

**COMMONWEALTH OF MASSACHUSETTS  
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

IN THE MATTER OF )  
JASON ARRUDA )

Case No. 2024-010

**FINAL DECISION**

In accordance with 555 CMR 1.10(1), a Hearing Officer was assigned to conduct an adjudicatory proceeding regarding this matter on behalf of the Massachusetts Peace Officer Standards and Training Commission (“Commission”). The Division of Police Standards (“Division”) filed a Motion for Default and Final Decision (“Motion”), because Respondent Jason Arruda, who appeared pro se throughout these proceedings, did not answer, appear, or otherwise defend the allegations of misconduct against him in the Order to Show Cause (“OTSC”) served upon him by the Division in February 2024. The OTSC contained allegations, among others, that the Respondent had been involved in an avoidable collision with a department vehicle, had taken excessive time to respond to calls, had a pattern of poor report-writing and failure to file reports, and had violated department policies relating to the custody of adults and custodial searches. On September 5, 2024, the Hearing Officer issued an Initial Decision recommending that the Commission grant the Division’s Motion and determine what discipline should be imposed against the Respondent. See M.G.L. c. 30A, §§ 11(7) and (8); 555 CMR 1.10(4)(e). On September 16, the Respondent filed timely objections to the Initial Decision, and the Commission recommitted the matter to the Hearing Officer for further findings. See 555 CMR 1.10(4)(e)2.b.-c. After two conferences where the parties argued the Motion before the Hearing Officer and the parties submitted written arguments, the Hearing Officer issued a Revised Initial Decision dated January 30, 2025, to which the Respondent did not object. See M.G.L. c. 30A, §§ 11(7) and (8); 555 CMR 1.10(4)(e)2.b.-c.

In the Revised Initial Decision, the Hearing Officer found that the Respondent had neither good cause nor excusable neglect for his previous failure to answer the OTSC and the Motion. At the conferences held after the Commission recommitted the matter to the Hearing Officer, the Respondent admitted to receiving both the OTSC and the Division’s Motion, failing to respond to the Division’s attempts to communicate with him after the OTSC was filed, and deciding not to reschedule any meetings or seek additional time to respond to the OTSC or the Motion. The Hearing Officer considered the Division’s reliance on the factors set forth in Ceruolo v. Garcia, 92 Mass. App. Ct. 185, 189 (2017), to determine if the Respondent had good cause:

(1) “whether the default was willful”; (2) “whether setting it aside would prejudice the adversary”; (3) “whether a meritorious defense is presented”; and (4) a consideration of the explanation for the default, the good faith of the parties, and the timing of the motion. The Hearing Officer found the Division’s argument persuasive and stated as follows:

[It is recommended] that the Commission grant the Division’s Motion and find, as alleged in the OTSC, that the Respondent: (1) engaged in a pattern of unprofessional police conduct that may escalate, M.G.L. c. 6E, § 10(b)(iii); (2) was suspended by his appointing agency for disciplinary reasons, M.G.L. c. 6E, § 10(b)(iv); and (3) has repeated sustained internal affairs complaints for the same or different offenses, M.G.L.

c. 6E, § 10(b)(v). The Commission should issue a final decision suspending and/or revoking the Respondent’s certification, as requested by the Division. M.G.L. c. 30A, § 10(2). It is important to note that the violations contained in the OTSC do not require revocation of the Respondent’s certification (or decertification), but do not preclude it either.


After careful review and consideration, the Commission voted to affirm and adopt the findings in the Revised Initial Decision of the Hearing Officer.

For the above reasons, the Motion filed by the Division is hereby **granted**. See 555 CMR 1.10(4). The Commission finds, by clear and convincing evidence, that the Respondent committed the offenses alleged in the OTSC. The Hearing Officer properly concluded that the Commission is authorized to informally dispose of this matter by default. See M.G.L. c. 30A, § 10(2) (stating that an agency may “make informal disposition of any adjudicatory proceeding . . . by default”); see also Lawless v. Board of Registration in Pharmacy, 466 Mass. 1010, 1011 (2013) (concluding that “[t]he board has authority, in an appropriate circumstance, to dispose of an adjudicatory proceeding by default,” and citing § 10). The Hearing Officer correctly determined, based on the evidence and the governing law, that the Respondent has failed to raise sufficient grounds to alter the determination that the Respondent’s default was not based on good cause, excusable neglect, or any other basis for changing the Initial Decision. See Ceruolo, 92 Mass. App. Ct. at 189 (good cause standard); see also Tai v. City of Boston, 45 Mass. App. Ct. 220, 222 (1998) (“Excusable neglect . . . is meant to apply to circumstances that are unique or extraordinary, not any garden-variety oversight.”) (internal quotations omitted).

