

**CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS**

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

ALEXANDER POLACK,

Respondent.

DEFAULT DECISION AND ORDER

Record No.: LL005324029-ADJC

NOH No.: LL005324029

License No.: 1412329(PSI)

Date: February 10, 2014

The respondent is charged with the violation(s) in the attached Notice of Hearing.

A hearing was scheduled for October 23, 2013. The respondent did not appear.

The respondent is found **guilty upon default**. The respondent is further found guilty of violating 6 RCNY Section 1-14 for failing to appear in person at the Department to answer the Notice of Hearing.

ORDER

The respondent is therefore **ordered to pay to the Department of Consumer Affairs (DCA) a TOTAL FINE of \$3000 which is immediately due and owing**, as follows:

6 RCNY Section 2-236.c.2 (\$500 per count, for 4 counts)	\$2000
6 RCNY Section 2-236.a (\$500 per count, for 1 count)	\$500
6 RCNY Section 1-14	\$500
TOTAL	\$3000

The Department will suspend the respondent's DCA license(s) if the respondent fails to comply with this Decision and Order within thirty (30) days, including payment of the fine. Payment with a check that is dishonored or a credit card transaction that is denied or reversed will not be considered compliance with this Decision and Order. The license(s) will not be reinstated until the respondent has served any suspension period ordered in this Decision and has paid ALL fines owed to the Department.

This constitutes the Decision and Order of the Department.

**Shanet Viruet
Administrative Law Judge**

cc: ipolack70@gmail.com

Alvin Liu, Legal Division

Mail payment of fine in the enclosed envelope addressed to:
NYC Department of Consumer Affairs
Collections Division
42 Broadway, 9th Floor
New York, NY 10004

APPEAL INFORMATION

You have 15 days to file a MOTION TO VACATE this decision. Your motion **must** include ALL of the following: 1) A check or money order for \$25 payable to the Department of Consumer Affairs; 2) the reason for your failure to appear on the hearing date; *and* 3) a sworn statement outlining a meritorious defense to the charge(s) in the Notice of Hearing.

BY EMAIL: Send your motion to myappeal@dca.nyc.gov and, at the same time, mail the \$25 appeal fee to: DCA Administrative Tribunal, 66 John Street, 11th Floor, New York, NY 10038. Make sure to write the violation number(s) on your check or money order. **NOTE:** The determination on your motion to vacate may be sent to you by email if you choose to submit your motion to us by email.

BY REGULAR MAIL: Mail your motion and the appeal fee to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11th Floor, New York, NY 10038. You must also mail **a copy** of your motion to: Legal Division, Department of Consumer Affairs, 42 Broadway, 9th Floor, New York, NY 10004. Make sure to include in your motion some indication or proof that you have sent a copy of the motion to DCA's Legal Division.

**CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS**

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DEPARTMENT OF CONSUMER AFFAIRS

NOTICE OF HEARING

Complainant,

-against-

Alexander Polack


LL # 5324029

License # 1412329

(Process Server Individual)

Licensee/Respondent.
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In accordance with the powers of the Commissioner of the New York City Department of Consumer Affairs ("the Department") set forth in Section 2203(e) of Chapter 64 of the Charter of the City of New York and Section 20-104 of the Administrative Code of the City of New York ("the Code"), **YOU ARE HEREBY ORDERED TO APPEAR FOR A HEARING AT THE DEPARTMENT'S ADJUDICATION TRIBUNAL AT 66 JOHN STREET, 11TH FLOOR, NEW YORK, NEW YORK AT 9:30 A.M. ON WEDNESDAY, SEPTEMBER 4, 2013;**

AND SHOW CAUSE why your license to operate as an individual process server should not be suspended or revoked and why monetary penalties should not be imposed on you:

APPLICABLE LAW

1. Pursuant to Title 6 of the Rules of the City of New York ("6 RCNY") § 2-236(a), an individual process server must report to the Department in writing, by certified mail or e-mail, when a court schedules a hearing to determine whether service of process made by the process server was effective (known as a "traverse hearing") within ten (10) days of receiving notice of the scheduled hearing.

