New York State
Industrial Board of Appeals

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STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of: DAVID JOSEPH SHEERAN AND D.J.S. W 44th CAFÉ INC. (T/A BULL MOOSE SALOON), Petitioner, To Review Under Section 101 of the Labor Law: An Order to Comply with Article 6 and Article 19 of the Labor Law, dated February 8, 2008, - against - THE COMMISSIONER OF LABOR, Respondent.	DOCKET NO. PR 08-018 RESOLUTION OF DECISION

WHEREAS:

1. Pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR Part 66), the above proceeding was commenced on February 20, 2008 by the filing of a petition to review an order that the Commissioner of Labor (Commissioner) issued against the Petitioner on February 8, 2008; and

2. The Commissioner filed An Answer to the Petition on June 25, 2008; and

3. Upon notice by the Board to the parties, a hearing was scheduled and held on November 20, 2008; and

4. Petitioner failed to attend or otherwise appear at the hearing; and

5. Pursuant to Labor Law § 103 and Board Rule 65.30, the burden of proof is on the Petitioner to prove that an order under review is not valid or reasonable; and

6. Pursuant to Board Rule 65.24, "the failure of a party to appear shall be deemed a waiver of all rights except the rights to be served with a copy of the decision of the Board and to request Board review" pursuant to Rule 65.41, unless application for reinstatement is made within five days after the scheduled hearing; and

7. The Petitioner did not make any application for reinstatement; and

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

This proceeding be, and the same hereby is, dismissed in accordance with the Board's Rules.

Anne P. Stevason, Chairman

Absent
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
January 28, 2009.