

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

IN RE: CARMINE J. GALLUCCI
NOV NO. C96-0130

AAD NO. 98-002/FWE

FINAL ORDER OF DEFAULT

This matter came before Hearing Officer Mary F. McMahon for consideration of the Motion to Enter Conditional Order of Default filed by the Office of Compliance and Inspection ("OCI") on October 8, 1998. Respondent did not file any objection. On October 29, 1998, a Conditional Order of Default was entered which ordered Respondent to show good cause why a default judgment should not enter and the Notice of Violation become a compliance order. Respondent was given until November 5, 1998 to make his showing. As of this date Respondent has not responded to either OCI's motion or to the conditional order.

A review of the record reveals that Respondent was required by order dated September 8, 1998 to attend the prehearing conference on October 1, 1998 and was required to provide the Administrative Adjudication Division with a copy of his doctor's certificate verifying the nature and duration of his incapacity, an incapacity that was the reason for the previous continuance of the prehearing

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conference which had been scheduled for September 4, 1998. By conference call on October 1, 1998, Respondent represented that he had an appointment with his doctor on October 1, 1998 and would either have the doctor transmit the note by facsimile transmission or he would do so. The transmission was to be sent to the Administrative Adjudication Division and to OCI's counsel on or before October 2, 1998. This Hearing Officer advised Respondent that the prehearing conference was continued subject to the transmission and to a conference call with the parties on October 5, 1998, following the OCI's opportunity to review the doctor's communication.

Respondent failed to transmit such certification from his doctor and failed to conference call on October 5, 1998 with the OCI's counsel and Hearing Officer as he had been ordered. Respondent failed to comply with a condition for the continuance of the scheduled prehearing conference. Further, Respondent has not objected to the OCI's motion for default and has not responded to the Conditional Order of Default.

Wherefore, in consideration thereof, it is hereby

ORDERED

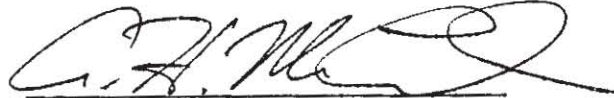
Respondent is deemed to have waived his right to an adjudicatory hearing and the Notice of Violation issued on February 10, 1998 shall be final and become a compliance order immediately upon the entry of the Final Agency Order herein.

Entered as an Administrative Order this 16th day of November, 1998.



Mary F. McMahon
Hearing Officer
Department of Environmental
Management
Administrative Adjudication Division
235 Promenade Street, Third Floor
Providence, RI 02908
401-222-1357

Entered as a Final Agency Order this 31st day of December, 1998.



Andrew H. McLeod
Director
Department of Environmental Management
235 Promenade Street
Providence, RI 02908

CERTIFICATION

I hereby certify that I caused a true copy of the within Final Agency Order to be forwarded via regular mail, postage prepaid, to Carmine J. Gallucci, P. O. Box 6800, Warwick, RI 02887 and via interoffice mail to Paula Younes, Esq., Office of Legal Services, 235 Promenade Street, 4th Floor, Providence, RI 02908 on this

4th day of January, ~~1998~~
1999.

