

CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS

-----X  
DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

RALPH TRAUB,  
[REDACTED]

Respondent.  
-----X

**CONSENT ORDER**

Violation No. LL 5287208

PROCESS SERVER  
INDIVIDUAL

License # 0792616

**Ralph Traub** ("Respondent") consents to this Consent Order ("CO" or "Agreement") to settle the above-captioned violation with the Department of Consumer Affairs ("DCA" or "the Department") and agrees as follows:

**ACKNOWLEDGMENTS**

Respondent acknowledges receipt of the Notice of Hearing in the above captioned matter, which charged him with violating provisions of Title 20 of the Administrative Code of the City of New York (the "Code"), found in: Chapter 1 of the Code, beginning at Section 20-101 (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 (the "Process Servers Rules") in connection with his Process Server license.

Respondent acknowledges and admits to all charges set forth in LL 5287208 and the Department agrees to settle all pending charges with Respondent by this Consent Order.

**I. DEFINITIONS:**

A. Terms are defined in 6 RCNY § 2-231.

**II. BAR TO REAPPLYING FOR A PROCESS SERVER LICENSE IN THE CITY OF NEW YORK**

1. Respondent agrees to be barred from holding or reapplying for any process server license issued by the Department for life beginning on the date of this Agreement.
2. During the lifetime bar, Respondent shall be prohibited from engaging in process serving activity in the City of New York including but not limited to serving, assigning, distributing or delivering process for service to anyone else to serve on his behalf or on behalf of any company in which Respondent owns a ten (10) or more percent share or interest nor conduct any process server business whatsoever in the City of New York.

**III. INJUNCTIVE RELIEF**

**A. Surrender of License:**

- 1) Respondent shall immediately surrender his process server individual license and cease all process serving and process serving activities.

**IV. FINES**

- (1) Respondent shall pay a fine of **\$1000.00** in settlement of all the violations to date in the form of a certified / bank check or money order made payable to the "NYC Department of Consumer Affairs" before the parties execute this CO. The \$1000.00 fine shall be due under a payment plan, as calculated (including interest) and invoiced by the Department commencing with an initial payment of \$300.00 on May 7, 2012.

**V. RESOLUTION OF CONSUMER COMPLAINTS**

- 1) Respondent shall provide to the Department a reply to all consumer complaints to the Department relating to Respondent's process serving activity within ten (10) business days of the receipt the complaint.
- 2) Respondent shall respond to any subsequent communications from the Department concerning the complaint within five (5) business days.
- 3) Nothing in this provision waives or diminishes Respondent's obligation to comply with 6 RCNY Section 1-13.
- 4) Respondent shall provide to the Department a copy of every written complaint that Respondent receives from any other governmental body and from any non-governmental entity and Respondent's response thereto within ten days of Respondent's receipt of the complaint. Respondent shall report to the Department the resolution of every such complaint and provide a copy of any writing setting forth the resolution within ten (10) business days of such resolution.

**VI. BREACH OF THIS CO**

- 1) A finding, after notice and hearing, that Respondent has committed a material breach of the terms of this CO or any other law or Rule of the Department shall be sufficient grounds for continued ineligibility of the Respondent to be licensed.

- 2) Specific violations of this CO shall constitute independent and separate violations of any applicable law, regulation or rule.
- 3) Violations of law and violations of this CO shall be assessed as separate fines, with a maximum penalty of \$1,000.00 each.
- 4) The following conduct shall be grounds for revocation of Respondent's DCA licenses:
  - a. Respondent's failures to pay any restitution or fine ordered by DCA's administrative tribunal; or
  - b. Respondent's failure to pay any consumer restitution awarded by any other court or administrative body of competent jurisdiction within thirty days of Respondent's receipt of the decision of such court or the exhaustion of all appeals therefrom, whichever is later.

#### **VII. WAIVER OF APPEALS**

- 1) Respondent waives any right to a hearing, appeal of or any challenge of the facts alleged by the above-referenced violation under Sections 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806, in any forum.

**VIII. DEPARTMENT'S AUTHORITY**

- 2) Nothing in this CO shall be construed to limit in any way the authority of the Department to exercise its regulatory or enforcement powers under Sections 20-104 or 20-409 of the Code.

