

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
ADMINISTRATIVE ADJUDICATION DIVISION**

**RE: R&P INVESTMENT CO., LLC  
NOTICE OF VIOLATION OCI-HW-18-79**

**AAD NO. 22-004/WME**

**FINAL ORDER OF DEFAULT**

This matter was scheduled for a Prehearing Conference on October 6, 2022. Respondent, R&P Investment Co., LLC, failed to prepare and submit a prehearing memorandum. Additionally, the Respondent failed to appear or otherwise advise of the reason for its nonappearance in accordance with the terms of the Prehearing Order dated August 17, 2022. On October 6, 2022, OC&I filed a Motion for Conditional Order of Default and Respondent failed to respond to said Motion. An Order of Conditional Default was issued on October 20, 2022 and Respondent failed to respond to said Order. On November 2, 2022 OC&I filed a Motion for Final Order of Default. For the reasons set forth below, the Motion for Final Order of Default is **GRANTED**.

**FINDINGS OF FACT**

1. On August 17, 2022 a Prehearing Order was issued scheduling the above referenced matter for Prehearing Conference on October 6, 2022.
2. On October 6, 2022 the Respondent failed to appear or otherwise advise of the reason for its nonappearance, or otherwise defend in accordance with Rule 55 of the Superior Court Rules of Civil Procedure and Rule 1.8 of the Rules and Regulations for the Administrative Adjudication Division.

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3. On October 20, 2022 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 November 2, 2022 OC&I filed a Motion for Final Order of Default.
5. The Respondent is in violation of the terms of that certain Prehearing Conference Order issued August 17, 2022, and the Status Conference Order of May 31, 2022.
6. Respondent is 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 Respondent is in default and its appeal should be dismissed.

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The Notice of Violation issued by OC&I on May 12, 2022 is a final agency action against Respondent, R&P Investment Co., LLC, and effective immediately upon the execution of this order.

Whereby it is hereby:

**ORDERED**

1. Respondent, R&P Investment Co., LLC, is in Default and is deemed to have waived its right to an adjudicatory hearing.
2. Respondent's Appeal is **DISMISSED.**

Entered as an Administrative Order this 3<sup>RD</sup> day of November, 2022.

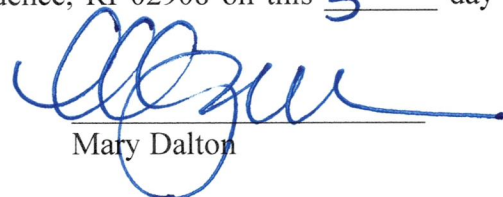


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David M. Spinella  
Chief Hearing Officer  
Administrative Adjudication Division  
235 Promenade Street, Room 350  
Providence, RI 02908  
(401) 222-4700 Ext. 2774600

**CERTIFICATION**

I hereby certify that I caused a true copy of the within Order to be forwarded by first-class mail to: R&P Investment Co., LLC c/o Ralph Carlino, Jr., 19 Grassmere Street, Warwick, RI 02889 and R&P Investment Co., LLC c/o Peter Wilson, 160 Andrews Avenue, West Warwick, RI 02893; via interoffice mail to Tricia Quest, Esq., DEM Office of Legal Services and David Chopy, Administrator, Office of Compliance and Inspection, 235 Promenade Street, Providence, RI 02908 on this 3 day of November 2022.



Mary Dalton