

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

EXECUTIVE ATTORNEY SERVICES, INC.
293 Castle Avenue
Westbury, NY 11590

Respondent.

CONSENT ORDER

PROCESS SERVING AGENCY

UNLICENSED

Violation No. PL005287224

Executive Attorney Services, Inc. ("Respondent") voluntarily agrees to enter into this Consent Order ("CO") with the Department of Consumer Affairs ("DCA" or "the Department") to settle the above-captioned violation, and agrees to the following:

I. DEFINITIONS

- A. Terms are defined in 6 RCNY § 2-231.
- B. "Material breach" means the failure to comply with this CO in whole or in part by commission or omission.
- C. "Report to the Department" means directing a written communication to the New York City Department of Consumer Affairs, Attention: Legal Division, 42 Broadway, 9th Floor, New York, NY 10004, or as specifically indicated in this CO.

II. INJUNCTIVE RELIEF

- 1) Respondent shall not assign or distribute process to any individual for service in New York City unless it first obtains a process serving agency license from the Department.
- 2) If Respondent applies for and obtains a process serving agency license from the Department at any time in the future, it shall adopt a written Compliance Plan which shall require it to:

- a. at least once each month, review for completeness and accuracy the records of each individual process server to whom it assigns or distributes process;
 - b. prepare a monthly written report of its review of the records maintained pursuant to 6 RCNY § 2-233 of each individual process server to whom it assigns or distributes process during that month using the review instrument annexed as Attachment A¹;
 - c. maintain each monthly report for at least seven (7) years;
 - d. maintain records of any disciplinary actions taken against the individual licensed process server;
 - e. report to the Department in writing the name and license number of each individual licensed process server who does not comply with the law governing process servers within ten (10) days of learning of such non-compliance; and
 - f. make available, upon request, to the Department a copy of its record review procedures, any written reports of the reviews it maintains, and copies of any referrals of individual process servers to the Department.
- 3) If Respondent applies for and obtains a process server agency license from the Department at any time in the future, it shall take appropriate disciplinary action against any individual process server who fails to comply with the law, including, but not limited to, suspending or terminating its employment, agency or other relationship with the individual process server.
 - 4) If Respondent applies for a process server agency license from the Department at any time in the future it shall submit, along with its license application, an affirmation to the Department that it has developed and implemented a written Compliance Plan.
 - 5) If Respondent applies for and obtains a process server agency license from the Department at any time in the future, upon notification from the Department, a principal of Respondent shall appear at the Department within sixty (60) days for a review of Respondent's implementation of its Compliance Plan, compliance with the terms of this Order and such other issues as the Department, in its discretion, deems appropriate. Respondent shall produce such records as the Department may request at the scheduled meeting. Failure to appear at a scheduled meeting or produce requested documents will constitute a violation of this Order.

III. FINES

- 1) Respondent shall pay a fine of four thousand five hundred dollars (\$4,500.00) in accordance with the terms of the attached payment plan (Attachment B).

¹ Attachment A is also available as an Excel spreadsheet on the Department's website at <http://www.nyc.gov/html/dca/html/business/business.shtml>. The random audit date required to fill out Attachment A is located at <http://www.nyc.gov/html/dca/html/business/processserver.shtml>.

IV. MISCELLANEOUS

1) Respondent affirms that its address and telephone number are:

293 castle ave, westbury, ny 11590

516 333 3447

2) Respondent appoints Michael Shanker, Esq as its designated agent who may be contacted regarding this CO and any consumer complaints and represents that the following is his/her e-mail address:

@ [REDACTED]

3) Respondent acknowledges that the Department intends to use this e-mail address to communicate official matters to Respondent and Respondent agrees to accept such communications.

4) Respondent shall notify the Department in writing when its address, telephone number and/or e-mail address change within 10 days of such change.

V. NON-COMPLIANCE WITH THIS ORDER

1) A finding, after notice and hearing, that Respondent has committed a material breach of the terms of this Order shall be sufficient grounds for the revocation of Respondent's license and for ineligibility to be licensed for a period of five years.

2) Specific violations of this Order shall constitute independent and separate violations of any applicable law, regulation or rule.

3) Violations of law and violations of this Order shall be assessed as separate fines, with a maximum penalty of \$1,000.00 for each violation.