**The Respondent’s certification is hereby revoked.** The Executive Director shall take the necessary steps to publish the Respondent’s name in the National Decertification Index. M.G.L. c. 6E, §§ 10(g), 13(b). This is the final decision of the Commission. M.G.L. c. 30A, § 11(8); 555 CMR 1.10(4)(e).

By vote of the Commission on March 20, 2025.

In accordance with M.G.L. c. 30A, § 14 and M.G.L. c. 6E, § 10(f), the Respondent may commence an appeal to the Superior Court within thirty (30) days to the extent allowed by law. After initiating proceedings for judicial review in Superior Court, the Respondent, or the Respondent’s attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Commission, in the time and manner prescribed by Mass. R. Civ. P. 4(d).

  
\_\_\_\_\_  
Hon. Margaret R. Hinkle (Ret.), Chair

Notice: Jason Arruda, Respondent  
William P. Aiello, Esq., Commission Enforcement Counsel  
Division of Police Standards  
Shaun Martinez, Esq., Deputy Director, Division of Police Standards  
Dartmouth Police Department, Law Enforcement Agency  
Collective Bargaining Unit

**COMMONWEALTH OF MASSACHUSETTS  
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

IN THE MATTER OF )  
JASON ARRUDA )

Case No. 2024-010

**REVISED INITIAL DECISION**

The Peace Officer Standards and Training Commission (“Commission”) Division of Police Standards (“Division”) filed a Motion for Default and Final Decision (“Motion”), which was granted by the undersigned Hearing Officer in an Initial Decision. (Attachment A, Initial Decision). The Respondent Jason Arruda objected to the Initial Decision. (Att. B, Respondent’s Objections). The Commission remanded the case to the undersigned for further consideration, and the undersigned later presided over two conferences. The Respondent has appeared pro se throughout these proceedings. For the reasons stated below and in the Initial Decision, the undersigned recommends that the Commission adopt this Revised Initial Decision as its Final Decision, grant the Division’s Motion, and impose the appropriate discipline.

**Procedural History**

The Division mailed the Respondent an Order to Show Cause (“OTSC”) in February 2024. The OTSC contained allegations, among others, that the Respondent had been involved in an avoidable collision with a department vehicle, had taken excessive time to respond to calls, had a pattern of poor report-writing and failure to file reports, and had violated department policies relating to the custody of adults and custodial searches. The OTSC notified the Respondent that he must file an answer to the allegations within 21 days or the Commission may enter a Final Decision that assumes the truth of the allegations in the OTSC and may take action against the Respondent’s certification, including granting the action contemplated in the OTSC. The Motion was mailed by the Division to the Respondent in June 2024.

The undersigned issued an Initial Decision on September 5, 2024. The Respondent filed objections to the Initial Decision on September 16, 2024. See 555 CMR 1.10(4)(e)2.b. The Commission recommitted the case to the undersigned. A conference was held on October 7, 2024, and the Respondent attended. Per the instructions of the undersigned, the Respondent filed a written appeal (via email), and the Division filed a response thereafter. (Att. C, Order of Presiding Officer and Parties’ Written Arguments). On October 29, 2024, a second conference was held, and the Parties presented their arguments.

**Analysis**

In the Division’s “Response to Respondent’s Objections to Initial Decision,” the Division argued that the Respondent’s apparent reluctance to reduce statements to writing, and his claim of a broken-down vehicle on a particular date in May, did not constitute good cause to excuse his failure to file an Answer to the Order to Show Cause. (Att. C, Division’s Response, p.2). In support of its argument, the Division relies on Ceruolo v. Garcia, 92 Mass. App. Ct. 185, 189 (2017), which sets forth factors typically considered: “(1) whether the default was willful;

(2) whether setting it aside would prejudice the adversary; and (3) whether a meritorious defense is presented.” Courts may also consider the explanation for the default, the good faith of the parties, and the timing of the motion to set aside the entry of default. Id.

