CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS,	**CONSENT ORDER**
Complainant,	
-against-	Violation No. LL 5333213
D.L.S., INC. [redacted]	License No. 1416526
Respondent.	(Process Serving Agency)

1. The Department of Consumer Affairs ("DCA" or "the Department") and D.L.S., Inc. ("Respondent") enter into this Consent Order ("CO") to resolve charges that Respondent engaged in violations of the following laws and rules: Title 6 of the Rules of the City of New York ("6 RCNY"), Sections 2-236(c)(1) and 2-236(c)(2).

2. This CO shall apply to Respondent and any other directors, officers, employees, agents, assignees, successors, or other business entities, whose acts, practices, or policies are directed, formulated, or controlled by Respondent.

3. Respondent enters into this CO to resolve these charges without the necessity of a Notice of Violation or a hearing.

4. The acceptance of this Consent Order by the Department shall not be deemed approval by the Department of any of Respondent's business practices, and Respondent shall make no representations to the contrary.

INJUNCTIVE RELIEF

5. Whenever Respondent receives any type of notice, including an oral communication, that a court has scheduled a hearing to determine whether service of process assigned by Respondent to an individual process server was effective, Respondent shall, within two (2) business days, inform in writing the individual process server whose service is being challenged of the scheduling of the hearing, the date and time of the hearing, the title and index number of the action, and the court and judge before whom the hearing is scheduled.

6. Whenever Respondent receives any type of notice, including an oral communication, that a court has scheduled a hearing to determine whether service of process made or assigned by such licensee was effective, Respondent shall submit a report to the Department, within ten (10) days of receiving such notice, using the "Traverse Report Form for Process Servers/Agencies Who Signed a Consent Order" available at http://nyc.gov/processserver ("the DCA Process Server Website"). Respondent shall submit the completed traverse report form by e-mail to TraverseReports@dca.nyc.gov. Respondent shall include a copy of all written communications made pursuant to this paragraph with the traverse reports it submits to the Department, as well as all responses received from the individual process server.

7. Respondent shall ensure that the agency and the individual process server submit separate traverse reports to the Department for each hearing in which process assigned by Respondent to the individual process server was challenged.

8. Respondent shall learn the final result of each scheduled hearing in which process assigned by Respondent to the individual process server was challenged, including any judicial order, waiver of the hearing or voluntary settlement resolving the challenge to service of process, and obtain a copy of the court's decision on the matter. "Decision reserved" is not a final result.

9. If Respondent fails to learn the final result of the hearing and obtain a copy of the court's decision within 30 days of the scheduled hearing date, Respondent shall send a written inquiry to the plaintiff/petitioner or the plaintiff/petitioner's attorney to learn the final result and for a copy of the court's decision. If Respondent fails to receive a response to that inquiry within 60 days of the scheduled hearing date, Respondent shall search the court records. If Respondent is unable to learn the final result and obtain a copy of the court's decision within 90 days of the scheduled hearing date, Respondent shall (1) within 100 days of the scheduled hearing date, provide a written explanation to DCA that it was unable to learn the final result or obtain a copy of the court's decision and (2) continue to search the court records every 30 days until it learns the final result of the traverse hearing and is able to obtain a copy of the court's decision.

10. Respondent shall submit a report to the Department by email, to TraverseReports@dca.nyc.gov, using the "Traverse Report Form for Process Servers/Agencies Who Signed a Consent Order". Respondent shall submit the report within ten (10) days of learning the result and shall **attach a copy of the court's decision on the matter**, except that if the written decision is not available when Respondent learns of the court's ruling, Respondent shall submit its report to the Department first and follow the procedures specified in the previous paragraph to obtain a copy of the court's decision. Respondent shall submit a copy of the court's decision to the Department within ten (10) days of obtaining it.