2. Pursuant to 6 RCNY § 2-236(c)(2), an individual process server must report to the Department in writing, by certified mail or e-mail, the result of the traverse hearing (including any judicial order or voluntary settlement resolving the challenge to service of process) within ten (10) days of learning the result.
3. If the process server is unable to learn the result within ninety (90) days of the scheduled hearing date, the process server must report to the Department in writing within one hundred (100) days of the scheduled hearing date, by certified mail or e-mail, that the process server made attempts to learn the result but were unable to do so.
4. Pursuant to 6 RCNY § 2-236(c)(1), individual process servers must follow specific procedures to attempt to learn the results of traverse hearings.

FACTS

5. Respondent is licensed by the Department as an individual process server under license number 1412329.

NN Bath Ave Corp. v. [REDACTED]

6. On information and belief, in or about 2012, process was distributed to Respondent for service in the matter of NN Bath Ave Corp. v. [REDACTED] (Index Number 53264/12, Kings County Housing Court) (“NN”) and thereafter an affidavit of service executed by Respondent in which he attested that he had served such process in NN was filed with the clerk of the court.
7. The court in NN scheduled a traverse hearing for May 22, 2012 concerning the service of process allegedly made by Respondent.
8. Respondent received notice of the scheduling of the traverse hearing in NN.

9. Respondent did not report to the Department in writing, by certified mail or e-mail, that a traverse hearing had been scheduled in NN within ten (10) days of receiving notice of the scheduled hearing.

Go20 v. [REDACTED]

10. On information and belief, in or about 2012, process was distributed to Respondent for service in the matter of Go20 v. [REDACTED] (Index Number 89349/12, Kings County Civil Court) (“Go20”) and thereafter an affidavit of service executed by Respondent in which he attested that he had served such process in Go20 was filed with the clerk of the court.

11. The court in Go20 scheduled a traverse hearing for October 18, 2012 concerning the service of process allegedly made by Respondent.

12. Respondent received notice of the scheduling of the traverse hearing in Go20.

13. Respondent did not report to the Department in writing, by certified mail or e-mail, the result of the traverse hearing or that Respondent made attempts to learn the result of the traverse hearing and was unable to do so, within one hundred (100) days after the scheduled date of the hearing.

Anna Pesochinskaye v. [REDACTED]

14. On information and belief, in or about 2012, process was distributed to Respondent for service in the matter of Anna Pesochinskaye v. [REDACTED] (Index Number 84022/12, Kings County Civil Court) (“[REDACTED]”) and thereafter an affidavit of service executed by Respondent in which he attested that he had served such process in [REDACTED] was filed with the clerk of the court.

15. The court in [REDACTED] scheduled a traverse hearing for December 7, 2012 concerning the service of process allegedly made by Respondent.

16. Respondent received notice of the scheduling of the traverse hearing in [REDACTED]
17. Respondent did not report to the Department in writing, by certified mail or e-mail, the result of the traverse hearing or that Respondent made attempts to learn the result of the traverse hearing and was unable to do so, within one hundred (100) days after the scheduled date of the hearing.

Sivan Realty, LLC v. [REDACTED]

18. On information and belief, in or about 2012, process was distributed to Respondent for service in the matter of Sivan Realty, LLC v. [REDACTED] (Index Number 76224/12, Kings County Civil Court) (“Sivan”) and thereafter an affidavit of service executed by Respondent in which he attested that he had served such process in Sivan was filed with the clerk of the court.
19. The court in Sivan scheduled a traverse hearing for December 11, 2012 concerning the service of process allegedly made by Respondent.
20. Respondent received notice of the scheduling of the traverse hearing in Sivan.
21. Respondent did not attempt to learn the result of the traverse hearing in Sivan in accordance with the procedures specified in 6 RCNY § 2-236(c)(1).
22. Respondent did not report to the Department in writing, by certified mail or e-mail, the result of the traverse hearing or that Respondent made attempts to learn the result of the traverse hearing and was unable to do so, within one hundred (100) days after the scheduled date of the hearing.

