

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re:

LM DIGITAL, LLC & WILLIAM
CASTRONOVA,

APPELLANTS.

Citation and Notice of Assessment No. W-
325-19

OAH Docket No. 07-2019-LI-01110

2020-003-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the Order Dismissing Appeal (Order) served on October 23, 2019, having considered the petition for administrative review filed by LM Digital, LLC & William Castronova (Appellants) with the Director's Office, and briefing submitted to the Director's Office, and having reviewed the record, issues this Director's Order.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. On March 8, 2019, the Department issued Citations and Notice of Assessments to the Appellants: one for LM Digital and one for William Castronova. By email, Robert Haugen forwarded a notice of appeal for both citations from William Castronova. No address was

2020-003-WPA

1

DIRECTOR'S ORDER

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included. The notice of appeal by Mr. Castronova had the following address listed: 35037 N. El Sendero Road, Cave Creek AZ 85331. This was the same address for the citation against William Castronova.

2. On July 19, 2019, the Office of Administrative Hearings conducted a pre-hearing conference. The notice of the prehearing conference had been mailed to the Arizona address listed above. Present were owner William Castronova and accountant Robert Haugen. Robert Haugen was listed as an “observer.” There is no record that Robert Haugen provided a different address for LM Digital, William Castronova, or himself at that time.

3. On October 9, 2019, the Office of Administrative Hearings sent notice of a pre-hearing conference scheduled for October 21, 2019. The notice advised the Appellants “If you fail to call in, the administrative law judge may hold you in default and dismiss your appeal. RCW 34.05.440(2).” This notice was mailed to the Arizona address listed above and was not returned undeliverable.

3. On October 21, 2019, the Appellants failed to appear.

4. The Office of Administrative Hearings issued and served the Order dismissing the appeal on October 23, 2019.

5. On November 7, 2019, the Director received a timely filed petition for administrative review for the Appellants from Robert Haugen. Mr. Haugen sought relief from the order dismissing appeal because he had not received a copy of the notice of status conference.

II. CONCLUSIONS OF LAW

1. Based on the Appellants’ timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.

2. RCW 34.05.440(2) provides: “If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding . . . , the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order.”

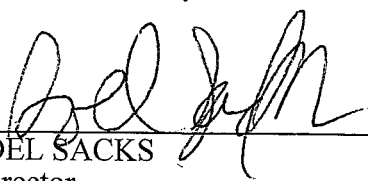
3. Mr. Haugen appears to claim that the reason no one appeared is that he did not receive notice. But notice had been mailed to the Arizona address and William Castronova appeared. Mr. Haugen presents no reason why Mr. Castronova, the owner of the company and one who was subjected to personal liability, did not appear. Mr. Haugen did not provide Office of Administrative Hearings with an address according to the scheduling order and is listed as merely an observer. Mr. Castronova had the opportunity to produce a reason why he did not attend the status conference and did not provide one.

4. Because the Appellants have alleged no circumstances that would constitute good cause to miss the conference, the appeal is dismissed under RCW 34.05.440(2).

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, the Citations and Notices of Assessment are AFFIRMED.

DATED at Tumwater, Washington this 18 day of February 2020.



JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by emailing it to directorappeal@lni.wa.gov or by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides: "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 18 day of February 2020, to the following via regular mail, postage prepaid.

LM Digital, LLC and
William Castronova
35037 N El Sendero Road
Cave Creek, AZ 85331

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Megan Foster
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Kristin Shutter
115 129th Street S, Apt B-11
Tacoma, WA 98444

DATED this 18 day of February, 2020, at Tumwater, Washington.

Lisa Deck
Lisa Deck