STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of:

GENE FRISCO,

Petitioner,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Articles 6 and 19 of the Labor
Law, dated August 16, 2019,

- against -

THE COMMISSIONER OF LABOR,

Respondent.

DOCKET NO. PR 19-145

RESOLUTION OF DECISION

APPEARANCES

Gene Frisco, petitioner pro se.

Pico P. Ben-Amotz, General Counsel, NYS Department of Labor, Albany (Benjamin T. Garry of
counsel), for respondent.1

WHEREAS:

The above proceeding was commenced on October 29, 2019, when petitioner Gene Frisco
filed a petition for review pursuant to Labor Law § 101 and the Industrial Board of Appeals
(hereinafter “Board”) 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 the petitioner and Asanda Inc T/A Asanda Spa by the respondent,
Commissioner of Labor. Gene Frisco is the sole petitioner in this case. Petitioner filed an amended
petition on January 22, 2020 in which petitioner alleges, in relevant part, that he was “a consultant
for Asanda and was authorized to use the working title ‘Director’” until becoming an “officer of
Asanda” in September 2017.

The Board served the petition and amended petition on respondent Commissioner of Labor
on March 9, 2020. On June 17, 2020, the Board received a letter from respondent stating that
“[a]fter extensive research and conversations with the Petitioner, Gene Frisco, the Department of
Labor will be withdrawing the Order to Comply . . . No. 10-00392.” On June 22, 2020, the Board
received a second letter from respondent clarifying that the respondent wished to withdraw as
against the individual, Gene Frisco, only. The Board deems these letters as a motion seeking leave

1 Pico P. Ben-Amotz was respondent’s General Counsel at the time of the hearing. Jill Archambault is respondent’s
Acting General Counsel at the time of decision.
to amend the order to remove petitioner Gene Frisco’s name from the order. The letter submitted by respondent, dated June 17, 2020, states that petitioner did not object to respondent’s request.

After review of the petition and correspondence, and after full consideration of the Board Rules, the Board grants respondent’s letter motion requesting permission to withdraw the order as amended to remove petitioner Gene Frisco from the order.

The underlying order named another corporate entity which did not petition the Board for review of the order pursuant to Labor Law § 101 (1). The underlying order as issued against that entity (Asanda Inc. T/A Asanda Spa) remains valid unless declared invalid in a proceeding before the Board under Labor Law § 103 (1). Thus, the Board grants the petition and revokes the order only as to the named individual Gene Frisco.

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 Article 6 and the Order to Comply with Article 19 of the Labor Law, both dated August 16, 2019, to remove Gene Frisco; and

2. The petition of Gene Frisco is granted.

Dated and signed by the Members of the Industrial Board of Appeals on August 12, 2020.

Molly Doherty, Chairperson
New York, New York

ABSENT
Michael A. Arcuri, Member
Utica, New York

Gloribelle J. Perez, Member
New York, New York

Patricia Kakalec, Member
Brooklyn, New York

Najah Farley, Member
Brooklyn, New York