CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS,	**DEFAULT DECISION AND ORDER**
Complainant,	**Record No.: LL005324949-ADJC**
-against-	**NOH No.: LL005324949**
RONALD D. BARILLAS,	**License No.: 1368464**
Respondent.	**Date: June 13, 2014**

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

A hearing was scheduled for June 4, 2014. 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 $4,500., which is immediately due and owing,** as follows:

Administrative Code Section 20-101	Revocation of license
6 RCNY Section 1-16(a) ($500 per count, for 4 counts)	$2,000
6 RCNY Section 2-233(a)(1) ($500 per count, for 1 count)	$ 500
6 RCNY Section 2-233a(a) ($500 per count, for 1 count)	$ 500
6 RCNY Section 2-233b(a)(2)(i) ($500 per count, for 1 count)	$ 500
6 RCNY Section 2-235 ($500 per count, for 1 count)	$ 500
6 RCNY Section 1-14	$ 500
TOTAL	$4,500

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 future licenses 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.

David Paul
Administrative Law Judge

cc: Alvin Liu via e-mail: liua@dca.nyc.gov
Legal Division

Ronald Barillas via e-mail: olimpia@realtyagent.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,

Complainant,

-against-

RONALD D. BARILLAS
9417 78TH STREET
OZONE PARK, NY 11416

Licensee/Respondent.

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AMENDED NOTICE OF HEARING

Violation # LL005324949

License # 1368464

(Process Server Individual)

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 THURSDAY, OCTOBER 24, 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, Subchapter 23, 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, Chapter 2, Subchapter W, beginning at Section 2-231 (known as the Process Servers Rules);

AND SHOW CAUSE why your license to operate as an individual process server should not be suspended or 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, Ronald D. Barillas, is licensed by the Department as an individual process server under license number 1368464.

2. Respondent's current process server license will expire on February 28, 2014.

3. On June 7, 2013, the Department served on Respondent a subpoena *duces tecum* ordering Respondent to produce certain required records (the "Subpoena").

4. The Subpoena ordered Respondent to produce the following records:

   a. For the period October 1, 2012 through December 31, 2012, Respondent's bound logbook(s);
   b. For the period October 1, 2012 through December 31, 2012, copies of all electronic records that Respondent maintains pursuant to Title 6 of the Rules of the City of New York, Section 2-233a;
   c. For the period October 1, 2012 through December 31, 2012, all affidavits of service signed by Respondent, prepared by Respondent, or filed by Respondent with a court concerning service of process that Respondent performed;
   d. E-mails, letters, faxes or other documents showing when Respondent entered into an agreement or signed up with an independent third party (the "Contractor") pursuant to section 2-233b(a)(3) of Title 6 of the Rules of the City of New York for the storage and retrieval of GPS-related electronic records;
   e. For the period October 1, 2012 through December 31, 2012, proof that Respondent, or a process serving agency on his behalf, made monthly or annual payments to the Contractor.
   f. For the period October 1, 2012 through December 31, 2012, all electronic records of the GPS location, time and date of attempted or effected service of process made by Respondent pursuant to section 2-233b(a)(2) of Title 6 of the Rules of the City of New York;
   g. A certification from the Contractor that the GPS records produced in response to the Subpoena are true and accurate copies of the records maintained by the Contractor;
   h. Documents sufficient to provide the Department with access to interactive electronic street maps that display the locations where Respondent's digital GPS records were recorded for the period October 1, 2012 through December 31, 2012;
   i. For the period January 1, 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 by Respondent, and the result(s) of the hearing(s).
   j. All documents, including communications, work orders/routing sheets, notes, affidavits of service, deposition transcripts and subpoenas, relating to

court proceedings in which service of process performed by Respondent was contested (including traverse hearings held or scheduled outside of New York City) during the period January 1, 2012 through the date that Respondent responds to the Subpoena.

k. Documents sufficient to identify all process serving agencies and law firms that disciplined Respondent and the reasons thereof, and all process serving agencies and law firms who decided to no longer give Respondent any process to serve and the reasons thereof.

l. All documents reflecting revocation, suspension or denial of a process server license to Respondent in any jurisdiction.

5. As of the present date, Respondent has not produced any records in response to the Subpoena.

CHARGES

Charges 1-5: Failure to Comply With Subpoena

1. Respondent violated NYC Admin Code § 20-101 by failing to respond to the subpoena. [1 count]

2. Respondent violated RCNY § 1-16(a) by failing to make available for inspection by the Department the logbook Respondent is required to maintain under 6 RCNY § 2-233. [1 count]

3. Respondent violated RCNY § 1-16(a) by failing to make available for inspection by the Department the electronic records Respondent is required to maintain under 6 RCNY § 2-233a. [1 count]

4. Respondent violated RCNY § 1-16(a) by failing to make available for inspection by the Department the affidavits of service Respondent is required to maintain under 6 RCNY § 2-235. [1 count]

5. Respondent violated RCNY § 1-16(a) by failing to make available for inspection by the Department the GPS records Respondent is required to maintain under 6 RCNY § 2-233b. [1 count]

Charges 6-9: Failure to Maintain Records

6. Respondent violated 6 RCNY § 2-233(a)(1) by failing to maintain a logbook for the period of October 1, 2012 through December 31, 2012. [1 count]

7. Respondent violated 6 RCNY § 2-233a(a) by failing to maintain electronic records for the period of October 1, 2012 through December 31, 2012. [1 count]

8. Respondent violated 6 RCNY § 2-233b(a)(2)(i) by failing to create a GPS record for each service or attempted service during the period of October 1, 2012 through December 31, 2012. [1 count]

9. Respondent violated 6 RCNY § 2-235 by failing to maintain copies of signed affidavits of service for the period of October 1, 2012 through December 31, 2012.

LACK OF FITNESS

10. 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.

WHEREFORE, the Department demands that an order issue: 1) revoking Respondent's process server 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: October 17, 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 at the DCA Adjudication Tribunal on the scheduled hearing date, you will be found guilty of the charges, you will be 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 Adjudication 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.

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.

REASONABLE ACCOMMODATION: If you have a disability and require a reasonable accommodation on the day of the hearing, you must send a request, with proof, before the hearing date to the Adjudication Tribunal at **mycase@dca.nyc.gov** or call 311 (212-NEW-YORK outside NYC) and ask for "Consumer Affairs Hearing - Reasonable Accommodation."

SETTLEMENTS: If you wish to discuss a possible settlement of the charges in this Notice of Hearing, you may contact Shannon Bermingham at **process_server@dca.nyc.gov** at least five (5) business days prior to the hearing date.

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