

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>LEADVILLE CORPORATION,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>LAKE COUNTY BOARD OF EQUALIZATION.</b></p>	<p><b>Docket 71552</b></p>
<p><b>ORDER DISMISSING APPEAL</b></p>	

**THE BOARD OF ASSESSMENT APPEALS** received Petitioner’s Petition to the State Board of Assessment Appeals on August 31, 2017. The Petition Form indicated that Petitioner in this case, Leadville Corporation, will be appearing *pro-se* at the hearing. The Petition Form was signed by Mr. Scot Hutchins, 2776 S. Arlington Mill Dr., #102, Arlington, VA 22206.

After receiving Petitioner’s Petition, the Board of Assessment Appeals (“the BAA” or “the Board”) determined that the information Mr. Hutchins provided on the Petition Form, specifically, information concerning the ownership of the Leadville Corporation, was incomplete. Therefore, the Board contacted Mr. Hutchins, on numerous occasions (September 1, 2017, October 1, 2017 and October 6, 2017), via email, in an attempt to ascertain whether Leadville Corporation is a closely held entity and if not, whether Leadville Corporation would be represented by an attorney during the BAA proceedings.

On October 11, 2017 the Board received a written response submitted by Mr. Hutchins to the Board’s September 1, 2017, October 1, 2017 and October 6, 2017 inquiries. In his response, Mr. Hutchins acknowledged that “a corporation, partnership, limited company, etc. must be represented” at the BAA but indicated that he, “as an individual, is none of these and can represent himself.” See *Response to Board of Assessment Appeals’ Deferral and Questions Re: Petition of Scot Hutchins*, dated October 11, 2017. Mr. Hutchins also added that “Leadville Corporation and its ownership structure are not relevant to the docketing of this appeal.” *Id.*

On or about November 15, 2017, the Board docketed Petitioner’s appeal and mailed Receipt of Appeal to Mr. Hutchins’ address at 2776 S. Arlington Mill Dr., #102, Arlington, VA 22206. On August 17, 2018, the Board sent a Notice of Hearing to Mr. Hutchins, at above-

stated address, informing Mr. Hutchins that the hearing in this case was set for November 27, 2018.

On August 31, 2018, Respondent filed a Motion to Dismiss, arguing that Petitioner's appeal to the BAA should be dismissed because Petitioner did not file a timely petition with the Lake County Board of Equalization. Respondent certified to the Board that a copy of Respondent's Motion to Dismiss was mailed to Mr. Hutchins' address in Arlington. Petitioner failed to file a response to Respondent's Motion to Dismiss.

On October 16, 2018, the Board issued an Order informing the parties that the hearing previously scheduled on November 27, 2018 would be held on the merits of Respondent's Motion to Dismiss only.

On November 14, 2018, the Board attempted to contact Mr. Hutchins at the telephone he provided on the Petition Form. Mr. Hutchins did not answer his phone and the Board could not leave a voice mail as his voice mail box was full. On the same date, the Board sent an e-mail to Mr. Hutchins reminding him of the upcoming November 27, 2018 hearing.

On November 26, 2018, the Board again attempted to contact Mr. Hutchins via telephone. Mr. Hutchins did not answer his phone and the Board could not, once again, leave a voice mail as Mr. Hutchins' voice mail box was full. The Board then sent two additional emails to Mr. Hutchins, two hours apart, reminding Mr. Hutchins about the upcoming hearing.

The Board did not receive any phone calls from Mr. Hutchins and Mr. Hutchins did not respond to the Board's November 14 and November 26, 2018 e-mails.

The Board convened for a hearing in this matter on November 27, 2018, Diane M. DeVries and Cherice Kjosness presiding. Respondent was represented by Lindsey Parlin, Esq., appearing by phone. As Petitioner did not appear, the Board took a 30-minute recess in order to wait for Petitioner in the event Petitioner was running late. During the recess, the Board's staff discovered an email sent by Mr. Hutchins at 6:42 A.M. earlier that day, stating that Leadville Corporation acts through its bankruptcy trustee, Stephen Peters and that Mr. Hutchins "is not authorized by Mr. Peters to represent Leadville Corporation in this matter." The Board read Mr. Hutchins' email into the record and adjourned the hearing.

