

Furthermore:

If a notice served by certified mail is marked “unclaimed” or “refused” or is otherwise undeliverable and if the licensee or applicant cannot, after diligent effort, be located, the division director, or his or her designee, shall be deemed to be the agent for service for such licensee or applicant . . . , and service upon that director, or that director’s designee, shall be deemed to be service upon the licensee or applicant.

Id.

Here, the Board concedes that service of the Notice of Hearing by certified mail has been unsuccessful. Under O.C.G.A. § 43-1-19, service nonetheless could be perfected under such circumstances. However, the Board has not demonstrated to this Court that it attempted personal service or made any attempt to locate another address for Respondent. Moreover, even if the Board had presented evidence of a “diligent effort” to locate Respondent, it still failed to demonstrate that the Board’s director or its designee had been served with the Notice of Hearing. Thus, this Court is left with no indication as to whether service of the Notice of Hearing has been perfected. See id. Furthermore, nothing in the record indicates that Respondent was in contact with the Board or had any actual knowledge of the hearing date. See Mullane v. Central Hanover Bank, 339 U.S. 306, 314 (1950) (holding that due process requires notice “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections”).

Accordingly, as Respondent has not been properly served with the Notice of Hearing pursuant to O.C.G.A. § 43-1-19, this Court declines to find Respondent in default for failure to appear. See O.C.G.A. § 50-13-40(c); Ga. Comp. R. & Regs. 616-1-2-.30(1), (5). For the same reason, this Court also declines to address the merits of this case at this time. See O.C.G.A. § 43-1-19(k) (stating that evidence may be heard against a licensee who fails to appear, but only

when that licensee received "reasonable notice" of the hearing). This case is hereby
DISMISSED without prejudice.

SO ORDERED, this 20 day of June, 2016.



RONIT WALKER, ALJ