

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

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

CHESTER A. CHRISTIAN,

Respondent.

DEFAULT DECISION AND ORDER

Violation No.: LL005307535

License No.: 1349042

Date: January 3, 2013

The respondent is charged with the violation(s) in the attached Notice of Hearing.

A hearing was scheduled for December 18, 2012. 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 a TOTAL FINE of \$4,500**, as follows:

6 RCNY Section 1-16(a) (\$ 500 per count, for 4 counts)	\$2,000
6 RCNY Section 2-233 (\$500 per count, for 1 count)	\$500
6 RCNY Section 2-233(a) (\$500per count, for 1 count)	\$500
6 RCNY Section 2-233(b) (\$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 to the Licensing Division immediately. Please NOTE that if the respondent continues to operate with a revoked license, the respondent is subject to CRIMINAL PROSECUTION and/or civil penalties of \$100 per day for each 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 the Administrative Code of the City of New York §§ 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.

Failure to comply with this order within thirty (30) may result in the suspension of any other Department of Consumer Affairs license(s) held by the respondent.

This constitutes the Decision and Order of the Department.

**David Paul
Administrative Law Judge**

<p><u>Mail payment of fine in the enclosed envelope addressed to:</u> NYC Department of Consumer Affairs Collections Division 42 Broadway, 9th Floor New York, NY 10004</p>

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.

To: CHESTER A. CHRISTIAN
CCHRISNMANREARFOR@GMAIL.COM

cc: Alvin A. Liu, Esq.(Legal Division)
liua@dca.nyc.gov

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

-----x
DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

Chester A. Christian
[REDACTED]
[REDACTED]

Licensee/Respondent.
-----x

NOTICE OF HEARING

LL # 005307535

License # 1349042

(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 9:00 A.M. ON TUESDAY, DECEMBER 18, 2012** 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 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, Chester A. Christian, is licensed by the Department as an individual process server under license number 1349042.
2. Respondent's current process server license will expire on February 28, 2014.
3. On September 11, 2011, the Department served on Respondent a subpoena *duces tecum* ordering Respondent to appear at the Department on October 4, 2012, and produce certain required records (the "Subpoena").
4. The Subpoena ordered Respondent to produce the following records:
 - a. For the period May 1, 2012 through July 31, 2012, Respondent's bound logbook(s);
 - b. For the period May 1, 2012 through July 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 May 1, 2012 through July 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 May 1, 2012 through July 31, 2012, proof that Respondent, or a process serving agency on Respondent's behalf, made monthly or annual payments to the Contractor;
 - f. For the period May 1, 2012 through July 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 May 1, 2012 through July 31, 2012;
 - i. For the period January 1, 2011 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, 2011 through the date that you respond to this 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.
 - m. All contracts or agreements Respondent entered into with any process server or process serving agency during the period January 1, 2011 through the date that Respondent responds to the Subpoena.
5. On September 21, 2012, the Department extended the deadline for Respondent to appear at the Department and produce records in response to the Subpoena to October 11, 2012 at 3:00 p.m.
6. On October 10, 2012, the Department extended the deadline for Respondent to appear at the Department and produce records in response to the Subpoena to October 19, 2012 at 3:00 p.m.
7. Respondent failed to appear at the Department on October 19, 2012.
8. As of the present date, Respondent has not appeared at the Department or produced any records in response to the Subpoena.

CHARGES

Failure to Comply With Subpoena Duces Tecum

9. Respondent violated 6 RCNY § 1-14 by failing to appear in person at the Department to answer the Subpoena.

Failure to Make Records Available for Inspection

10. 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.
11. 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.
12. 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.
13. 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.

Failure to Maintain Records

14. Respondent violated 6 RCNY § 2-233 by failing to maintain a logbook for the period of May 1, 2012 through July 31, 2012.
15. Respondent violated 6 RCNY § 2-233a by failing to maintain electronic records for the period of May 1, 2012 through July 31, 2012.

16. Respondent violated 6 RCNY § 2-233b by failing to create a GPS record for each service or attempted service during the period of May 1, 2012 through July 31, 2012.

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

LACK OF FITNESS

18. 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.

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; or by mail to Alvin A. Liu, 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 Alvin A. Liu at (212) 487-8210 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.

Dated: November 27, 2012
New York, New York

For: **Jonathan Mintz**
Commissioner

By: *Alvin A. Liu*
Alvin A. Liu
Senior Staff Attorney
Legal Division