On November 28, 2018, the Board sent an email to Mr. Stephen Peters and Aaron Conrardy of Wadsworth Warner Conrardy, P.C., copying Mr. Hutchins on the correspondence and stating that a hearing on Respondents' Motion to Dismiss was held by the Board, as scheduled, on November 27, 2018. The Board attached a copy of Respondent's Motion to Dismiss to its November 28, 2018 email.

On November 28, 2018, the Board received a response from Mr. Aaron Conrardy, stating that Wadsworth Warner and Conrardy, P.C. represents Mr. Peters, the chapter 11 trustee for Leadville Corporation and that Mr. Peters did not authorize the BOE appeal, which has been acknowledged by Mr. Hutchins. Mr. Conrardy also stated that to his understanding the BOE appeal was prosecuted by Mr. Hutchins as a creditor of Leadville Corporation.

On December 13, 2018, the Board issued an Order to Show Cause, ordering Petitioner to show cause to the Board, in writing, by no later than December 21, 2018, why Petitioner's appeal should not be dismissed for (1) failure to appear for the November 27, 2018 hearing and (2) for the reasons stated in Respondent's Motion to Dismiss.

On December 24, 2018, the Board received Petitioner's Response to Order to Show Cause. With respect to the Board's Order concerning Petitioner's failure to appear, Mr. Hutchins responded that he, not the Leadville Corporation, is the Petitioner in this matter. According to Mr. Hutchins, because the Board's mail was addressed to the Leadville Corporation instead of Mr. Hutchins, there has been a "lack of sufficient delivery, timely notification, due process." In regards to Respondent's Motion to Dismiss, Mr. Hutchins argued that the deadline to file Petitioner's appeal to the Board fell on Saturday, July 15, 2017. Therefore, Petitioner's appeal, which was postmarked on the next business day, July 17, 2017, was timely.

### **BOARD'S FINDINGS**

The Board finds that Petitioner failed to show cause why Petitioner's appeal should not be dismissed for failure to appear for the November 27, 2018 hearing. The Board determined that Mr. Hutchins' allegations that he did not receive a timely notice of the hearing are not credible. In arriving to this determination, the Board relied on the following:

1. The Board mailed numerous correspondence, including Receipt of Appeal, Notice of Hearing, and Order dated October 16, 2018 to the address that Mr. Hutchins indicated on the Petition Form to the Board. Although the letters were addressed to Leadville Corporation, each envelope listed "*COLORADO Department of Local Affairs, Board of Assessment Appeals, 1313 Sherman Street, Room 315, Denver, CO 80203*" as the addressor. The information on the envelopes should have put Mr. Hutchins on notice that the correspondence contained therein pertained to the Petition that Mr. Hutchins filed with the Board on behalf of Leadville Corporation.
2. Besides sending mail, the Board communicated with Mr. Hutchins via email. The Board sent three e-mails (one on November 14, 2018 and two on November 26, 2018) to Mr. Hutchins reminding him of the upcoming hearing.
3. Mr. Hutchins emailed the Board on the morning of the November 27, 2018 hearing stating that he did not have authority to represent Leadville Corporation in this matter.

Because the Board finds that Petitioner failed to show cause why Petitioner's appeal should not be dismissed for failure to appear for the November 27, 2018 hearing, the Board need not address the merits of Respondent's Motion to Dismiss.

### **ORDER:**

This appeal is hereby DISMISSED.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

Dated this 23rd day of January, 2019.

**BOARD OF ASSESSMENT APPEALS**

*Diane M. DeVries*

\_\_\_\_\_  
Diane M. DeVries

*Cherice Kjosness*  
\_\_\_\_\_  
Cherice Kjosness

I hereby certify that this is true and correct copy of the decision of the Board of Assessment Appeals

*Milla Lishchuk*

\_\_\_\_\_  
Milla Lishchuk