The undersigned’s Initial Decision recommending that the Commission grant the Division’s Motion was based on the uncontroverted evidence that the Respondent had received both the OTSC and the Division’s Motion and had been properly advised of the consequences of a failure to defend against this matter. Under M.G.L. c. 30A, § 10(2), an agency is specifically authorized to “make informal disposition of any adjudicatory proceeding . . . by default.” See Lawless v. Board of Registration in Pharmacy, 466 Mass. 1010, 1011 (2013) (concluding that “[t]he board has authority, in an appropriate circumstance, to dispose of an adjudicatory proceeding by default,” citing M.G.L. c. 30A, § 10, and finding that the respondent did not demonstrate that the board’s entering of default was improper). The Respondent was given an opportunity to object to the Initial Decision, and he did. Nevertheless, even where a respondent appears before a final decision is entered, a default may still be entered. See In re Tayeh, WET-2019-016 (Mass. Dep’t Env’tl. Prot. Jun. 8, 2020, adopted as Final Decision on Jun. 22, 2020) (Att. D, Administrative Decision) (“There is nothing in the record to indicate that any effort was made to make a timely filing, or any description of circumstances that made a timely filing not possible, such as medical, personal or personnel problems. Here, the Petitioner simply failed to file on time, and [the presiding officer] find[s] no basis for excusing the untimely filing.”).

The Respondent must make a showing of “good cause” or “excusable neglect” for his previous failure to answer, as demonstrated in the cases herein. See Linder v. Pollak, 102 Mass. App. Ct. 386, 389-90 (2023), citing Ceruolo, 92. Mass. App. Ct. at 188 (“The excusable neglect standard is applied after judgment has entered. The ‘good cause’ standard is applicable when default, but not judgment, has entered.”). Here, the Respondent sought to set aside the default before the Commission issued a Final Decision. The undersigned analyzes the present case under both standards and finds that the Respondent had neither good cause nor excusable neglect for his previous failure to answer.

“Good cause” generally requires an officer to show that circumstances beyond their control necessitated an action. See Khodaverdian v. Department of Emp. & Training, 39 Mass. App. Ct. 414, 416 (1995) (stating that, in the employment context, good cause includes “personal reasons that, to a reasonable person, present an acceptable excuse or explanation for the conduct in question”; and applying concept to party’s failure to timely return certain form sent by government agency); Deforitis v. Taunton Retirement Bd., No. CR-19-52, 2023 WL 6037355, at \*1 (Mass. Div. Admin. L. Appeals Apr. 5, 2023) (determining no good cause shown where movant failed to offer a case-specific argument for granting a continuance, failed to explain the nature of her scheduling error, and failed to describe how her scheduling error would affect her case).

Similarly, excusable neglect is “[a] failure — which the law will excuse — to take some proper step at the proper time ([especially] in neglecting to answer a lawsuit) not because of the party’s own carelessness, inattention, or willful disregard of the court’s process, but because of some unexpected or unavoidable hindrance or accident or because of reliance on the care or vigilance of the party’s counsel or on a promise made by the adverse party.” Tayeh, WET-2019-016, at 8 (quoting Black’s Law Dictionary (11th ed. 2019)). “Excusable neglect . . . is meant to apply to

circumstances that are unique or extraordinary, not any ‘garden-variety oversight.’” Tai v. City of Boston, 45 Mass. App. Ct. 220, 222 (1998) (quoting Feltch v. General Rental Co., 383 Mass. 603, 613-14 (1981), in case involving city’s failure to timely file notice rejecting case evaluator’s recommended award of damages). Also, “[t]he failure to file a timely appeal is excusable only when the neglect is attributable to circumstances beyond the reasonable control of the appellant.” Miller v. Scannell, 1997 Mass. App. Div. 166 (Dist. Ct. 1997). To hold otherwise would mean “[a]ny [p]etitioner could file late and then justify the untimeliness by asserting that he was making sure his appeal was viable. This would render ineffective the regulatory deadlines to file an appeal.” Tayeh, WET-2019-016, at 7.

The Respondent has failed to present any evidence or argument that can be considered excusable neglect or good cause for his failures to respond in this case. During the conferences, after the Commission recommitted the matter to the undersigned, the Respondent admitted to receiving notice, and indeed to having failed to respond to several of Enforcement Counsel’s attempts to communicate with him after the OTSC was filed. On one occasion in May 2024, when a meeting with Enforcement Counsel had been arranged, the Respondent did not appear, claiming at the hearing that his vehicle broke down. He never made an attempt to reschedule a meeting or seek additional time to respond to the OTSC or motion for default thereafter. He contends that he never submitted anything in writing because in “the past what [he has] written down was twisted and used against [him].” That is not sufficient to establish excusable neglect or good cause.

