

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

**RE: ROAD RUNNERS FOOD MART, INC.  
NOTICE OF VIOLATION OCI-UST-18-03176**

**AAD NO. 18-009/WME**

**FINAL ORDER OF DEFAULT**

This matter was scheduled for Prehearing Conference on July 11, 2019. Respondent, Road Runners Food Mart, Inc., failed to appear or otherwise advise of the reason for their nonappearance. On July 15, 2019, OC&I filed a Motion for Conditional Order of Default and the Order for Conditional Order of Default was filed on July 16, 2019. Respondent failed to respond. On August 2, 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 May 23, 2019 a Prehearing Order was issued scheduling the above referenced matter down for Prehearing Conference on July 11, 2019 at 9:30 am.
2. On July 11, 2019 the Respondent failed to appear or otherwise advise of the reason he nonappearance.
3. On July 16, 2019 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 August 2, 2019 OC&I filed a Motion for Entry of Final Judgement.
5. The Respondent is in violation of the terms of that certain Prehearing Conference Order issued May 23, 2019.
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. Lewis, 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 their appeal should be dismissed. The Notice of Violation issued by OC&I on August 17, 2018 is a final agency action against Respondent, Road Runners Food Mart, Inc., and effective immediately upon the execution of this order.

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**ORDERED**

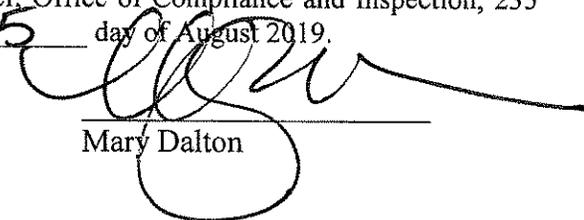
1. Respondent, Road Runners Food Mart, Inc., is in Default and is deemed to have waived her right to an adjudicatory hearing.
2. Respondent's Appeal is **DISMISSED.**

Entered as an Administrative Order this 5<sup>th</sup> day of August 2019.

  
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David Kerins  
Chief Hearing Officer  
Administrative Adjudication Division  
235 Promenade Street, Room 350  
Providence, RI 02908  
(401) 222-4700 Ext. 4600

**CERTIFICATION**

I hereby certify that I caused a true copy of the within Order to be forwarded by first-class mail to: Road Runners Food Mart, Inc c/o Sunjah Gondal, Registered Agent, 2862 Hartford Avenue, Johnston, RI 02918; via interoffice mail to Joseph LoBianco, Esquire, DEM Office of Legal Services and David Chopy, Chief, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this 5 day of August 2019.

  
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Mary Dalton