

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

DOLSHE GULSEN AND STYLE ICON LLC,

Petitioners,

To Review Under Section 101 of the Labor Law:
An Order Under Article 12-A of the Labor Law,
dated April 4, 2013,

DOCKET NO. PR 13-145

RESOLUTION OF DECISION

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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APPEARANCES

Mark A. Colella, CPA, designated representative, for the petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Benjamin T. Garry of counsel),
for the respondent.

WHEREAS:

This proceeding was commenced when the petitioner filed a petition with the Industrial Board of Appeals (Board) on September 23, 2013 which was mailed in an envelope post-marked September 18. The petition was served on the respondent Commissioner of Labor (Commissioner) on September 24, 2013. The Commissioner moved on October 28, 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:

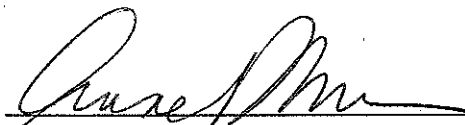
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner. . . . Such petition shall be filed with the board no later than sixty days after the issuance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

The orders sought to be reviewed were issued on April 4, 2013, and therefore, any petition for review filed with the Board after June 3, 2013 would be untimely (Board Rules of Procedure and Practice 65.3 [a] and 65.5 [c] and [d] [12 NYCRR 65.3 [a] and 65.5 [c] and [d]). As the petition in this proceeding was not received by the Board until September 23, 2013, in an envelope post-marked September 18, 2013, it was untimely.

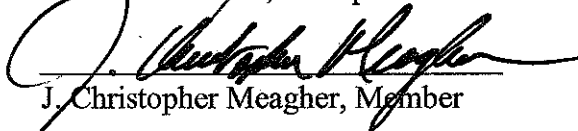
The petitioners did not file any opposition to the motion.

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.



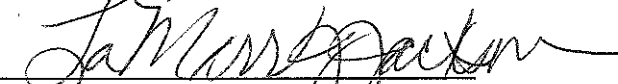
Anne P. Stevason, Chairperson



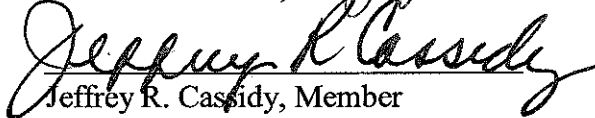
J. Christopher Meagher, Member



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
April 10, 2014.