The Respondent was, nevertheless, given an opportunity by the undersigned to articulate his defenses to the allegations contained in the OTSC. The Respondent stated, *inter alia*, that he had suffered Post Traumatic Stress Disorder from a shooting 12 years ago and suffered anxiety as a result. (Arruda Testimony). He claimed that his purported deficiencies in report writing were a result of inconsistent instructions he received from different supervising sergeants, one of whom repeatedly harassed him, and that the record before the Commission does not reflect his record of good conduct or the fact that he has received a Medal of Valor. He noted that he has resigned from the Dartmouth Police Department; he has found other employment; and although he is not seeking future police officer positions, he wants to avoid decertification. These statements do not address the allegations raised against the Respondent in the OTSC and do not provide a basis for finding that there was good cause or excusable neglect for his failure to file an answer in this case. See Ceruolo, 92 Mass. App. Ct. 185 (good cause); Tai, 45 Mass. App. Ct. 220 (excusable neglect).

Based on the evidence and the applicable statutes and regulations, the undersigned finds that the Respondent has failed to raise sufficient grounds to alter the determination that the Respondent’s default was not based on good cause, excusable neglect, or any other basis for changing the Initial Decision. As stated in the Initial Decision, the Commission has afforded the Respondent an opportunity for a full and fair hearing. See M.G.L. c. 30A, §§ 10, 11(1); 801 CMR 1.01(4)(c).

### **Recommendation**

Accordingly, the undersigned recommends that the Commission grant the Division’s Motion and find, as alleged in the OTSC, that the Respondent (1) engaged in a pattern of unprofessional

police conduct that may escalate, M.G.L. c. 6E, § 10(b)(iii); (2) was suspended by his appointing agency for disciplinary reasons, M.G.L. c. 6E, § 10(b)(iv); and (3) has repeated sustained internal affairs complaints for the same or different offenses, M.G.L. c. 6E, § 10(b)(v). The Commission should issue a final decision suspending and/or revoking the Respondent's certification, as requested by the Division. M.G.L. c. 30A, § 10(2). It is important to note that the violations contained in the OTSC do not require revocation of the Respondent's certification (or decertification), but do not preclude it either. Pursuant to M.G.L. c. 6E, § 10(g), the Commission shall publish any suspension or revocation order and findings and shall provide all information to the National Decertification Index.

“The same procedural provisions applicable to the initial filing of the initial decision shall apply to any refiled or revised initial decision after recommittal.” 555 CMR 1.10(4)(e)2.c.; see also 555 CMR 1.10(4)(e)2.b.



Hon. Kenneth J. Fishman (Ret.)  
Hearing Officer

Date: January 30, 2025

Notice: Jason Arruda, Respondent  
William P. Aiello, Esq., Commission Enforcement Counsel  
Division of Police Standards  
Shaun Martinez, Esq., Deputy Director, Division of Police Standards  
Dartmouth Police Department, Law Enforcement Agency  
Collective Bargaining Unit  
Bristol County District Attorney's Office

**COMMONWEALTH OF MASSACHUSETTS  
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

In the Matter of  
JASON ARRUDA

)  
)  
)

Case No. [REDACTED]

**INITIAL DECISION**

I. **Introduction**

At issue in this matter is whether this proceeding brought by the Massachusetts Peace Officer Standards and Training Commission (“Commission”) should now terminate with a default decision in the Commission’s favor, pursuant to Massachusetts General Laws Chapter 30A, § 10(2), 801 CMR 1.01(7)(a), and 555 CMR 1.10(4). Jason Arruda (“Respondent”) did not answer, appear, and defend the allegations of misconduct against him in the Order to Show Cause (“OTSC”). The Respondent also did not respond to mailings delivered to him by the Division of Police Standards (“Division”). For the reasons stated below, the undersigned recommends that the Commission adopt this Initial Decision as its Final Decision, grant the Division’s Motion for Default and Final Decision (“Motion”), and proceed to determine what discipline should be imposed against the Respondent.

II. **Procedural History**

1. The Division served the Respondent with an OTSC on February 26, 2024, addressed to the Respondent’s last known home address. Exhibits A, B.
2. The OTSC contained the allegations against the Respondent and notification of the obligation to file an answer or otherwise respond to the allegations within 21 days. Exhibit A. The OTSC stated that, if a responsive and timely answer was not filed, the Commission may act.



