CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS, **Complainant,** **-against-** **ROBERT L. KEARNEY D/B/A RK CLEANING & MAINTENANCE SERVICE** 207 Park Place, Suite 1RE Brooklyn, NY 11238 **Licensee / Respondent.**	**CONSENT ORDER** PROCESS SERVER AGENCY **License No. 1295694** **Violation No. LL 005287471**

ROBERT L. KEARNEY D/B/A RK CLEANING & MAINTENANCE ("Respondent") consents to this Consent Order ("CO") to settle the above-captioned violation with the Department of Consumer Affairs ("DCA" or "the Department") and agrees as follows:

ACKNOWLEDGMENT OF SERVICE

Respondent acknowledges receipt of the Notice of Hearing in the above-captioned matter, which charged it with violating Sections 2-234a(b) and 2-234a(c) of Title 6 of the Rules of the City of New York.

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, Attn.: Legal Division, 42 Broadway, 9th Floor, NY, NY 10004, or as specifically indicated in this CO.

II. INJUNCTIVE RELIEF

1) Not later than the execution of this Consent Order, Respondent shall voluntarily surrender its process server agency license, License No. 1295694. Upon surrender of its license, Respondent shall not assign or distribute process to any individual for service in New York City.

2) If Respondent applies for and obtains a process server 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;
   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 **$1000** in settlement of all the violations to date before the parties execute this CO, which shall be paid by money order or bank cashier's check payable to "NYC Department of Consumer Affairs."

IV. NON-COMPLIANCE WITH THIS ORDER

A finding, after notice and hearing, that Respondent has committed a material breach of the terms of this Order shall establish that Respondent and any person owning 10% or more of the shares of Respondent are unfit to hold any license issued by the Department.

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

2) 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.

V. 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.

VI. 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 ROBERT L. KEARNEY D/B/A R K CLEANING & MAINTENANCE

By: Robert L. Kearney

Signature 3-21-12 Date

Accepted for the Department of Consumer Affairs

By: [redacted]

Staff Counsel

[redacted] 3/21/12

Signature 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.

Department of Consumer Affairs

42 Broadway
5th Floor
New York, NY 10004

Dial 311
(212-NEW-YORK)

nyc.gov/consumers

SURRENDER FORM

If you currently hold a license issued by the Department of Consumer Affairs (DCA) and would like to surrender it for a refund and/or request a transfer of your license to another individual/business. please complete the form below and attach your license documents.

Business Name:	Robert L. Kearney dba RK Cleaning & Maintenance Service
Business Address:	207 Park Place, Suite 1RE Brooklyn, NY 11238
DCA License Category	Process Serving Agency
DCA License Issued Date:	
DCA License Number:	1295694
CAMIS Number:	
DCA License Plate Number(s):	
Why are you surrendering your license?	Never operated as a process serving agency.
Will you be vacating the premises as listed on the license document?	☐ YES ☑ NO
If known, please provide the name of the new occupants and their business type.	
Mailing address where a refund will be sent if you qualify.	

Does not have physical license

I understand that continued operation without a license may subject me to civil and/or criminal penalties. In addition, I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Robert L. Kearney
Signature

Robert L. Kearney
Print Name

Owner
Title (if any)

3-21-12
Date

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

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DEPARTMENT OF CONSUMER AFFAIRS, Complainant, -against- **KEARNEY, ROBERT L** **d/b/a R K CLEANING & MAINTENANCE SERVICE** 207 PARK PLACE SUITE 1RE BROOKLYN, NY 11238 Licensee/Respondent.	**NOTICE OF HEARING** **Violation No. LL 005287471** **License # 1295694** **(Process Server Agency)**

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TO THE ABOVE NAMED LICENSEE:

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 ADJUDICATION DIVISION OF THE DEPARTMENT OF CONSUMER AFFAIRS, 11TH FLOOR, 66 JOHN STREET, BOROUGH OF MANHATTAN, NEW YORK, NEW YORK 10038 ON WEDNESDAY, JANUARY 4, 2012 AT 8:30 AM** to: have charges against you heard concerning violations of the Code, found in 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 Title 6 of the Rules of the City of New York, beginning at Section 2-231 (known as the Process Servers Rules);

AND SHOW CAUSE why your license to operate as a Process Server Agency ("PSA") 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.

Complainant, The City of New York Department of Consumer Affairs, by its attorney, Alvin A. Liu, Esq., as and for its complaint upon information and belief alleges the following:

APPLICABLE LAW

1. 6 RCNY Section 2-234a became effective on March 21, 2011.
2. Pursuant to 6 RCNY Section 2-234a(b), a Process Server Agency ("PSA") licensed by the Department must develop and implement policies and procedures set forth in a written Compliance Plan to ensure that an individual process server acts with integrity and honesty and complies with the recordkeeping requirements applicable to process servers.
3. Pursuant to 6 RCNY Section 2-234a(c), every PSA licensed by the Department on the effective date of the rule was required to submit to the Department within sixty (60) days of the effective date of the rule (i.e., by May 20, 2011) an affirmation that it has adopted a written Compliance Plan.

FACTS

1. Respondent, KEARNEY, ROBERT L d/b/a R K CLEANING & MAINTENANCE SERVICE, holds a current PSA license issued by the Department and was licensed by the Department prior to March 21, 2011.

4. Respondent has not submitted to the Department an affirmation that it has adopted a written Compliance Plan.

5. Upon information and belief, Respondent has not developed and implemented policies and procedures set forth in a written Compliance Plan as required by 6 RCNY Section 2-234a(b).

CHARGES

FAILURE TO SUBMIT COMPLIANCE PLAN AFFIRMATION

Count #1

1. Respondent failed to submit an affirmation that it has adopted a Compliance Plan within 60 days of the effective date of the Rule, in violation of 6 RCNY § 2-234a(c).

FAILURE TO DEVELOP AND IMPLEMENT PSA COMPLIANCE PLAN

Count #2

2. Respondent has failed to develop and implement a PSA Compliance Plan in violation of the 6 RCNY § 2-234a(b).

WHEREFORE, the Department demands that an order issue: (1) imposing maximum fines on Respondent for each and every charge set forth herein; (2) directing Respondent to adopt a written Compliance Plan in conformance with 6 RCNY § 2-234a(b) and submit it, together with an affirmation in conformance with 6 RCNY § 2-234a(c), to the Department within fifteen (15) days of the date of the order; and (3) granting such other relief as is deemed just and proper.

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 aliu@dca.nyc.gov; by fax to (212) 487-4390; or by mail to Alvin A. Liu, Esq., 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.

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

Dated: November 2, 2011
New York, New York

For: **Jonathan Mintz**
Commissioner

By [redacted]
Staff Counsel
Legal Division