

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES  
STATE OF WASHINGTON

In re:	2021-005-CL
ROTSCHY, INC.,	DIRECTOR'S ORDER
Appellant.	RCW 49.48.084(4); RCW 34.05
Citation and Notice of Assessment No. CL-018-21	
<u>OAH Docket No. 01-2021-LI-01592</u>	

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the Order Dismissing Appeal served on January 27, 2021, having considered the petition for review filed by Rotschy, Inc. (the Appellant) 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 January 8, 2021, the Office of Administrative Hearings sent notice of a pre-hearing conference scheduled for January 26, 2021 at 11:00 a.m.
3. On January 26, 2021 the Appellant failed to appear.
4. The Office of Administrative Hearings issued and served the Order Dismissing Appeal on January 27, 2021.

5. The Director received a timely filed petition for administrative review from the Appellant.
6. The Appellant's representative indicates he did not receive the notice, opining that it might be because at some point (the timing is unclear) the business was in the process of changing its address.

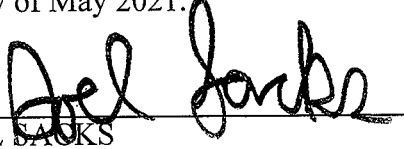
## II. CONCLUSIONS OF LAW

1. Based on the Appellant's 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. On this record it is unclear what the circumstances are around the change in mailing address.
4. This matter is remanded to Office of Administrative Hearings to take evidence and consider whether the circumstances presented by the Appellant warrant vacation of the order dismissing the appeal. If good cause is found to vacate the order of dismissal, then the case should proceed in the ordinary course. If good cause is not found, then any party may appeal.

## III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, this case is remanded to Office of Administrative Hearings for hearing as specified in this order.

DATED at Tumwater, Washington, this 18 day of May 2021.

  
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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](mailto: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).

**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 May 2021, to the following via e-mail and regular mail, postage prepaid.

Nick Massie  
Rotschy, Inc.  
PO Box 290  
Yacolt, WA 98675  
[nick.massie@rotschyinc.com](mailto:nick.massie@rotschyinc.com)

Kevin Elliott, AAG  
Office of the Attorney General  
1116 W. Riverside Avenue, Suite 100  
Spokane, WA 99201  
[Kevin.Elliott@atg.wa.gov](mailto:Kevin.Elliott@atg.wa.gov)  
[lnispofax@atg.wa.gov](mailto:lnispofax@atg.wa.gov)  
[shaun.reeser@atg.wa.gov](mailto:shaun.reeser@atg.wa.gov)

DATED this 18 day of May, 2021, at Tumwater, Washington.

  
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Lisa Deck