Exhibit A. In particular, the Respondent was notified that if an answer to the allegations in the OTSC is not filed, the Commission may enter a Final Decision and Order that assumes the truth of the allegations in the OTSC and that the Commission may take action against the Respondent's certification, including granting, in full, the action contemplated in the OTSC.

Exhibit A.

3. The Motion was mailed by the Division to the Respondent by USPS Priority Mail on June 11, 2024, to the same last known address. Exhibits C, D. The undersigned takes administrative notice that the OTSC was attached as an exhibit to the Motion.

4. By operation of law, the Commission may presume that the Respondent received both the OTSC and the Motion, as discussed below. The Respondent failed to respond to either the OTSC or the Motion.

### III. Allegations Contained in the OTSC

1. On July 1, 2021, the Respondent was automatically certified as a law enforcement officer pursuant to St. 2020, c. 253, § 102, an Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth.

2. On July 1, 2022, the Respondent was recertified by the Commission's Division of Police Certification.

3. On June 15, 2023, the Commission directed its Division of Police Standards to open a preliminary inquiry to investigate allegations of misconduct against the Respondent.

M.G.L c. 6E, § 8(c)(2); 555 CMR 1.02(4).

4. During his employment at Dartmouth Police Department from March 12, 2012, until his resignation on April 24, 2023, the Respondent was the subject of various internal investigations. The following incidents resulted in sustained findings and/or discipline:

5. On June 22, 2015, the Respondent was involved in an avoidable cruiser collision, resulting in damage to a department vehicle, and was cited for violating department policy by innating an unauthorized roadblock.
6. On October 10, 2017, the Respondent was found to have engaged in the following instances of misconduct:
  - (1) Failing to take the quickest route while driving to a domestic disturbance call;
  - (2) Taking an excessive quantity of time to respond to calls for service several times;
  - (3) Incorrectly claiming he was not responsible for responding to calls for service several times;
  - (4) Failing to prioritize multiple calls for service in one instance; and
  - (5) Respondent was suspected of improperly using sick leave to avoid working a shift with a high volume of calls.
7. On May 7, 2018, the Respondent was ordered to receive retraining after writing a deficient report following a call involving a deceased person.
8. In another report on June 21, 2018, the Respondent misidentified an individual he arrested. In the incident report, the investigator stated that the Respondent had a pattern of poor report writing.
9. On August 2, 2018, the Respondent was cited for failing to facilitate movement of traffic during a detail assignment.
10. On October 6, 2018, the Respondent was found to have removed the handcuffs of an arrestee with a violent history while they were alone, and he was subsequently cited for unsafely handling a prisoner in his custody.
11. On February 10, 2020, after the Respondent failed to file necessary police reports

- involving possible child neglect, he received counseling.
12. On August 9, 2021, the Respondent was involved in a cruiser collision and was subsequently found to have violated two Dartmouth Police Department policies because he was inattentive while driving his vehicle.
  13. On February 13, 2022, formal counseling was given to the Respondent due to his deficient report writing, specifically “concerning completing reports in a timely fashion, making sure they are properly submitted through IMC Case Activity, and him not notifying a supervisor prior to leaving for the day and especially into days off without completing reports.”
  14. In 2022, the Respondent received a written warning because of “continued shortcomings with regards to report writing and failure to follow” instructions.
  15. In 2023, the Respondent was cited for policy violations relating to the Temporary Custody of Adults and Custodial Searches.
  16. In 2023, the Respondent was suspended for a period of three workdays because of a pattern of poor-quality work, specifically relating to the Respondent’s report writing and interactions with the public.
  17. On February 23, 2023, the Respondent engaged in misconduct while investigating an alleged Indecent Assault and Battery involving two assisted living facility residents.
  18. The Respondent’s 15-minute investigation was captured on body-worn camera footage. The footage shows the Respondent failed to interview available witness of the alleged assault and failed to ask critical question to the witnesses he did interview. The Respondent’s superficial investigation led to him being unable to properly determine if an Indecent Assault and Battery had occurred.

