

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

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

FREDDIE W. GATLIN,

Respondent.

DEFAULT DECISION AND ORDER

Violation No.: LL002532623

License No.: 1096040

Date: October 24, 2011

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

A hearing was scheduled for October 13, 2010. 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 at a duly noticed hearing.

ORDER

The respondent is therefore **ordered to pay to the Department a TOTAL FINE of \$3,500.**, as follows:

6 RCNY Section 1-14 (failure to comply with subpoena <i>duces tecum</i>) (\$500 per count, for 1 count)	\$ 500
6 RCNY Section 1-16 (failure to make record available for inspection) (\$500 per count, for 1 count)	\$ 500
6 RCNY Section 2-233 (a)(6) (failure to keep required records) (\$500 per count, for 1 count)	\$1000
6 RCNY Section 2-236 (failure to report a traverse hearing) (\$500 per count, for 1 count)	\$1000
6 RCNY Section 1-14 (failure to appear at hearing)	\$ 500
TOTAL	\$3,500

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

I also hereby **DECLARE** that each respondent is deemed unfit to hold any license issued by the Department for a minimum of five years.

This constitutes the Decision and Order of the Department.

**Susan Kassapian
Administrative Law Judge**

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 Compliance and Fitness 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 Compliance and Fitness Division.

THE CITY OF NEW YORK DEPARTMENT OF CONSUMER AFFAIRS

NOTICE OF HEARING	<input checked="" type="checkbox"/> ALL <input type="checkbox"/> WH <input type="checkbox"/> IP <input type="checkbox"/> OL <input type="checkbox"/> GL <input type="checkbox"/> HC <input type="checkbox"/> WO <input type="checkbox"/> _____	DATE MAILED: / /	1 OF 1
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THE BELOW ENTITY IS HEREBY CHARGED WITH THE FOLLOWING VIOLATION (S) OF:

<input type="checkbox"/> TITLE 20 of the N.Y.C. ADMINISTRATIVE CODE (see column 1, 2, & 3)	<input type="checkbox"/> TITLE 1 of the NY CODES, RULES and REGULATIONS (see column 4)
<input type="checkbox"/> TITLE 6 of the RULES of the CITY OF NEW YORK (see column 4)	<input type="checkbox"/> NEW YORK GENERAL BUSINESS LAW (see column 3)
<input type="checkbox"/> NY AGRICULTURE & MARKETS LAW ARTICLE 16 (see column 3)	<input type="checkbox"/> Other (see column 3)

1 CH	2 SUBCH	3 SECTION	4 REG./RULE NO.	NATURE OF VIOLATION	COUNTS
				SEE ATTACHED NOH	
					TOTAL

I/WE AFFIRM UNDER PENALTY OF PERJURY THAT I/WE OBSERVED THE ABOVE AND, ON THE DATE AND TIME LISTED ABOVE, SERVED UPON THE PERSON LISTED BELOW A TRUE COPY OF THIS DOCUMENT

CAMIS ID # 40860590	TAX ID #	LICENSE NO. 1096040	START TIME	END/SERVED TIME	CERT. # 2532623
NAME (INDIVIDUAL, PARTNERSHIP, CORPORATION) FREDDY GATHIN			D.B.A.		TELEPHONE NO.
ADDRESS 2411 VALENTINE AVE., APT 2S, BRONX			BORO 02	ZIP 10458	INSPECTION DATE / /
TYPE OF INSPECTION (CHECK ONE)					
<input type="checkbox"/> PATROL (PTL)	<input type="checkbox"/> REQUEST (REQ)	<input type="checkbox"/> SUSPENSION (SUS)	<input type="checkbox"/> REVOCATION (REV)	<input type="checkbox"/> CONSENT JUDGEMENT ORDER (CJO)	<input type="checkbox"/> POSTING ORDER (POO)
			<input type="checkbox"/> POSTING ORDER FOLLOW-UP (POF)		

INSPECTION RESULT						
<input type="checkbox"/> VIOLATION ISSUED	<input type="checkbox"/> LICENSED	<input type="checkbox"/> NO EVIDENCE OF ACTIVITY	<input type="checkbox"/> RESULT PENDING	<input type="checkbox"/> REINSPECTION	<input type="checkbox"/> BUSINESS PADLOCKED	<input type="checkbox"/> OBT. EVIDENCE OF ACTIVITY
<input type="checkbox"/> NO VIOLATION	<input type="checkbox"/> OOB	<input type="checkbox"/> NO LICENSE REQUIRED	<input type="checkbox"/> WARNING	<input type="checkbox"/> CONFISCATION	<input type="checkbox"/> W & M ORDER	<input type="checkbox"/>

INSPECTOR'S NAME NICHOLAS MINELLA	INSPECTOR'S SIGNATURE 	DIV. C.N.S	UNIT L.G.L	I.D. D.Y.O	BADGE / /
INSPECTOR'S NAME	INSPECTOR'S SIGNATURE	DIV.	UNIT	I.D.	BADGE
		/ /	/ /	/ /	/ /

IN ACCORDANCE WITH THE POWERS OF THE COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS, SET FORTH IN SECTION 2203(e) OF CHAPTER 64 OF THE N.Y.C. CHARTER AND SECTION 20-104, TITLE 20 OF N.Y.C. ADMINISTRATIVE CODE, YOU ARE HEREBY ORDERED TO APPEAR FOR A HEARING OR SETTLEMENT ON THE ABOVE CHARGES ON THIS DATE AND TIME AT EITHER: THE ADJUDICATION DIVISION, 66 JOHN STREET, 11th FLOOR, NEW YORK, NY 10038, OR LEGAL COMPLIANCE AND FITNESS DIVISION, 9th FLOOR, NEW YORK, NY 10004

OCTOBER 13, 2011 AT **0830** A.M. OR P.M.

READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION
A COPY OF THIS NOTICE WAS RECEIVED BY ME

VENDOR'S NAME (PRINT)	VENDOR'S SIGNATURE	POSITION	DATE / /
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PRE-HEARING DISPOSITION							
RECIDIVIST <input type="checkbox"/> Y <input type="checkbox"/> N	PLEADING LETTER \$	DATE SENT / /	BY:	DATE SETTLED / /	FINE \$	<input type="checkbox"/> PAID <input type="checkbox"/> PAR <input type="checkbox"/> DNP	SETTLEMENT OFFICER

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

-----X
DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

FREDDY W. GATLIN,

Licensee/Respondent.
-----X

NOTICE OF HEARING

LL # 2532623

2411 Valentine Avenue
Apt. 2S
Bronx, NY 10458

License # 1096040

(Process Server Individual)

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 October 13, 2011 at 8:30 a.m.** 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), Title 6 of the Rules of the City of New York, 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.

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

LICENSE STATUS

1. Respondent, Freddy Gatlin, has held an Individual Process Server license issued by the Department since on or about October 2001.
2. A process server license is renewable in two-year intervals.
3. Respondent's license will expire on February 28, 2012.

FACTS

4. On or about April 5-8, 2011; a traverse hearing was held in the case *Hanover Square Corp. v. [REDACTED]* Civil Court, New York County before the Honorable Andrea Masley.
5. Respondent was called as a witness to testify about service of process he effected on or about October 27, 2010.

THE SUBPOENA DUCES TECUM

6. On or about July 29, 2011, the Department issued a subpoena *duces tecum* to Respondent requesting his appearance and production certain of Respondent's books and records, including Respondent's process serving logbooks, affidavits of

service, and other documents that he is required to maintain pursuant to 6 RCNY § 2-233.

7. The return date of the subpoena *duces tecum* called for production on August 22, 2011.
8. On August 22, 2011, Respondent failed to appear at the Department and no documents were produced.

**Failure to Keep Records Required To Be Kept Under §2-233
and General Business Law § 89-cc for the Requisite Period of Time**

9. Respondent was instructed to produce records, including log books and other documents, covering a span of one year from July 28, 2010 through July 29, 2011.
10. Respondent produced nothing.

CHARGES

FAILURE TO RESPOND TO RECORDS INSPECTION

Count 1

1. The allegations of paragraphs 1 – 10 above are incorporated by reference as though fully realleged herein.
2. Respondent Corporation violated 6 RCNY § 1-14 by failing to comply with a subpoena *duces tecum*.

Count 2

3. The allegations of paragraphs 1 – 10 above are incorporated by reference as though fully realleged herein.
4. Respondent has violated Code § 20-104(e)(3) for failure to comply with a lawful order of the Department.

5. Respondent failed to make available for inspection records he is required to maintain in violation of 6 RCNY § 1-16.

**Failure To Keep Records Required To Be Kept Under § 2-233
and or General Business Law § 89-cc for the Requisite Period of Time**

Count 3

6. The allegations of paragraphs 1 – 10 above are incorporated by reference as though fully realleged herein.
7. Respondent failed to keep records required to be kept under § 2-233 (a) for two years from the date of service in violation of the Rules of City of New York, Title 6, § 2-233 (a) (6).

Failure to Report Traverse Hearing

Count 4

8. The allegations of paragraphs 1 – 10 above are incorporated by reference as though fully realleged herein.
9. The Respondent failed to report to the Department in writing within ten days regarding the April 5–8, 2011 traverse hearing in the case *Hanover Square Corp.* v. [REDACTED] Civil Court, New York County before the Honorable Andrea Masley, where service by him was contested in violation of the Rules of City of New York, Title 6, § 2-236.

LACK OF FITNESS

10. By failing to comply with the subpoena *duces tecum* and other conduct described above, Respondent has failed to maintain the standards of integrity, honesty and fair dealing required of licensees while engaged in licensed activities in violation of Code § 20-101

WHEREFORE, the Department respectfully requests that an order issue: 1) finding Respondent unfit to hold future Department licenses for a period of no less than five (5) years; 2) imposing maximum fines under the law and the AOD on Respondent for each and every charge set forth herein; 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 nminella@dca.nyc.gov; by fax to (212) 487-4390; or by mail to Nicholas J. Minella, 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 Nicholas J. Minella at (212) 487-3961 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: September 26, 2011
New York, New York

For: **Jonathan Mintz**
Commissioner



By: _____
Nicholas J. Minella
Staff Counsel
Legal Division



CERTIFICATE OF MAILING

I, Deborah Belton-Malcolm, do hereby declare that on September 26, 2011, I mailed the attached Notice of Hearing LL 2532623 by placing the Notice of Hearing in an envelope addressed to:

Mr. Freddy W. Gatlin
2411 Valentine Avenue, Apt. 2S
Bronx, NY 10458

and placing the addressed envelopes in the Department's official outgoing mail box designated for the Legal Compliance & Fitness Division.

Deborah Belton Malcolm
Signature

Deborah Belton-Malcolm
Print