11. For every traverse hearing scheduled in the future relating to process that was distributed by Respondent for service in New York City, Respondent shall complete an entry on a "Service Investigation Report" form (available on the DCA Process Server Website) within ten (10) days of learning about the traverse hearing. Respondent shall follow every instruction contained in the Service Investigation Report and shall complete the report, including all subsequent updates to the report, truthfully, accurately and completely. Respondent shall maintain all entries on a single report form for at least seven (7) years.

12. Respondent shall maintain all records that it is required to maintain pursuant to the Department's rules and this Consent Order at the address where Respondent is licensed to conduct business as a process serving agency.

13. Respondent shall make all records that it is required to maintain pursuant to the Department's rules and this Consent Order immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.

14. Upon written demand or subpoena by the Department, Respondent shall:

    (i) provide to the Department, within ten (10) days of the demand, any documents or records that the Department deems necessary to ascertain compliance with this Consent Order; and

    (ii) provide a written response to each specific demand for records, including the identification of the records produced in response to each numbered demand and, if no records are submitted in response to a particular numbered demand, a detailed explanation of why such records are not being produced.

15. 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.

MISCELLANEOUS

16. Respondent affirms that the address and telephone number listed with the Department are current and correct.

17. Respondent appoints _____ as its designated agent who may be contacted regarding this CO and any consumer complaints and represents that the following is his/her e-mail address:

_____@_____.

18. Respondent acknowledges that the Department intends to use this e-mail address to communicate official matters to Respondent and Respondent agrees to accept such communications.

19. Respondent shall notify the Department in writing when its address, telephone number and/or e-mail address change within 10 days of such change.

20. Respondent shall notify the Department within ten (10) days of receipt of any (i) complaints, actions or proceedings filed against Respondent by consumers in any forum, including state and federal courts, the Better Business Bureau, the Office of the Attorney General of the State of New York, or any other agency or association, (ii) actions, proceedings or investigations by any government agency against Respondent; and (iii) results of any actions, proceedings or investigations against Respondent that resulted in the revocation or suspension of a license, the imposition of fines or restitution, a voluntary settlement, a court order, a criminal guilty plea, or a conviction.

FINES

21. Respondent shall pay a fine of **$500** via bank check or money order in settlement of all the violations to date before the parties execute this CO.

NON-COMPLIANCE WITH THIS ORDER

22. Any violation of federal, city or state process server laws or rules shall constitute a violation of this Consent Order.

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

24. Violations of laws and rules and violations of this Consent Order shall be assessed as separate violations with separate fines, with a maximum penalty of $1,000.00 for each violation.

25. Respondent's breach of the terms of this Consent Order shall be sufficient grounds for the revocation of Respondent's license and for ineligibility to be licensed for a period of five years.

WAIVER OF APPEALS

26. 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.

EFFECTIVE DATE OF CONSENT ORDER

27. The Effective Date of this Consent Order shall be the date that it is signed by the Department.

DEPARTMENT'S AUTHORITY

28. Nothing in this Consent 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 D.L.S., Inc.

By: Howard D Goldman, president

Signature president 11/8/13 Date

Accepted for the Department of Consumer Affairs

By: Shannon Bermingham

Title: Legal Settlement Associate

Signature 11/8/13 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.

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

----------x **NOTICE OF HEARING**

DEPARTMENT OF CONSUMER AFFAIRS

Complainant,

-against- Violation # LL 5333213

D.L.S., INC. License # 1416526

Licensee/Respondent. (Process Serving Agency)

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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 AT 66 JOHN STREET, 11TH FLOOR, NEW YORK, NEW YORK AT 8:30 A.M. ON TUESDAY, DECEMBER 24, 2013;**

AND SHOW CAUSE why your license to operate as a process serving agency should not be suspended or revoked and why monetary penalties should not be imposed on you:

APPLICABLE LAW

1. Pursuant to Title 6 of the Rules of the City of New York ("6 RCNY") § 2-236(a), whenever a process serving agency receives notice that a court has scheduled a hearing to determine whether service of process assigned by the agency was effective (known as a "traverse hearing"), the agency must submit, by certified mail or e-mail, a written report to the Department within ten (10) days of receiving such notice. The written report must include the title and index number of the action, the court and the

judge before whom the hearing is scheduled, the date(s) of the hearing, and the name and license number of every licensee who effected service or assigned or distributed the process for service.

