

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

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

**SCHWARTZ, BRUCE d/b/a BRUCE
SCHWARTZ PROCESS SERVER,**

Respondent.

DEFAULT DECISION AND ORDER

Violation No.: LL005324909

**License No.: 1350838 (Process
Serving Agency)**

Date: September 4, 2013

The respondent is charged with the violations in the attached Notice of Hearing.

A hearing was scheduled for August 19, 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.¹

On March 16, 2013 the respondent pleaded guilty of violating 6 RCNY 2-234a(b) (see LL005287518).

ORDER

The respondent is therefore **ordered to pay to the Department a TOTAL FINE of \$6,500., which is immediately due and owing**, as follows:

Administrative Code Section 20-101	REVOCATION
6 RCNY Section 1-16(a) (\$500 per count, for 4 counts)	\$2,000
6 RCNY Section 2-234a(b) (\$500 per count, for 3 counts)	\$1,500
6 RCNY Section 2-233(c)(1)(iii) (\$500 per count, for 1 count)	\$500
\$2000 Pursuant to paragraph IV of the prior Settlement Agreement (LL005287518) (2 counts)	\$2,000

¹ The respondent was issued a Process Server license on January 18, 2012.

6 RCNY Section 1-14	\$500
TOTAL	\$6,500

The respondent's license is **REVOKED effective immediately**. The respondent is **directed to surrender the license document** immediately in person or by mail to DCA's Licensing Center which is located at 42 Broadway, New York, NY 10004.

If respondent operates while the license is revoked, the respondent will be subject to criminal prosecution and/or civil penalties of at least \$100 per day for each and every day of unlicensed activity, as well as the closing of the respondent's business and/or the removal of items sold, offered for sale, or utilized in the operation of such business, pursuant to Administrative Code Sections 20-105 and 20-106 (the "Padlock Law").

It is further **declared** that the respondent is deemed unfit to hold a license issued by the Department of Consumer Affairs.

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.

**E. DeFontes
Administrative Law Judge**

cc: SEBRING714@AOL.COM

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,

Violation No. LL005324909

-against-

Schwartz, Bruce d/b/a Bruce Schwartz Process Server
16 Valentine Drive
Albertson, NY 11507

License No. 1350838

Licensee/Respondent.

(Process Serving Agency)

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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 LOCATED AT 66 JOHN STREET, 11TH FLOOR, NEW YORK, NEW YORK 10004 AT 9:30 A.M. ON MONDAY, AUGUST 19, 2013** to have charges against you heard concerning violations of Chapter 1 of the Code, beginning at Section 20-101 (known as the License Enforcement Law); Chapter 2 of the Code, beginning at Section 20-403 (known as the Process Servers Law); Title 6 of the Rules of the City of New York ("6 RCNY"), beginning at Section 1-01 (known as the License Enforcement Rules); and 6 RCNY beginning at Section 2-231 (known as the Process Servers Rules);

AND SHOW CAUSE why your license to operate as a process serving agency should not be revoked, why monetary penalties should not be imposed on you and why you should not be prohibited, based on lack of fitness, from holding any license issued by the Department on the grounds specified herein.

FACTS

1. Respondent Bruce Schwartz d/b/a Bruce Schwartz Process Server is licensed by the Department as a process serving agency under license number 1350838.
2. On or about December 12, 2011, Respondent entered into a Consent Order with the Department, agreeing to certain injunctive relief and penalty provisions in exchange for resolving the pending charges in Notice of Hearing LL 005287518 (the "Consent Order").
3. On March 8, 2013, the Department served Respondent with a subpoena *duces tecum* ordering it to produce certain records to the Department by June 26, 2013 (the "Subpoena").
4. The Subpoena ordered Respondent to produce the following records:
 - All documents demonstrating compliance with the Consent Order Respondent entered into with the Department, including but not limited to:
 - a. The compliance plan required by Section II of the Consent Order.
 - b. The reports detailing Respondent's monthly review of the records of each individual process server to whom it assigned, distributed or delivered process to be served in New York City for the period April 1, 2012 through September 30, 2012, as required by Section II of the Consent Order.
 - c. The records of disciplinary actions taken against process servers to whom Respondent assigned, distributed or delivered process to be served in New York City during the period January 2012 through the date that Respondent responds to the Subpoena, as required by Section II of the Consent Order.
 - d. All documents concerning any determinations that Respondent made not to assign or distribute process for service to an individual process server for any reason during the period January 2012 through the date that Respondent responds to the Subpoena, as required by Section II of the Consent Order.
 - For the period May 1, 2012 through July 31, 2012, scanned image files of the logbooks of each individual process server to whom Respondent assigned, distributed or delivered process to be served in New York City.
 - All GPS records regarding process that Respondent assigned or distributed for service in New York City and that a process server

served or attempted to serve during the period May 1, 2012 through July 31, 2012.

