

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

**RE: JOSEPHINE R. ARKINS
NOTICE OF VIOLATION OCI-OWTS-17-32**

AAD NO. 18-004/IE

FINAL ORDER OF DEFAULT

This matter was scheduled for Status Conference on November 28, 2018. Respondent, Josephine R. Arkins, failed to appear or otherwise advise of the reason for her nonappearance. On December 5, 2018 OC&I filed a Motion for Conditional Order of Default and the Order for Conditional Order of Default was filed on December 14, 2018. Respondent failed to respond. On January 17, 2019 OC& I filed a Motion for Entry of Final Judgement. For the reasons set forth below, the Motion for Final Order of Default is **GRANTED**.

FINDINGS OF FACT

1. On October 18, 2018 an Order was issued scheduling the above referenced matter down for Status Conference on November 28, 2018 at 11:00 am.
2. On November 28, 2018 the Respondent failed to appear or otherwise advise of the reason he nonappearance.
3. On December 14, 2018 a Conditional Default was issued giving Respondent seven (7) days within which to file a written statement why a Final Judgement/Dismissal should not be entered. Respondent failed to respond.
4. On January 17, 2019 OC&I filed a Motion for Entry of Final Judgement.
5. The Respondent is in violation of the terms of that certain Status Conference Order issued September 17, 2018.
6. Respondent is in default.

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ANALYSIS

An order dismissing a case on the grounds of default for failure to comply with court orders is within the sound discretion of the trial justice or hearing officer. Mumford v. Lewiss, 681 A.2d 914 (R.I.1996); Fourcier v. Forcier, 558 A.2d 212, 1214 (R.I.1989) (citing Gray v. Stillman, White Co., 522 A.2d 737, 741 (R.I.1987)). As stated in Mumford, a party is entitled to relief if there is a “persistent failure” to comply with court orders that causes “inordinate delay, expense, and frustration for all concerned.” Mumford at 691 A.2d at 916. Absent a showing of “excusable neglect...or otherwise good cause” courts will generally conclude a judicial officer was within his sound discretion in issuing the default judgement. Pirhonen v. Greene, 641 A.2d 1325, 1326 (R.I. 1994).

CONCLUSIONS OF LAW


Based on the findings of fact, legal authority, and reasoning set forth above, the undersigned concludes the Respondent is in default and her appeal should be dismissed. The Notice of Violation issued by OC&I on August 23, 2018 is a final agency action against Respondent, Josephine R. Arkins, and effective immediately upon the execution of this order.

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ORDERED

1. Respondent, Josephine R. Arkins, is in Default and is deemed to have waived her right to an adjudicatory hearing.
2. Respondent's Appeal is **DISMISSED**.

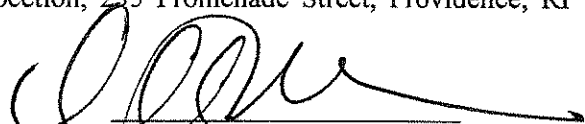
Entered as an Administrative Order this 22nd day of January 2019.



David Kerins
Chief Hearing Officer
Administrative Adjudication Division
One Capitol Hill, 2nd floor
Providence, RI 02908
(401) 574-8600

CERTIFICATION

I hereby certify that I caused a true copy of the within Order to be forwarded by first-class mail to: Josephine R. Arkins, 60 Treaty Rock Road, Little Compton, RI 02837; via interoffice mail to Christina Hoefsmit, Esquire, DEM Office of Legal Services and David Chopy, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this 22 day of January 2019.



Mary Dalton