

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

-----X **CONSENT ORDER**

DEPARTMENT OF CONSUMER AFFAIRS

Complainant,

-against-

Violation No. 05401636

ASSMAT ABDELRAHMAN

License No. 1115274

Licensee/Respondent.

(Process Server Individual)

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1. Assmat Abdelrahman ("Respondent") enters into this Consent Order ("CO") with the New York City Department of Consumer Affairs ("DCA" or "the Department") to resolve allegations and/or charges that Respondent violated section 2-234 of Title 6 of the Rules of the City of New York ("6 RCNY" or the "Rules") and the consent order that entered into with the Department on September 27, 2012, and waives any right to a hearing, appeal of or challenge of the allegations, facts or charges alleged by the Department in any forum.
2. This Consent Order shall constitute an Order of the Commissioner pursuant to Code §§ 20-104, 20-409(a).
3. Respondent shall continue to be bound by the terms of prior Consent Orders it has entered into with the Department. To the extent that there is a conflict between this Consent Order and a prior Consent Order, the terms of this Consent Order shall apply.

DUTY TO COMPLY WITH THE LAW

4. Respondent shall strictly and promptly comply with all laws, rules, regulations and requirements of the federal, state and municipal authorities pertaining to process servers and the service of process, including Code §§ 20-403 through 20-410 and 6 RCNY §§ 2-233 through 2-238.
5. Respondent shall not serve process in New York City for a process serving agency that does not maintain an active DCA process serving agency license.

DUTY TO MAINTAIN PROPER RECORDS

6. Respondent shall maintain complete and accurate records of all services and attempted services made by Respondent in and outside of New York City. Such records must be maintained in accordance with the requirements of Section 89-cc of the New York General Business Law and 6 RCNY §§ 2-233, 2-233a, 2-233b, 2-235.

Log Books

7. Respondent shall maintain complete and accurate records of all services and attempted services made by Respondent in and outside of New York City in a bound and paginated paper log book.

8. Respondent shall record and maintain the following information in his or her log book:
 - a. the name and license number of the process serving agency from whom the process to be served was received, or, if not received from a process serving agency, of such other law firm, government agency, person or organization from whom the process was received;
 - b. the title of the action or a reasonable abbreviation thereof;
 - c. the name of the individual, company or organization served;
 - d. the date and approximate time of service or attempted service;
 - e. the address of service or attempted service;
 - f. the nature of the papers served or attempted to be served;
 - g. the court in which the action has been commenced (if any);
 - h. the index number of the action (if any);
 - i. the type of service effected (personal, substitute, conspicuous, or corporate);
 - j. a description of the individual to whom Respondent delivered the papers (including gender, height, weight, age, skin color, hair color, and all other identifying features);
 - j. for all services and attempted services: (i) the color and composition of hallway walls adjacent to the door at which service was attempted or effected, (ii) the color and composition of the hallway floor or doorstep adjacent to the door at which service was attempted or effected, and (iii) the location where service was attempted or effected in relation to stairs, elevators or entranceways (if an attempted or effected service was not made near a door, Respondent agrees to record that fact in his or her logbook);
 - k. for service of process made pursuant to RPAPL § 735(1) using registered or certified mail, the postal receipt number of the registered or certified mail; and
 - l. if an affidavit of service is filed with the court by the process server, the date of such filing.

Electronic and GPS Records

9. Respondent shall maintain complete and accurate records of all services and attempted services made by Respondent in and outside of New York City in an electronic format that is resistant to tampering, as prescribed by 6 RCNY § 2-233a(a) ("233a records") and 6 RCNY § 2-233b ("GPS records").
10. In every instance in which Respondent attempts or effects service of process in and outside of New York City, Respondent shall, immediately after attempting or effecting service, create an electronic record of the location, time and date of the attempted or effected service, as determined by Global Positioning System ("GPS") technology or, in the event that no GPS signal is available at the time of attempted or effected service of process, as determined by triangulated cell tower signals.
11. Except when Respondent cannot obtain a GPS or cellular signal, or attempts or effects service of process at multiple apartments or offices within the same building, in every instance in which Respondent attempts or effects service of process in or outside of New York City, Respondent shall ensure that Respondent's GPS record include a photograph of the outside of the building where Respondent attempted or effected service of process. The photograph must include the front entrance door to the building and, if possible, the number of the building. If Respondent attempts or effects service of process at multiple apartments or offices within the same building, only the GPS record corresponding to the last attempted or effected service of process within the building must include a photograph of the outside of the building. Where Respondent is unable to obtain a GPS or cellular signal in the direct vicinity of the building where Respondent served or attempted to serve process, Respondent shall, as soon as a GPS or cellular signal becomes available: (a) take a photograph of the

outside of the nearest building in accordance with the instructions above; and (b) input in the GPS record the address of the photographed building or the nearest cross-section.

Affidavits of Service

12. Respondent shall maintain electronic copies of all affidavits of service signed by Respondent, independent of the records maintained by any process serving agencies, and shall produce such records, upon request by the Department, in chronological order.
13. Respondent shall not sign an affidavit of service unless Respondent created a GPS record immediately after the service, as required by 6 RCNY § 2-233b.
14. Respondent's affidavits of service shall be truthful, contain all information required by law, and contain the following:
 - a. Respondent's license number;
 - b. The name, address and license number of the process serving agency from whom the process served was received (except where the process effectuated was not received from a process serving agency);
 - c. A detailed description of Respondent's efforts to effectuate personal service;
 - d. The date and time that service of process was effectuated;
 - e. A description of the gender, age, height, weight, skin color, hair color, and all other identifying features of the person to whom papers were delivered;
 - f. Where service of process is accomplished by personal service, all information confirming that Respondent knew the person to whom process was delivered was the actual intended recipient of the process; and
 - g. Where service of process is accomplished by substitute service, all information confirming that Respondent knew the person to whom process was delivered was a relative or co-occupant of the intended recipient.

