

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

RE: AUTOMOTIVE RECOVERY SERVICES, INC. and AAD NO. 05-024/WME
WHITCO/AMERITEST CORP.
NOTICE OF VIOLATION OC&I/UST NO. 05-01931

FINAL ORDER OF DEFAULT

This matter came before the Hearing Officer for a prehearing conference on January 6, 2006. Respondent Whitco/Ameritest Corporation failed to comply with the Prehearing Order or otherwise apprise the Hearing Officer of its inability to appear at said prehearing conference. On January 6, 2006, this Hearing Officer issued a Conditional Order of Default affording Respondent Whitco Ameritest Corporation until January 10, 2006 to show good cause in writing why a Final Order of Default should not enter and the Notice of Violation become final as to this Respondent. As of the date of this order, no objection to the Conditional Order of Default has been filed by Whitco Ameritest Corporation, nor has any correspondence from Whitco Ameritest Corporation been received by the Administrative Adjudication Division in response to the Conditional Order of Default.

FINDINGS OF FACT

1. The Prehearing Order hand-delivered to the parties on September 15, 2005 provided that: "upon failure of a party to appear at the Prehearing Conference, the Hearing Officer shall *sua sponte* issue a seven (7) day Conditional Order of Dismissal/ Default with prejudice, which shall automatically become final unless the absent party demonstrates good cause for the failure to appear."
2. The Prehearing Conference was held on January 6, 2006.
3. Respondent, Whitco Ameritest, failed to appear at the Prehearing Conference or otherwise apprise the Hearing Officer of its inability to appear.

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4. A Conditional Order of Default was issued against Respondent, Whitco Ameritest, on January 6, 2006.
5. Pursuant to the Conditional Order, Respondent, Whitco Ameritest Corporation had until January 10 to show good cause in writing why a final default judgment should not enter against the Respondent, Whitco Ameritest Corporation.
6. As of this date the Respondent, Whitco Ameritest Corporation has not responded to the Conditional Order of Default.

CONCLUSIONS OF LAW

1. Respondent, Whitco Ameritest Corporation has failed to show good cause that relief from the Conditional Order of Default should be granted.
2. Respondent Whitco Ameritest Corporation, has failed to show good cause why a Final Order of Default should not enter and the Notice of Violation issued on June 30, 2005 become a compliance order as to this Respondent

Wherefore, it is hereby

ORDERED

1. Respondent, Whitco Ameritest is deemed to have waived its right to an adjudicatory hearing.
2. The Notice of Violation issued on June 30, 2005 shall be final and become a compliance order against Respondent, Whitco Ameritest Corporation, immediately upon the entry of the Final Agency Order herein.

Entered as an Administrative Order this 25th day of January, 2006 and

herewith recommended to the Director for issuance as a Final Agency Order.

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Kathleen M. Lanphear
Chief Hearing Officer
Administrative Adjudication Division
235 Promenade Street, Third Floor
Providence, RI 02908
(401) 222-1357

Entered as a Final Agency Order this 31 day of January, 2006.



W. Michael Sullivan, Ph.D, Director
Department of Environmental Management
235 Promenade Street, 4th Floor
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: John E. Lyons, Facilities Compliance Manager, Adesa Impact, P.O. Box 15065, 150 Amaral Street, East Providence, RI 02915; Mark B. Hawkins, President, Whitco Ameritest Corporation, P.O. Box 41628, Providence, RI, 02940-1628; and via interoffice mail to Timothy Pavilonis, Esquire, Office of Legal Services and Dean H. Albro, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this 1st day of ~~January~~, 2006.

February

