

STATE OF COLORADO SECRETARY OF STATE Administrative Hearing Officer 1700 Broadway, Suite 550 Denver, CO 80290	
BUSINESS AND LICENSING DIVISION of the SECRETARY OF STATE,	
Complainant,	▲ COURT USE ONLY ▲
v.	Case No. 2026 AHO 02
GARY PAUL BROWN,	
Respondent.	
REPLY IN SUPPORT OF MOTION FOR ENTRY OF DEFAULT JUDGMENT AND WITHDRAWAL OF CLAIMS 1, 2, AND 6	

The Notary Division (“Complainant”) of the Colorado Department of State replies in support of its motion for entry of default judgment (“Motion”) under Rule 3.6.3 of the Secretary of State Administrative Hearing Rules, 8 C.C.R. 1505-3.

1. As an initial matter, the administrative hearing rules don’t explicitly address the filing of a reply in support of a motion for default judgment. They do, however, permit the filing of a reply for all other motions. 8 C.C.R. 1505-3:3.6.3(d). But the rules do not contemplate the filing of a response to a motion for default judgment, either. Because Respondent Gary Paul Brown filed his response to the Motion on March 16, 2026 (not an answer to the complaint), the Complainant is filing this reply in support of the Motion in line with Rule 3.6.3—particularly to respond to several assertions and ensure a complete factual and procedural history is provided.

2. The Scheduling Order in this matter identified the deadline for filing an answer and directed the parties to the procedural rules that govern this matter. As detailed below, undersigned counsel unambiguously and unequivocally conveyed that ongoing settlement negotiations did not supersede or replace Respondent’s obligations under the Scheduling Order and the Administrative Hearing Rules to file an answer. *See* Rule 3.6.1(a) (“A respondent who is served an administrative complaint is *required* to file a written answer[.]”) (emphasis added).

3. Answers are required because they can narrow the scope of litigation to contested versus uncontested facts, which facilitates efficiency in resolving

administrative matters. If the Administrative Hearing Officer had intended to make the filing of an answer optional, the Scheduling Order would have said so.

4. Because settlement discussions were ongoing and the settlement wasn't final, as discussed in the Motion and as detailed below, undersigned counsel couldn't agree to Respondent foregoing an answer to the complaint. Undersigned counsel informed Respondent's counsel that she wouldn't stipulate to a stay and informed Respondent's counsel of Respondent's obligation to file the answer.

5. Respondent's counsel never moved for a stay or for an extension to the answer deadline.

6. On Monday, March 2, undersigned counsel reached out to Respondent's counsel to attempt to advance settlement negotiations after counsel discussed this case over the telephone on Friday, February 27. Respondent's counsel did not respond until undersigned counsel reached out again on March 5. Undersigned counsel moved the settlement negotiation process forward, not Respondent's counsel.

7. Complainant's first discovery request, through undersigned counsel, was propounded on March 5, 2026, not March 12 as Respondent's counsel asserts. Resp. at ¶ 5. Complainant's second discovery request—a follow-up—came on March 12, after Respondent failed four days earlier to timely file the answer to the administrative complaint. The purpose of the second discovery request was to ensure Complainant could appropriately litigate this matter at a contested hearing should the Administrative Hearing Officer not grant the default judgment or if there is no settlement. Both discovery requests were propounded in line with Rule 3.10.1's deadlines. 8 C.C.R. 1505-3:3.10.1.

8. In response to Complainant's first discovery request on March 5, Respondent's counsel wrote also on March 5, "Do i [*sic*] need to file an answer or is denial enough in this type of proceeding?" Undersigned counsel asked for clarification, and Respondent's counsel wrote, "My questi[o]n is procedural so i [*sic*] dont [*sic*] unknowingly waive a right for my client." Undersigned counsel responded the same day, "Candidly, I don't feel comfortable advising you on whether you should file an answer, especially if you're asking me so you don't unknowingly waive a right for your client. I just can't advise on that."

9. Undersigned counsel informed Respondent's counsel on March 6, "Since the answer deadline is Monday [March 9, because March 8 was a Sunday], I do just want to give you a heads up that I very likely can't start preparing this document until Thursday. I'll try to get to it before then, but chances are high that's not possible. I also want to be clear that the Deputy Secretary of State has to approve this resolution as well, so *finalizing this will take several days*. I'm guessing

we can't get this signed by both parties until the week of March 16." (Emphasis added.)