VI. WAIVER OF APPEALS

1) Respondent waives any right to a hearing, appeal of and/or any challenge of the facts alleged by the above-referenced violation under Code § 20-104 or under Article 78 of the New York State Civil Practice Law and Rules (CPLR), §§ 7801-7806, in any forum.

VII. DEPARTMENT'S AUTHORITY

- 1) Nothing in this Order shall be construed to limit in any way the authority of the Department to exercise its regulatory or enforcement powers under Code §§ 20-104 or 20-409.

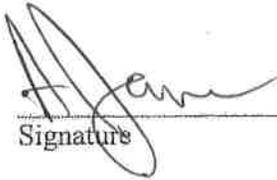
Agreed to by **Executive Attorney Services INC** Accepted for the Department of
Consumer Affairs

By: Alexander James

By:



Senior Staff Counsel


Signature

3/8/12

Date



Signature

3/15/12

Date

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.

ATTACHMENT A

	6	Does every logbook entry contain the initials of the papers served or attempted to be served?																										

11	Does every logbook entry contain the date of filing or the date of service, the name of the company as served and an affidavit of service with a court?																																																																
12	Is there a separate and contemporaneous entry for every attempted and effected service?																																																																
13	Is every record of attempted and effected service contained in a bound, paginated volume?																																																																
14	Was every record of attempted or effected service entered in only one volume at a time until all of the available space in the volume was filled?																																																																
15	Does every logbook entry recording a completed service contain the type of service effected (i.e. personal, substituted, conspicuous or corporate)?																																																																

<p>16 For all services made, inspectors, show every record of that service, including a record of the service adjacent to the date, the name of the person or office (individual or organization), the position of hallway, stairs, walls and connections of building, floor or doorway, and location of premises in relation to stairs, elevator or entrance?</p>																		
<p>17 Does every logbook entry contain the name and license number of the process server organization from whom the process served was received or such other person or firm from whom the process served was received?</p>																		
<p>18 For all services made, pursuant to RCW 34.05.030(1) using process servers, include the name of the person or firm that includes the postal receipt number of registered or certified mail for each service (Is the process served or completed using registered or certified mail?)</p>																		
<p>19 Were corrections only made by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry?</p>																		

21	<p>Did the process server scan all of their laptops into electronic image files?</p> <p><i>*Please write 'Y' in the Yes column, instead of scanning laptops, the process server chose to enter records into an electronic record-keeping system</i></p>																																																																																																																																		
22	<p>Is every electronic image file labeled with the date of the server recorded in its laptop and the process server's license number?</p> <p><i>*For questions 21-26, please write "Y/N" in the Yes column if, instead of scanning laptops, the process server chose to enter records into an electronic record-keeping system.</i></p>																																																																																																																																		
23	<p>Was every scan of the laptops completed within one business day?</p>																																																																																																																																		
24	<p>Are all of the process server's scanned image files saved in a portable media device?</p>																																																																																																																																		

<p>20. If each portable media device included with the process server's last name, license number, and the date range of the records?</p>	
<p>27. Did the process server or any other "logbook" entry into an electronic record-keeping system? <i>"For question 27-29, please write "Yes," in the Yes column if, instead of printing entries into an electronic record-keeping system, the process server chose to scan records into electronic image files."</i></p>	
<p>28. Does the process server's electronic record-keeping system contain a backup support system?</p>	
<p>29. Is the process server's electronic record-keeping system in the format provided by the Department or uploaded to a third-party data provider?</p>	

31	<p>On the Department's randomly-selected audit date, is the information contained in the process server's affidavits of service consistent with the GPS data provided by the process server's data storage contractor?</p> <p>* Agencies will be notified of the Department's randomly-selected audit date in the first week of the following month.</p>		
32	<p>On the Department's randomly-selected audit date, is the information contained in the process server's logbooks consistent with the GPS data provided by the process server's data storage contractor?</p>		
33	<p>Please list all reverse hearings involving this process server which the Agency became aware of this month.</p>	↑	
34	<p>For all reverse hearings listed in response to Question 33, is the information contained in the process server's logbooks consistent with the GPS data provided by the process server's data storage contractor?</p>		

<p>35 For all traverse hearings listed in response to Question 31, is the information contained in the process server's affidavit consistent with the GPS data provided by the process server's data storage component?</p>	
<p>36 For all traverse hearings listed in response to Question 30, is the information combined in the process server's affidavits of service consistent with the process server's logbook entries?</p>	