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John Olivieri

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BEFORE THE TENNESSEE
CIVIL SERVICE COMMISSION

IN THE MATTER OF:	)	
	)	
	)	
JOHN OLIVIERI	)	**DOCKET NO. 26.05-119205J**
	)	
	)	

INITIAL ORDER HOLDING GRIEVANT IN DEFAULT;
MATTER DISMISSED

This matter is before Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Tennessee Civil Service Commission. Mr. John Drummond, Assistant General Counsel, Tennessee Department of Correction, is representing the State. Grievant John Olivieri is representing himself, as of this writing.

The Undersigned is in receipt of the State's response to the Undersigned's February 19, 2013 Order, inquiring about progress in this matter. From the State's status report, it seems clear that the State is having trouble reaching the Grievant.

As of March 7, 2013, the Grievant had yet to file a response. Responses were due on or before Friday, March 1, 2013.

By Order of March 8, 2013, the Grievant's deadline was extended to March 22, 2013. As of April 4, 2013, Grievant has yet to file or make a response in writing, by telephone, by e-mail, or by fax.

It is **NOTED** that in the Order of March 8, 2013, Grievant was reminded that failure to participate at any stage of the proceeding could result in a party being held in default.

This matter commenced on December 12, 2012, when the Civil Service Commission requested that an Administrative Judge be assigned. As of April 4, 2013, nearly four (4) months later, the Grievant has failed to respond to the Undersigned's letters and Orders, inquiring as to whether the Grievant is interested in Mediation, seeking to set the hearing, seeking a progress report on the parties' efforts to set the hearing date, etc.

Therefore, it is hereby **ORDERED** that Grievant John Olivieri is **HELD IN DEFAULT**, for failure to participate in the hearing process, pursuant to T. C. A. 4-5-309(a):

> If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative judge or hearing officer, hearing the case alone … may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN THE GRIEVANT THAT THE GRIEVANT HAS BEEN HELD IN DEFAULT FOR THE GRIEVANT'S FAILURE TO PARTICIPATE IN THE PROCESS OF SETTING A HEARING ON THE MERITS AFTER RECEIVING ADEQUATE NOTICE. T.C.A. §4-5-309. GRIEVANT HAS FIFTEEN (15) DAYS FROM THE EFFECTIVE DATE OF THIS ORDER TO REQUEST THAT THIS FINDING OF DEFAULT BE SET ASIDE. THIS REQUEST MUST BE

RECEIVED IN THE OFFICE OF THE SECRETARY OF STATE, ADMINISTRATIVE PROCEDURES DIVISION, SUITE 800, WILLIAM R. SNODGRASS BUILDING, 312 ROSA L. PARKS AVENUE, NASHVILLE, TENNESSEE 37243, WITHIN THAT 15-DAY PERIOD. THE REQUEST TO HAVE THE FINDING OF DEFAULT SET ASIDE SHOULD INCLUDE THE REASONS TO JUSTIFY THE GRIEVANT'S FAILURE TO PARTICIPATE. IF SUFFICIENT REASONS ARE GIVEN, THE ORDER MAY BE SET ASIDE AND A HEARING SCHEDULED. IF THE GRIEVANT DOES NOT REQUEST THE DEFAULT TO BE SET ASIDE OR OTHERWISE APPEAL THE ACCOMPANYING INITIAL ORDER, THEN THE INITIAL ORDER WILL BECOME A FINAL ORDER SUBJECT TO COURT REVIEW. ANY QUESTIONS REGARDING THIS NOTICE OF DEFAULT OR THE STEPS NECESSARY TO HAVE IT SET ASIDE SHOULD BE SUBMITTED TO THE ADMINISTRATIVE JUDGE SIGNING THIS ORDER BY LETTER OR BY TELEPHONING (615) 741-4469.

Should good cause exist for Grievant’s failure to participate, Grievant may move to have the Default Set Aside within fifteen (15) days.

If Grievant does not come forward within that fifteen (15) day period, it is hereby **ORDERED** that the instant matter is **DISMISSED** and the file **CLOSED**.

This Initial Order entered and effective this 5 day of April, 2013

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Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State this 5 day of April, 2013

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Thomas G. Stovall, Director
Administrative Procedures Division