date, the Petitioner has not responded.

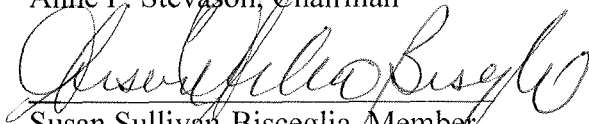
4. Labor Law § 101 provides that a petition for review must be filed with the Board no later than sixty days after the issuance of the Orders to be reviewed. The Orders to be reviewed were issued by the Respondent on January 11, 2008; therefore the time to appeal expired on March 11, 2008.
5. The Petition is untimely as it was not mailed on or before March 11, 2008¹, as required by Labor Law § 101 and Board Rules 65.5 (c) and (d).

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

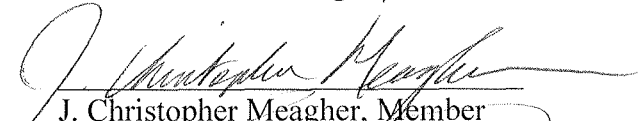
1. The Orders to Comply with Article 6 and 19 of the Labor Law, dated January 11, 2008, are hereby affirmed; and
2. The petition is hereby dismissed.



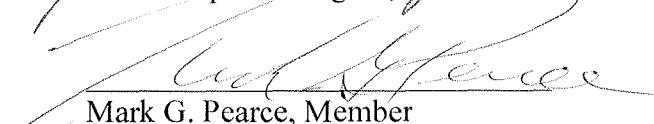
Anne P. Stevason, Chairman



Susan Sullivan-Bisceglia, Member



J. Christopher Meagher, Member



Mark G. Pearce, Member



Jean Grumet, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
July 30, 2008.

¹ The website for the United States Postal Service indicates that priority mail is delivered in 2-3 days. The Board received the Petition on March 17, 2008 meaning it could not have been mailed on or before March 11, 2008.