

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATIVE ADJUDICATION DIVISION**

**RE: US OPTICA, INC.
NOTICE OF VIOLATION OC&I/WATER POLLUTION 02-01**

AAD NO. 02-001/WRE

FINAL ORDER OF DEFAULT

This matter came before Hearing Officer Joseph F. Baffoni on November 7, 2002 for the purpose of a Prehearing Conference. Respondent failed to appear and no request for a continuance was filed with the Administrative Adjudication Division ("AAD"). On November 7, 2002, a Conditional Order of Default was issued affording the Respondent until and including November 15, 2002 to show good cause in writing why a Final Default Judgement should not enter and the Notice of Violation and Order and Penalty, which was issued January 30, 2002, become a compliance order. As of the date of this order, no objection to the Conditional Order of Default has been received, nor has any correspondence been received by the AAD in response to the Conditional Order of Default.

FINDINGS OF FACT

1. The Prehearing Order issued to the parties on June 21, 2002 provided that: "Upon failure of a party to appear at the Prehearing Conference, the Hearing Office shall sua sponte issue a seven (7) day Conditional Order of Dismissal/Default with prejudice which shall automatically become final unless objected to by the absent party, said objection stating the grounds for the failure to appear".
2. On November 6, 2002, a "Pre-hearing Filing of U.S. Optica, Inc." was filed by Respondent's attorney stating that Respondent is a dissolved corporation and that Respondent has indicated that it does not have the financial ability to participate in and defend itself at the prehearing conference scheduled for November 7, 2002, to conduct discovery, or to participate in and defend itself at any administrative hearing in the above-referenced matter.
3. A Prehearing Conference was held on November 7, 2002.
4. Respondent failed to appear at the said Prehearing Conference.
5. A Conditional Order of Default was issued against Respondent on November 7, 2002.

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6. Pursuant to the Conditional Order of Default, Respondent had until November 15, 2002 to show good cause in writing why a Final Default Judgement should not enter and the Notice of Violation and Order and Penalty, which was issued January 30, 2002, become a compliance order.
7. As of this date, Respondent has not objected to or responded to the Conditional Order of Default.

CONCLUSIONS OF LAW

1. Respondent has failed to show good grounds for its failure to appear at the Prehearing Conference on November 7, 2002.
2. Respondent has failed to show good cause why a Final Order of Default should not enter and the Notice of Violation issued on January 30, 2002 become a compliance order.

Wherefore, it is hereby

ORDERED

1. Respondent is deemed to have waived its rights to an adjudicatory hearing.
2. The Notice of Violation issued on January 30, 2002 shall be final and become a compliance order immediately upon the entry of the Final Agency Order herein.

Entered as a Final Agency Order this 6th day of December, 2002 and herewith recommended to the Director for issuance as a Final Agency Order.

Joseph F. Baffoni
Hearing Officer
Administration Adjudication Division
235 Promenade Street, Third Floor
Providence, RI 02908
(401) 222-1357

Entered as a Final Agency Order this 6th day of December, 2002.

Jan H. Reitsma, Director
Department of Environmental Management
235 Promenade Street
Providence, RI 02908

CERTIFICATION

I hereby certify that I caused a true copy of the within Order to be forwarded by first-class mail, postage prepaid, to Alexandra K. Callam, Esquire, Hinckley, Allen & Snyder LLP, 1500 Fleet Center, Providence, RI 02903; via interoffice mail to Timothy W. Pavilonis, Esquire, Office of Legal Services, and Dean H. Albro, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this _____ day of December, 2002.

If you are aggrieved by this Final Agency Order, you may appeal this final order to the Rhode Island Superior Court within thirty (30) days from the date of mailing of this notice of final decision pursuant to the provisions for judicial review established by the Rhode Island Administrative Procedures Act, specifically, R.I. Gen. Laws § 42-35-15.