19. After returning to the station, the Respondent provided inaccurate information to his supervisors who subsequently believed no crime had occurred. The Respondent claimed to his supervisors that the alleged victim of the Indecent Assault and Battery consented to the touching. This information was again provided to a dispatcher, who updated a police log stating that “no unwanted touching” occurred during the incident.
20. When drafting his report of the February 23, 2023, incident, the Respondent omitted material information and included inaccurate information. Despite not conducting any additional investigation, when he redrafted the report, he included some originally material omitted information and took back some of his original conclusions.
21. Additionally, the Respondent failed to report the alleged elder abuse, as required by law, to the Department of Public Health or Elder Services.
22. Dartmouth Police Department issued its internal investigation report concerning the February 23, 2023, incident in March 2023, sustaining several allegations against the Respondent.

IV. Exhibits

In ruling on this matter, the undersigned has considered the Motion filed by the Division and the following exhibits:

Exhibit A: OTSC with a certificate of service, dated February 26, 2024.

Exhibit B: OTSC USPS Priority Mail tracking, dated February 28, 2024.

Exhibit C: Motion for Default and Final Decision, dated June 11, 2024.

Exhibit D: Motion for Default USPS Priority Mail tracking, dated June 14, 2024.

The undersigned takes administrative notice of all papers filed in this case, as well as Chapter 6E and Commission regulations. See M.G.L. c. 30A, § 11(5).

V. Legal Basis for Commission Disciplinary Action

1. Pursuant to M.G.L. c. 6E § 3(a):

The [C]ommission shall have all powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to:

(1) act as the primary civil enforcement for violations of [chapter 6E]; . . .

(4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable; . . .

(23) restrict, suspend or revoke certifications issued under [chapter 6E];

(24) conduct adjudicatory proceedings in accordance with chapter 30A; . . .

2. Pursuant to M.G.L. c. 6E, § 10(b)(iii), “[t]he [C]ommission may, after a hearing, suspend or revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that the officer . . . has a pattern of unprofessional police conduct that [the] [C]ommission believes may escalate.”

3. Pursuant to M.G.L. c. 6E, 10(b)(iv), “[t]he [C]ommission may, after a hearing, suspend or revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that the officer . . . was suspended or terminated by their appointing agency for disciplinary reasons.”

4. Additionally, pursuant to M.G.L. c. 6E, § 10(b)(v), “[t]he [C]ommission may, after a hearing, suspend or revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that the officer . . . has repeated sustained internal affairs complaints, for the same or different offenses.”

5. Pursuant to M.G.L. c. 6E, § 10(g), the Commission shall publish any revocation order and findings and shall provide all revocation information to the National Decertification Index.

6. Pursuant to M.G.L. c. 6E, § 10(h), the Commission may institute a disciplinary hearing after an officer's appointing agency has issued a final disposition on the alleged misconduct or one year has elapsed since the incident was reported to the Commission.

VI. Notice

The Respondent was notified at his last known address by the OTSC that if he did not file an answer or otherwise respond to the allegations in the OTSC in a responsive and timely manner, the Commission could enter a Final Decision and Order that assumes the truth of the allegations in the OTSC. In addition, the notice informed him that the Commission may take particular action against his certification, including granting in full the relief contemplated in the OTSC. These advisories were sufficient to place him on notice of the consequences of any default. See Lawless v. Bd. of Registration in Pharmacy, 466 Mass. 1010, 1010 n.1, 1011 (2013) (concluding that pharmacist had “ample notice,” where he was informed that “failure to appear at any hearing would result in entry of default and that, in the event of default, the board could enter a final decision accepting as true the allegations contained in the show cause order”); Univ. Hosp., Inc. v. Massachusetts Comm’n Against Discrimination, 396 Mass. 533, 539 (1986) (holding that default provision did not violate due process, as it “afford[ed] the respondent reasonable procedural safeguards for notice and opportunity to be heard”). Despite being afforded the opportunity to do so, the Respondent has failed to file an answer or request an adjudicatory hearing. The Respondent was in communication with the Division, so he was well aware of his requirements to respond to the OTSC, and still, he did not. See Exhibit C.

On June 11, 2024, the Division moved for a default judgment and final decision and served the Motion, with Exhibits A and B attached, by USPS Priority Mail with tracking information to the Respondent’s last known address, as indicated by a CLEAR search conducted by the Division. Exhibit C. CLEAR, provided by Thomson Reuters, is a database that collects information from various sources, including cell phone records, credit reporting agencies, motor vehicle registration information, and criminal history records, among other sources.