2. Pursuant to 6 RCNY § 2-236(c)(1), a process serving agency must attempt to learn the results of traverse hearings by following specific procedures, including communicating with the plaintiff or the plaintiff's attorney in writing and searching the court files sixty (60) and ninety (90) days after the hearing.

3. Pursuant to 6 RCNY § 2-236(c)(2), a process serving agency must submit a written report to the Department, by certified mail or e-mail, stating:

   (a) the result of the traverse hearing (including any judicial order or voluntary settlement resolving the challenge to service of process) within ten (10) days of learning the result; or

   (b) that he or she made attempts to learn the result of the traverse hearing but was unable to do so, within one hundred (100) days of the hearing.

FACTS

4. Respondent is licensed by the Department as a process serving agency under license number 1416526.

Josette Buchman v. [redacted]

5. In or about 2012, process was distributed by Respondent to Hector Figueroa for service in the matter of Josette Buchman v. [redacted] (Index Number 650951/12, New York County Supreme Court) ("Buchman") and thereafter an affidavit of service executed by Hector Figueroa in which he attested that he had served such process in Buchman was filed with the clerk of the court.

6. The court in Buchman scheduled a traverse hearing for August 23, 2012 concerning the service of process allegedly made by Hector Figueroa.

7. Respondent received notice of the scheduling of the traverse hearing in Buchman for August 23, 2012.
8. The court in Buchman scheduled a second session of the traverse hearing for November 1, 2012.
9. Respondent received notice of the scheduling of the second session of the traverse hearing in Buchman for November 1, 2012.
10. Respondent did not attempt to learn the result of the traverse hearing in Buchman in accordance with the procedures specified in 6 RCNY § 2-236(c)(1).
11. Respondent did not submit a written report to the Department, by certified mail or e-mail, stating the result of the traverse hearing in Buchman or that Respondent made attempts to learn the result of the hearing but was unable to do so, within one hundred (100) days of the scheduled hearing date (November 1, 2012).

CHARGES

1. Respondent violated 6 RCNY § 2-236(c)(1) by failing to attempt to learn the result of a traverse hearing in accordance with the procedures specified in 6 RCNY § 2-236(c)(1). [1 count]
2. Respondent violated 6 RCNY § 2-236(c)(2) by failing to, within one hundred (100) days after the scheduled date of a traverse hearing, report to the Department either: (a) the final result of the hearing; or (b) that Respondent made attempts to learn the final result of the hearing but was unable to do so. [1 count]

WHEREFORE, the Department demands that an order issue: 1) imposing maximum fines on Respondent for each and every charge set forth herein; and 2) granting such other relief as is deemed just and proper.

Dated: October 31, 2013
New York, New York

For: **Jonathan Mintz**
Commissioner

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

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 at the DCA Adjudication Tribunal on the scheduled hearing date, you will be found guilty of the charges, you will be 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)** or by mail to DCA Adjudication 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 process_server@dca.nyc.gov or by mail to Shannon Bermingham, 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.

REASONABLE ACCOMMODATION: If you have a disability and require a reasonable accommodation on the day of the hearing, you must send a request, with proof, before the hearing date to the Adjudication Tribunal at **mycase@dca.nyc.gov** or call 311 (212-NEW-YORK outside NYC) and ask for "Consumer Affairs Hearing - Reasonable Accommodation."

SETTLEMENTS: If you wish to settle the charges in this Notice of Hearing, you **must sign** the enclosed Consent Order and mail it to Shannon Bermingham, NYC Department of Consumer Affairs, 42 Broadway, 9th Floor, New York, New York 10004 by **November 22, 2013**. You must enclose, with the signed Consent Order, a bank check or money order made payable to the "NYC Department of Consumer Affairs" for **$500**.

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