

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

RE: CURT, KEVIN & ELENA
NOTICE OF VIOLATION OCI-OWTS-18-37

AAD NO. 19-001/IE

FINAL ORDER OF DEFAULT

This matter was scheduled for Status Conference on March 6, 2019. Respondents, Kevin Curt and Elena Curt, failed to appear or otherwise advise of the reason for their nonappearance. A Prehearing Order was issued on March 6, 2019 with a Prehearing date set on April 11, 2019. Respondents failed to appear on April 11, 2019 and OC&I filed a Motion for Entry of Default. An Order of Conditional Default was issued on April 12, 2019. Respondents' response to this Order was received on May 6, 2019 and an Order was issued May 14, 2019 that set a Status Conference date of June 20, 2019. Respondents failed to appear. On June 21, 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 February 6, 2019 an Order was issued scheduling the above referenced matter down for Status Conference on March 6, 2019 at 11:30 am.
2. On March 6, 2019 the Respondents failed to appear or otherwise advise of the reason the nonappearance.
3. A Prehearing Order was issued on March 6, 2019 with a Prehearing date of April 11, 2019 at 11:30 am. Respondents failed to appear.
4. On April 11, 2019 OC&I filed a Motion for Entry of Default.
5. An Order of Conditional Default was issued on April 12, 2019 giving Respondents seven (7) days within which to file a written statement why a Final Judgement/Dismissal should not be entered. Respondents responded via email on May 6, 2019.

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6. On May 14, 2019 an Order was issued continuing the Status Conference to June 20, 2019 at 9:30 am. Respondents failed to appear.
7. OC&I filed Motion for Final Entry of Default and Supporting Memorandum on June 21, 2019.
8. The Respondents are in violation of the terms of that certain Order issued on May 14, 2019.
9. Respondents are in default.

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 Respondents are in default and their appeal should be dismissed. The Notice of Violation issued by OC&I on January 16, 2019 is a final agency action against

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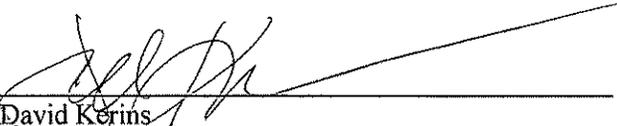
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Respondents, Kevin Curt and Elena Curt, and effective immediately upon the execution of this order.

ORDERED

1. Respondents, Kevin Curt and Elena Curt, are in Default and is deemed to have waived her right to an adjudicatory hearing.
2. Respondents' Appeal is **DISMISSED**.

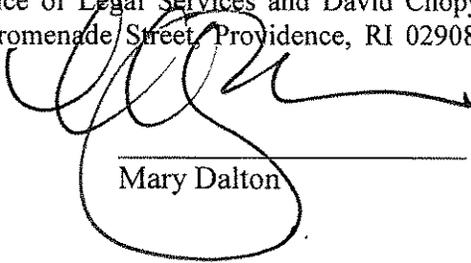
Entered as an Administrative Order this 25th day of June 2019.



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: Kevin and Elena Curt, 118 Gentian Road, Cranston, RI 02921; 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 25 day of June 2019.



Mary Dalton