CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS, Complainant, -against- BRYKAY LLC, d/b/a SERVERLINKS.COM, Respondent.	**CONSENT ORDER** Violation No. 05393865 License No. 1104670 (Process Serving Agency)

1. Brykay LLC ("Respondent") enters into this Consent Order ("CO") with the New York City Department of Consumer Affairs ("DCA" or "the Department") to resolve allegations and/or charges that Respondent violated sections 2-234a(a)(4) and 2-234a(b) of Title 6 of the Rules of the City of New York ("6 RCNY" or the "Rules"), and waives any right to a hearing, appeal of or challenge of the allegations, facts or charges alleged by the Department in any forum.

2. This CO shall apply to Respondent and all directors, officers, employees, agents, assignees, successors, subsidiaries, affiliates, or other business entities, whose acts, practices, or policies are directed, formulated, or controlled by Respondent.

3. The acceptance of this Consent Order by the Department shall not be deemed approval by the Department of any of Respondent's business practices, and Respondent shall make no representations to the contrary.

4. Nothing in this Consent Order shall be construed to limit in any way the authority of the Department to exercise its regulatory or enforcement powers under Sections 20-104 or 20-409 of the Administrative Code of the City of New York (the "Code").

5. Respondent shall continue to be bound by the terms of prior Consent Orders it entered into with the Department. To the extent that there is a conflict between this Consent Order and a prior Consent Order, the terms of this Consent Order shall apply.

6. This Consent Order shall constitute an Order of the Commissioner pursuant to Code §§ 20-104, 20-409(a).

INJUNCTIVE RELIEF

Compliance With Laws and Regulations

7. Respondent shall ensure that its process servers serve process in compliance with all laws, rules, regulations and requirements of the federal, state and municipal authorities pertaining to process servers and the service of process, including Code §§ 20-403 through 20-410 and 6 RCNY §§ 2-233 through 2-238

8. Respondent shall not assign, distribute, or deliver process for service in New York City to any individual process server that does not maintain an active DCA process server license.

9. Respondent shall, in accordance with 6 RCNY § 2-234a(b), develop and implement policies and procedures to ensure that individual process servers to whom it assigns, distributes or delivers process for service in New York City act with integrity and honesty, and comply with the recordkeeping requirements applicable to process servers and any applicable Consent Orders. Such policies and procedures shall be memorialized in a written Compliance Plan.

Affidavits of Service

10. Respondent shall ensure that no process server to whom it has assigned, distributed or delivered process to be served in New York City signs an affidavit of service unless the process server created a Global Positioning System Record ("GPS record") immediately after the service, as required by 6 RCNY § 2-233b.

11. Respondent shall ensure that every affidavit of service concerning process that it assigned, distributed or delivered to an individual for service in New York City is truthful and contains the following information:
    - The process server's license number;
    - Respondent's name, address and license number;
    - A detailed description of the process server's efforts to effectuate personal service;
    - The date and time that service of process was effectuated;
    - A description of the gender, age, height, weight, skin color, hair color, and all other identifying features of the person to whom papers were delivered;
    - Where service of process is accomplished by personal service, all information confirming that the process server knew the person to whom process was delivered was the actual intended recipient of the process;
    - Where service of process is accomplished by substitute service, all information confirming that the process server knew the person to whom process was delivered was a relative or co-occupant of the intended recipient;
    - For all services, the location and detailed description of the place where service was effectuated, including: (i) the color <u>and</u> composition of walls adjacent to the door at which service was attempted or effected, (ii) the color <u>and</u> composition of the floor or doorstep adjacent to the door at which service was attempted or effected, and (iii) the location of the premises in relation to stairs, elevators or entranceways; and
    - The GPS location, time and date of the service that the process server created pursuant to 6 RCNY § 2-233b (The GPS location shall be expressed in latitude/longitude format and the GPS date and time shall be the date and time as determined by global positioning system or assisted-global positioning system technology).

Monthly Record Reviews

12. At least once each month, Respondent shall review the records of each individual process server to whom it assigns or distributes process for service in New York City for completeness and accuracy, including records that each process server maintains pursuant to 6 RCNY § 2-233 ("log book records"), 6 RCNY § 2-233a ("233a records"), and 6 RCNY § 2-233b ("GPS records").

13. Respondent shall prepare a monthly report of its review of the records maintained pursuant to 6 RCNY §§ 2-233, 2-233a, 2-233b by each individual process server to whom it assigns or distributes process using the "Monthly Compliance Report" available on the DCA Process Server Website (nyc.gov/ProcessServers). Respondent shall maintain the monthly report as a Microsoft Excel file for at least seven (7) years.

14. Respondent shall answer each and every question contained in the Monthly Compliance Report, truthfully, accurately and completely. This shall include identifying all record entries that are non-compliant.

Electronic Records

15. Respondent shall maintain electronic records in accordance with 6 RCNY § 2-233(c)(1)(i)-(vii) and 6 RCNY § 2-233a(b), including electronic records of daily activity and electronic copies of affidavits of service, work orders, routing sheets, process server log books, instructions to individual process servers and notes submitted by individual process servers.

FINES

16. Respondent shall pay a fine of $500 in settlement of all the violations to date in the above-referenced matter by bank cashier's check or money order payable to "NYC Department of Consumer Affairs." Payment is due upon execution of this Consent Order.

MISCELLANEOUS

17. If the Department conducts a training on process server laws/regulations in the future and requests in writing that Respondent attend such training, an employee of Respondent with management responsibility shall attend the training, on a date and time set forth by the Department.

18. Upon request from the Department, Respondent shall produce, within fourteen (14) days, any records that it is required to maintain pursuant to this Consent Order, the Code, or the Rules.

19. Respondent shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within ten (10) days of receipt of copies of those complaints, but in all instances, Respondent shall respond in writing to the Department regarding those consumer complaints within ten (10) days of receipt of any complaints.

20. The acceptance of this Consent Order does not limit the Department's ability, nor the Respondent's obligation, to respond to consumer complaints that arose prior to the date of this Consent Order.

21. This Consent Order contains the entire agreement of the parties with respect to the subject matter of the Consent Order. This Consent Order supersedes any understandings or negotiations, whether written or oral, between the parties, and it can only be amended through a written document formally executed by all parties.

22. The Respondent agrees and affirms that it has read and understands this Consent Order, it accurately states the agreement between itself and with the Department, and it enters into and is bound by the terms and conditions stated herein.

BREACH OF THIS CONSENT ORDER

23. Respondent's failure to produce any of the documents required by this Consent Order, the Code, or the Rules shall constitute prima facie evidence that Respondent has failed to maintain those records and is not in compliance with the underlying terms of the Consent Order, law, or rule for which such documents are required to be maintained.

24. Specific violations of this Consent Order shall, in addition to a breach of this Consent Order, constitute independent and separate violations of any applicable law, regulation or rule.

25. Nothing in this Consent Order shall prevent or otherwise affect the Department's authority to seek any and all available remedies for a breach of this Consent Order, or for a violation of a law or rule, as permitted by the New York City Charter, the Code, or the Rules, including the Department's authority to deny a license application or license renewal application without a hearing.

Agreed to by Brykay LLC

By: Bryan C. McCoy

Signature 4/20/2016 Date

Accepted for the Department of Consumer Affairs

By: [redacted]

Titl [redacted]