I&S Management Corp. v. [REDACTED]

23. On information and belief, in or about 2012, process was distributed to Respondent for service in the matter of I&S Management Corp v. [REDACTED] (Index Number 59795/12, Kings County Civil Court) (“I&S”) and thereafter an affidavit of service

executed by Respondent in which he attested that he had served such process in I&S was filed with the clerk of the court.

24. The court in I&S scheduled a traverse hearing for December 20, 2012 concerning the service of process allegedly made by Respondent.
25. Respondent received notice of the scheduling of the traverse hearing in I&S.
26. Respondent did not report to the Department in writing, by certified mail or e-mail, the result of the traverse hearing or that Respondent made attempts to learn the result of the traverse hearing and was unable to do so in I&S, within one hundred (100) days after the scheduled date of the hearing.

CHARGES

1. Respondent violated 6 RCNY § 2-236(a) by failing to report to the Department the scheduling of a traverse hearing within ten (10) days of receiving notice of the scheduled hearing. (1 count)
2. Respondent violated 6 RCNY § 2-236(c)(2) by failing to, within one hundred (100) days after the scheduled date of 4 traverse hearings, report to the Department either:
(a) the final results of the traverse hearings; or (b) that Respondent made attempts to learn the final results of the traverse hearings but was unable to do so. (4 counts)

WHEREFORE, the Department demands that an order issue: 1) imposing maximum fines on Respondent for each and every charge set forth herein; 2) suspending or revoking Respondent's license; 3) ordering Respondent to report to the Department, within 10 days, the results of any traverse hearings cited in this Notice of Hearing that Respondent has not reported to the Department; and 4) granting such other relief as is deemed just and proper.

Dated: July 1, 2013
New York, New York

For: **Jonathan Mintz**
Commissioner

By: Alvin A. Liu
Alvin A. Liu
Senior Staff Attorney
Legal Division

IMPORTANT INFORMATION FOR RESPONDENTS

You have been charged with violating Laws and Rules of the New York City Department of Consumer Affairs.

FAILURE TO APPEAR AT THE HEARING: If you do not appear on the scheduled hearing date, a default decision will be issued in which you will be found guilty of the charges and ordered to pay a fine, and your DCA license(s) may be revoked.

ADJOURNMENTS: Requests for adjournments must be received at least three (3) business days prior to the hearing date. **You may submit your request by e-mail to adjournmentrequests@dca.nyc.gov (preferred method);** by fax to 212-361-7766; or by mail to: DCA Administrative Tribunal, 66 John Street, 11th Floor, New York, NY 10038. Make sure to include the violation number in your request. In addition, you must send a copy of your request to process_server@dca.nyc.gov; or by mail to Shannon Bermingham, DCA Legal Division, 42 Broadway, 9th Floor, New York, NY 10004.

SETTLEMENTS: If you wish to settle the charges in this Notice of Hearing, you **must sign** the enclosed Consent Order and mail it to Shannon Bermingham, NYC Department of Consumer Affairs, 42 Broadway, 9th Floor, New York, New York 10004 by **August 1, 2013**. You must enclose, with the signed Consent Order, a bank check or money order made payable to the “NYC Department of Consumer Affairs” for **\$1,250.00**.

REPRESENTATION: Although it is not required, you may choose to bring a lawyer or authorized representative to the hearing.

TRANSLATION SERVICES: DCA will provide translation services at the hearing for you and your witnesses. You may not use your own interpreter at the hearing.

For additional information, visit DCA’s website at www.nyc.gov/consumers or call 311.