10. Respondent's counsel then asked on March 6, "Can we file a soe or something so i [sic] dont [sic] have to *do a full answer* on the off chance" the Deputy Secretary of State didn't approve the settlement. (Emphasis added.) When undersigned counsel asked for clarification as to what an SOE was, Respondent's counsel responded that it was a "Stay[.]" Undersigned counsel responded the same day (March 6) that Respondent's counsel could file an opposed motion to stay the matter because Complainant couldn't agree to a stay. Respondent did not do so.

On March 9, undersigned counsel wrote to Respondent's counsel, "If you need additional time to file an answer (within reason) and you want to move for an extension of the deadline to a date certain, I'm happy to look at that motion and very likely agree to it as long as it isn't a stay." Respondent's counsel neither filed a motion to extend the answer deadline nor timely filed an answer. Respondent's counsel also did not respond to this offer.

11. Despite the repeated reminders and clear deadline, Respondent's counsel failed to timely file an answer. This was so even though undersigned counsel confirmed that Respondent's obligation to file an answer remained regardless of settlement negotiation.

12. In the Response, Respondent's counsel did not address, let alone explain or defend, Respondent's failure to timely file an answer.

13. When Respondent's counsel failed to timely file an answer, the settlement was not finalized—a fact clear to Respondent's counsel, as no draft language had been sent, reviewed, or negotiated; no party had signed; and the Deputy Secretary of State had not approved.

14. Respondent's counsel doesn't dispute in the Response that the parties had not finalized the stipulation document or that the parties had not negotiated, let alone arrived at, a proposed final version of any language.

15. Respondent's counsel also doesn't dispute that the Deputy Secretary of State had not approved the stipulation or reviewed a proposed settlement, which she knew was a required step.

16. Respondent's counsel also doesn't dispute that Respondent had not reviewed, agreed to, or signed any stipulation document.

17. In her Response, Respondent's counsel asserts undersigned counsel had no authority to move for default while negotiations were underway. Critically,

however, Respondent's counsel does not provide any legal authority or rule that prohibits a government attorney from filing a motion for default in an affirmative administrative enforcement matter even if settlement negotiations were ongoing. Resp. at ¶ 6. Undersigned counsel candidly conveyed the posture of the case, including that settlement negotiations had been initiated before Respondent's counsel failed to file the answer. *See* Mot. at ¶ 5 (detailing state of settlement negotiations).

18. Respondent's counsel also claims in the Response that Respondent "did not want to expend additional resources on the matter[.]" *See* Resp. at ¶ 6. That may be so, but that does not excuse Respondent's failure to file an answer to the complaint, as required by law and rule.

19. Respondent now requests that the administrative complaint be dismissed as a sanction but again fails to cite legal authority in support of such a drastic outcome. Nor is dismissal of the complaint warranted, as Complainant dutifully was exercising the right to move for default based on *Respondent's* failure to answer.

20. Indeed, dismissal of the administrative complaint because of Complainant's good faith filing of a motion for default judgment would result in an improper windfall for Respondent, the subject of multiple notary failures and the party that failed to file in the first place. Respondent was the party that did not comply with the Scheduling Order. Respondent was the party that did not move for an extension of the answer deadline or a stay. Complainant is not the party that should be penalized for Respondent's repeat failures to comply with unambiguous procedural requirements.

21. The same motion for default judgment also moved to withdraw three out of the six claims in the administrative complaint, which further shows that Complainant is litigating this matter in good faith.

22. Therefore, Complainant respectfully requests that the Administrative Hearing Officer enter an Initial Decision revoking Respondent Gary Paul Brown's notary commission based on claims three, four, and five of the Complaint as a default judgment for Respondent's failure to answer.

Respectfully submitted this 17th day of March, 2026.

PHILIP J. WEISER
Attorney General

/s/ Sonia R. Russo

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CERTIFICATE OF SERVICE

This is to certify that I will cause the foregoing **REPLY IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT AND WITHDRAWAL OF CLAIMS 1, 2, AND 6** to be served this 17th day of March, 2026, by email and/or U.S. mail, addressed as follows:

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