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Commissioner

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October 19, 2011

VIA E-MAIL ([REDACTED])

RE: Licensed Attorney Operating a Process Server Agency

Dear Mr. [REDACTED]

The New York City Department of Consumer Affairs (the "Department" or "DCA") is issuing this response to your email inquiry, dated August 5, 2011. You asked two related questions:

1. "[A]s an attorney operating a "process serving agency" am I exempt from the bond requirement ... [of NYC Administrative Code section] 20-404(b) and, if not, why?"; and
2. "[A]ssuming that my "process serving agency" is exempt ... are my process servers obligated to obtain a surety bond?"

As explained below, based on the facts described in your inquiry, you would be required to apply for a Process Serving Agency ("PSA") license and post a surety bond.

New York City Administrative Code ("Code") § 20-404(b) defines a process serving agency" as "any person, firm, partnership, association or corporation, other than an attorney or law firm located in this state, or city marshal, who maintains an office, bureau or agency, the purpose of which is to assign or distribute process to individual process servers for actual service in the city of New York.

The exemption for an "an attorney or law firm located in this state" only pertains to an attorney or law firm that is in the business of practicing law in New York State. The Code exempts practicing lawyers and law firms from the licensing requirements in order to not interfere with their legal practice, which may require the hiring of a process server or process serving agency.

However, if an attorney *operates a business* that receives process service work and distributes such process service work to individual process servers, the attorney is operating a process serving agency – not a law firm – and is required to hold a Process Serving Agency license as well as comply with the surety bond requirements of Code § 20-406.1 and Title 6 of the Rules of the City of New York, Section 2-232a.

With respect to your second question, individual process servers hired by an exempt practicing attorney or process serving agency must be licensed and comply with the requirements of Code § 20-406.1.



Additional information about license requirements and a compilation of licensing laws is available on DCA's website at nyc.gov/consumers.

Sincerely,

