

**PATRICIA M. DUKOFSKY A/K/A PATRICIA M. CONNOLLY
AND INTERACTIVE PARTY.COM, INC.
(T/A INTERACTIVE ENTERTAINMENT) ALSO (T/A
INTERACTIVE ENTERTAINMENT CONCEPTS)**

Docket No. PR 10-039

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :

PATRICIA M. DUKOFSKY A/K/A PATRICIA M. :
CONNOLLY and INTERACTIVE PARTY.COM, :
INC. (T/A INTERACTIVE ENTERTAINMENT) :
also (T/A INTERACTIVE ENTERTAINMENT :
CONCEPTS), :

Petitioners, :

To Review Under Section 101 of the Labor Law: An :
Order to Comply With Article 6 of the Labor Law, :
dated November 30, 2009, :

- against - :

THE COMMISSIONER OF LABOR, :

Respondent. :
-----X

DOCKET NO. PR 10-039

RESOLUTION OF DECISION

APPEARANCES

Patricia Dukofsky, *pro se*, for Petitioners.

Maria L. Colavito, Counsel, NYS Department of Labor, Benjamin T. Garry of Counsel, for Respondent, Commissioner of Labor.

WHEREAS:

This proceeding was commenced when the Petitioners filed a petition with the Industrial Board of Appeals (Board) on February 9, 2010 in a Federal Express envelope shipped February 8, 2010, seeking review of an order that Respondent Commissioner of Labor (Commissioner) issued on November 30, 2009.

The petition was served on Respondent on March 3, 2010. The Commissioner moved on March 25, 2010 to dismiss the petition as untimely. The Petitioners did not respond to the motion.

Labor Law § 101 (1) states that:

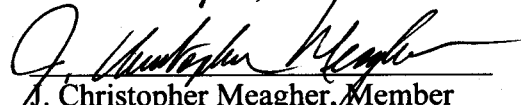
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner . . . Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

The order sought to be reviewed was issued on November 30, 2009, and therefore, a petition for review would be timely if filed with the Board no later than January 29, 2010 (Board Rules 65.5 [d] [12 NYCRR 65.5 (d)]). The petition in this proceeding was not received by the Board until February 9, 2010 in a federal express wrapper that was shipped on February 8, 2010. The petition was therefore untimely, and the Petitioners, having failed to respond to the Commissioner’s motion to dismiss, have offered no sufficient grounds for excusing such untimely filing. Accordingly, the petition must be dismissed.

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, Chairman


J. Christopher Meagher, Member


Jean Grumet, Member

LaMarr 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 23, 2010.

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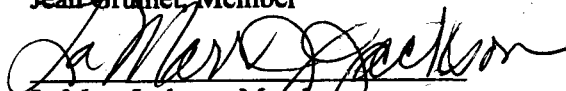
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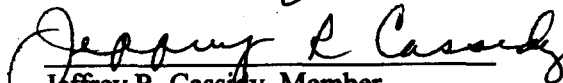
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