STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of:

JOHN ALVAREZ A/K/A JOHN FREDDY ALVAREZ
AND JOHN ALVAREZ CORP. T/A ISLAND
DRYWALL & SPACKLE,

Petitioners,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Articles 6 and 19 of the Labor Law, dated April 24, 2019,

- against -

THE COMMISSIONER OF LABOR,

Respondent.

APPEARANCES

John Alvarez, for petitioners.

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

WHEREAS:

The above proceeding was commenced on May 3, 2019, when petitioners filed a petition for review pursuant to Labor Law § 101 and the Industrial Board of Appeals Rules of Procedure and Practice (hereinafter “Board Rules”) (12 NYCRR) Part 66 challenging an Order to Comply with Articles 6 and 19 of the Labor Law, (hereinafter “order”) issued against John Alvarez AKA John Freddy Alvarez and John Alvarez Corp. T/A Island Drywall & Spackle by the respondent, Commissioner of Labor. The petition alleges that petitioners do not own or operate a company called Island Drywall and Spackle and have never employed the claimants.

On May 17, 2019, the Board served the petition on respondent Commissioner of Labor. On June 14, 2019, respondent filed an answer to the petition. On September 4, 2019, the Board received a letter from respondent stating that respondent would be withdrawing the petitioners’ names from the order because after further investigation, respondent concluded that the petitioners are “not the same John Alvarez and/or construction business that the Claimants were employed by.” The Board deems respondent’s letter to be a motion seeking leave to amend the order.

After review of the petition and correspondence, and after full consideration of the Board’s Rules of Procedure and Practice, the Board grants respondent’s letter motion and the order is
amended to remove petitioners from the order to comply. Thus, the Board grants the petition and revokes the order as to the named petitioners.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Effective as of the date of this Resolution of Decision, the Board grants respondent’s motion to amend the Order to Comply with Articles 6 and 19 of the Labor Law dated April 24, 2019, to remove John Alvarez AKA John Freddy Alvarez and John Alvarez Corp. from the order; and

2. The petition is granted.

Molly Doherty, Chairperson
New York, New York

Michael A. Arcuri, Member
Utica, New York

Gloribelle J. Perez, Member
New York, New York

Patricia Kakalec, Member
New York, New York

Najah Parley, Member
New York, New York

Dated and signed by the Members of the Industrial Board of Appeals on September 11, 2019.
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