Duty to Report Contests to Service of Process

15. Whenever Respondent receives any type of notice, including an oral communication, that a court has scheduled a hearing concerning a contest to service of process by Respondent (known as a "traverse hearing"), Respondent shall, within ten (10) days of receiving such notice, fill out and submit to the Department the "Traverse Report Form For Process Servers/Agencies Who Signed A Consent Order," available on the DCA Process Server Website (nyc.gov/ProcessServer). Respondent shall submit the completed traverse report form by e-mail to **TraverseReports@dca.nyc.gov**.
16. Each traverse report form notifying the Department of a scheduled traverse hearing shall include the following information:
 - a. The date of the hearing;
 - b. The name of the court, county, and judge before whom the hearing is scheduled;
 - c. The index number of the action or proceeding;
 - d. The name of the petitioner or plaintiff;
 - e. The name of the respondent or defendant;
 - f. The process server's name;
 - g. The process server's license number; and
 - h. The name of the process serving agency on behalf of whom service was effectuated.
17. Respondent shall learn the final result of each scheduled traverse hearing that concerns service of process by Respondent, including any judicial order, cancellation of the hearing or settlement

resolving the challenge to service of process. Respondent shall also obtain a copy of the court's order or decision on any traverse hearings that actually occur, including any stipulation or court file jacket setting forth the final result of the matter. "Decision reserved" is not a final result.

18. Within ten (10) days of learning the final result of a traverse hearing, Respondent shall notify the Department of the result by submitting a traverse report to the Department using the traverse report form titled "Traverse Report Form For Process Servers/Agencies Who Signed A Consent Order," available on the DCA Process Server Website. Respondent shall also append a copy of the court's order or decision on any traverse hearings that actually occur to Respondent's traverse report, including any court file jacket setting forth the final result of the matter. Respondent shall submit the completed traverse report form and court decision by e-mail to **TraverseReports@dca.nyc.gov**.
19. If Respondent fails to learn the final result of the traverse hearing and obtain a copy of the court's decision within thirty (30) days of the scheduled hearing date, Respondent shall send a written communication to the plaintiff/petitioner or the plaintiff/petitioner's attorney to obtain the final result and a copy of the court's decision. If Respondent fails to learn the final result and obtain a copy of the court's decision within sixty (60) days of the scheduled hearing date, Respondent shall search the court file for such information. If Respondent fails to learn the final result and obtain a copy of the court's decision within ninety (90) days of the scheduled hearing date, Respondent shall search the court file again for such information. Within 100 days of the scheduled hearing date, Respondent must submit to the Department, by e-mail to TraverseReports@dca.nyc.gov, either (a) the final result of the hearing and a copy of the court's decision; or (b) a written explanation of why Respondent has been unable, so far, to learn the final result of the hearing or obtain a copy of the court's decision.
20. Respondent shall continue to search the court file every thirty (30) days until he or she learns the final result of the traverse hearing and is able to obtain a copy of the court's decision.
21. Respondent and the process serving agency for whom he or she serves process must each submit a completed Traverse Report Form upon learning of the scheduling of a traverse hearing and learning the result of a traverse hearing.
22. Respondent shall maintain, in one Microsoft Excel file, an accurate electronic record of every traverse hearing scheduled concerning service of process by Respondent. This shall be done by using the Excel spreadsheet titled "Record of Scheduled Traverse Hearings," available on the DCA Process Server Website.

MISCELLANEOUS

23. If the Department conducts a training on process server laws/regulations in the future and requests in writing that Respondent attend such training, Respondent shall attend the training on a date and time set forth by the Department.
24. Upon request from the Department, Respondent shall produce, within fourteen (14) days, any records that it is required to maintain pursuant to this Consent Order, the Code, or the Rules.
25. Respondent shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within ten (10) days of receipt of copies of those complaints, but in all instances, Respondent shall respond in writing to the Department regarding those consumer complaints within ten (10) days of receipt of any complaints. The acceptance of this Consent Order does not limit the Department's ability, nor the Respondent's obligation, to respond to consumer complaints that arose prior to the date of this Consent Order.

26. The Respondent agrees and affirms that it has read and understands this Consent Order, it accurately states the agreement between itself and with the Department, and it enters into and is bound by the terms and conditions stated herein.

FINES

27. Respondent shall pay a fine of \$1000 in settlement of all the violations to date in the above-referenced matter by bank cashier's check or money order payable to "NYC Department of Consumer Affairs." Payment is due upon execution of this Consent Order.

BREACH OF THIS CONSENT ORDER

28. Respondent's failure to produce any of the documents required by this Consent Order, the Code, or the Rules shall constitute prima facie evidence that Respondent has failed to maintain those records and is not in compliance with the underlying terms of the Consent Order, law, or rule for which such documents are required to be maintained.

29. Specific violations of this Consent Order shall, in addition to a breach of this Consent Order, constitute independent and separate violations of any applicable law, regulation or rule.

30. Nothing in this Consent Order shall prevent or otherwise affect the Department's authority to seek any and all available remedies for a breach of this Consent Order, or for a violation of a law or rule, as permitted by the New York City Charter, the Code, or the Rules, including the Department's authority to deny a license application or license renewal application without a hearing.

Agreed to by Respondent

Accepted for the NYC Department of Consumer Affairs

By: Assmat Abdelrahman

By: [Redacted]

[Redacted Signature and Date]

Signature Date

[Redacted Signature and Date]

Signature Date