The Commission provided sufficient notice by delivering the OTSC and the Motion using

USPS Priority Mail. Massachusetts law presumes that the addressee receives properly deposited mail. See Espinal’s Case, 98 Mass. App. Ct. 152, 152-53, 156 (2020) (citing Eveland v. Lawson, 240 Mass. 99, 103 (1921) (“The depositing of a letter in the post office, properly addressed, postage prepaid, to a person at his place of business or residence, is prima facie evidence that it was received in the ordinary course of mails.”)); Commonwealth v. Crosscup, 369 Mass. 228, 239 (1975) (“Proper mailing of a letter is ‘prima facie evidence’ in civil cases of its receipt by the addressee.” (citations omitted)). Further, nothing in Chapter 6E required the Division to take any additional steps or prohibits the Division from relying on the certification that it mailed the Motion via USPS Priority Mail delivery. See Espinal’s Case, 98 Mass. App. Ct. at 157 (stating that “on other occasions when the Legislature intended to impose a requirement for notice by certified mail, return receipt requested, it has done so explicitly”). The undersigned may thus presume that the Respondent received the Motion that was sent through USPS Priority Mail at his last known address.

## VII. Discussion

Pursuant to 801 CMR 1.01(7)(a), a party may request through a motion that a Hearing Officer “issue any order or take any action not inconsistent with [the] law or 801 CMR 1.00.” One such action is recommending the entry of a final judgment of default where a respondent has failed to appear. Under M.G.L. c. 30A, § 10(2), an agency is specifically authorized to “make informal disposition of any adjudicatory proceeding . . . by default.” Lawless, 466 Mass. at 1011-12 (affirming that agency “ha[d] authority, in an appropriate circumstance, to dispose of an adjudicatory proceeding by default,” citing M.G.L. c. 30A, § 10; and concluding that agency’s decision to do so was not shown to be improper, where the party failed to appear after the first day of hearing). That step is warranted here. The Commission has afforded the Respondent an

opportunity for a full and fair hearing as required by M.G.L. c. 30A, §§ 10, 11(1) and 801 CMR 1.01(4)(c).

In University Hospital, the Supreme Judicial Court rejected the notion that due process standards were violated by an agency rule that provided sanctions for a party's default upon receiving interrogatories. 396 Mass. at 538-39. The court found the provisions of the agency rule "afford . . . reasonable procedural safeguards for notice and an opportunity to be heard," noting that a respondent is given clear notice of the consequences, and has opportunities to object, to obtain an extension of time, to petition for a default to be vacated, and to seek judicial review of the entire proceedings. In the case before the Commission, the OTSC and the Motion (both sent by USPS with tracking) provided the Respondent with notice of the consequences of a failure to appear or defend in this matter, as well as an opportunity to object. Exhibits A, C. The Respondent could have sought more time to respond under 801 CMR 1.01(4)(e), (7)(a). Therefore, the entry of a default judgment by the Commission is both legal and proper.

By reason of the Respondent's default, and upon consideration of the Division's Motion, the undersigned recommends that the Commission grant the Motion. See Lawless, 466 Mass. at 1010-12 & n.1; Univ. Hosp., 396 Mass. at 538-39; Productora e Importadora de Papel, S.A. de C.V. v. Fleming, 376 Mass. 826, 833-35 (1978) (recognizing that a default establishes the truth of factual allegations). In addition, the undersigned recommends that the Commission find that the allegations in the OTSC and the violations of the statutes and regulations stated therein are deemed admitted and established. See Lawless, 466 Mass. at 1010-12 & n.1; Univ. Hosp., 396 Mass. at 534, 538-39; Productora e Importadora de Papel, 376 Mass. at 833-35.

#### VIII. Conclusion

The Division's Motion should be granted for the reasons stated above. The undersigned



recommends that the Commission find the allegations to be supported, make this Initial Decision final, and proceed to determine what discipline is appropriate. In accordance with the provisions of 555 CMR 1.10(4)(e)(2)(b), each of the parties has 30 days to file written objections to the Initial Decision with the Commission.

SO ORDERED.

**PEACE OFFICER STANDARDS AND TRAINING COMMISSION**



---

Hon. Kenneth J. Fishman (Ret.)  
Hearing Officer

Dated: September 5, 2024

Notice to: Jason Arruda, Respondent  
Shaun Martinez, Esq., Commission Enforcement Counsel  
Dartmouth Police Department, Agency  
Collective Bargaining Unit