- For the period January 2012 through the date that Respondent responds to the Subpoena, documents sufficient to identify all traverse hearings scheduled, whether or not held, concerning service of process that Respondent assigned or distributed to a licensed process server.
 - All documents, including but not limited to e-mails, faxes, letters and memoranda, regarding investigations Respondent conducted or that were conducted on its behalf concerning the process underlying any traverse hearing Respondent identifies in response to the previous request.
 - Documents sufficient to identify every process server that Respondent distributed or assigned process to during the period March 1, 2012 through the date that Respondent responds to the Subpoena, and specifying the date that the process server began serving for Respondent.
5. As of the present date, Respondent has not produced any records to the Department or responded to the Subpoena in any manner.

CHARGES

Charge 1: Failure to Respond to Department Subpoena

1. Respondent violated 20-101 by failing to respond to a Department subpoena. [1 count]

Charges 2-5: Failure to Make Records Available for Inspection

2. Respondent violated RCNY § 1-16(a) by failing to make its compliance plan available for inspection by the Department. [1 count]
3. Respondent violated RCNY § 1-16(a) by failing to make its monthly record review reports available for inspection by the Department. [1 count]
4. Respondent violated RCNY § 1-16(a) by failing to make its records of disciplinary actions available for inspection by the Department. [1 count]
5. Respondent violated RCNY § 1-16(a) by failing to make its scanned images files of the logbooks of each individual process server to whom Respondent distributed

process for service in New York City available for inspection by the Department. [1 count]

Charges 6-12: Failure to Create or Maintain Records

6. Respondent violated 6 RCNY § 2-234a(b) by failing to create a written compliance plan setting forth its policies and procedures for ensuring that individual process servers act with integrity and honesty and comply with the recordkeeping requirements applicable to process servers. [1 count]
7. Respondent violated Section II(1) of the Consent Order by failing to create a written compliance plan setting forth its policies and procedures for ensuring that individual process servers act with integrity and honesty and comply with the recordkeeping requirements applicable to process servers. [1 count]
8. Respondent violated 6 RCNY § 2-234a(b) by failing to, at least once a month, review for completeness and accuracy the records of each individual process server to whom it assigned or distributed process for service in New York City. [1 count]
9. Respondent violated Sections II(1) and II(2)(a) of the Consent Order by failing to, at least once a month, review for completeness and accuracy the records of each individual process server to whom it assigned or distributed process for service in New York City. [1 count]
10. Respondent violated 6 RCNY § 2-234a(b) by failing to, at least once a month, prepare monthly written reports regarding its review of the records maintained by individual process servers to whom it assigned or distributed process for service in New York City. [1 count]
11. Respondent violated Sections II(1) and II(2)(b) of the Consent Order by failing to, at least once a month, prepare monthly written reports regarding its review of the

records maintained by individual process servers to whom it assigned or distributed process for service in New York City. [1 count]

12. Respondent violated 6 RCNY § 2-233(c)(1)(iii) by failing to maintain electronic copies of the logbooks of the process servers to whom it distributed process for service in New York City. [1 count]

Charge 13: Lack of Fitness

13. By virtue of the activities described above, Respondent violated § 20-101 of the Code by failing to maintain the standards of integrity, honesty and fair dealing required of licensees. [1 count]

WHEREFORE, the Department demands that an order issue: 1) revoking Respondent's process serving agency license; 2) finding Respondent unfit to hold any Department licenses; 3) imposing maximum fines on Respondent for each and every charge set forth herein; and 4) granting such other relief as is deemed just and proper.

Dated: July 12, 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)**; 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 David Cho, DCA Legal Division, 42 Broadway, 9th Floor, New York, NY 10004.

SETTLEMENTS: If you wish to discuss a possible settlement of the charges in this Notice of Hearing, contact David Cho at process_server@dca.nyc.gov at least 5 business days prior to the hearing date.

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.