Agreed to by Respondent

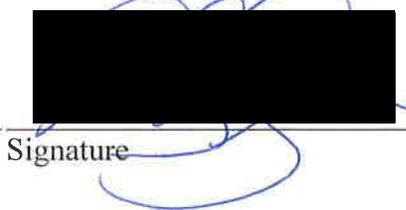
Accepted for the Department of Consumer Affairs

By: Ralph Traub

By: [REDACTED]  
Staff Attorney  
Legal Division

  
Signature

5/7/12  
Date

[REDACTED]  
  
Signature

5/7/12  
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 and consumer protection 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](http://www.nyc.gov/consumers).

CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS

-----X  
DEPARTMENT OF CONSUMER AFFAIRS,

AMENDED NOTICE OF  
HEARING

Complainant,

LL # 005287208

-against-

RALPH TRAUB,  
[REDACTED]  
[REDACTED]

License # 0792616

Licensee/Respondent.

(Process Server Individual)

-----X

**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 AT 8:30 A.M. ON MONDAY, APRIL 23, 2012** 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, Alvin A. Liu, Esq., as and for its complaint upon information and belief alleges the following:

**LICENSE STATUS**

1. Respondent, Ralph Traub, has held an individual process server license (License No. 0792616) issued by the Department since on or about March 1996.
2. A process server license is renewable in two-year intervals.
3. Respondent's current process server license expired on February 28, 2012.

**FACTS**

**Respondent Served with Subpoena**

4. On or about July 29, 2011, the Department issued to Respondent a subpoena duces tecum.
5. The subpoena called for Respondent's appearance and for certain of Respondent's books and records, including production of process serving logbooks that Respondent is required to maintain for a period of three years from date of service pursuant to 6 RCNY § 2-233.

**FAILURE TO COMPLY WITH RECORD-KEEPING REQUIREMENTS**

**Improper Corrections in Records of Process Served**

6. In response to the subpoena duces tecum, Respondent produced, in pertinent part, one (1) logbook containing entries for process he served during the following time period:
  - a. June 2, 2011 to August 30, 2011.
7. Respondent failed to make corrections in his logbooks by drawing a straight line through the original entry and instead obscured the entries he sought to change.

8. Respondent's failures to make proper corrections, include, but are not limited to, the following entries in his logs:

- a. June 8, 2011 at 11:24 a.m.;
- b. June 8, 2011 at 2:20 p.m.;
- c. June 20, 2011 at 5:07 p.m.;
- d. June 28, 2011 at 3:17 p.m.;
- e. June 28, 2011 at 3:36 p.m.;
- f. June 28, 2011 at 4:14 p.m.;
- g. July 6, 2011 at 11:53 a.m.;
- h. July 14, 2011 at 2:05 p.m.;
- i. July 21, 2011 at 2:37 p.m.; and
- j. July 26, 2011 at 7:46 p.m.

**Failure to Record the Name of the Court in Which the Action Was Commenced**

9. Respondent failed to set forth in his logbooks the name of the court in which the action was commenced.

10. Respondent's failures to record the court in which the action was commenced include, but are not limited to, the following entries in his logs:

- a. June 2, 2011 at 10:30 a.m.;
- b. June 2, 2011 at 11:44 a.m.;
- c. June 3, 2011 at 9:12 a.m.;
- d. June 3, 2011 at 9:24 a.m.;
- e. June 3, 2011 at 9:43 a.m.;
- f. June 3, 2011 at 10:17 a.m.;
- g. June 3, 2011 at 10:38 a.m.;
- h. June 3, 2011 at 10:51 a.m.;
- i. June 3, 2011 at 11:04 a.m.; and
- j. June 3, 2011 at 11:18 a.m.

**Failure to Record the Type of Service Effectuated**

11. Respondent failed to set forth in his/her logbooks the type of service effectuated.

12. Respondent's failures to record the type of service effectuated include, but are not limited to, the following entries in his logs:

- a. June 2, 2011 at 10:30 a.m.;
- b. June 2, 2011 at 11:44 a.m.;
- c. June 3, 2011 at 9:12 a.m.;
- d. June 3, 2011 at 9:24 a.m.;

- e. June 3, 2011 at 9:43 a.m.;
- f. June 3, 2011 at 11:04 a.m.;
- g. June 3, 2011 at 11:18 a.m.;
- h. June 3, 2011 at 12:08 p.m.;
- i. June 3, 2011 at 3:41 p.m. and
- j. June 3, 2011 at 3:50 p.m.

**DEFECTIVE AFFIDAVIT OF SERVICE**

**Affidavit of Service Does Not Contain the Name or Address of the Process Server  
Organization from Which Respondent Received Process for Service**

13. Upon information and belief, Atlas Judicial Service Co. Inc. assigned process to Respondent for service in New York City in the following matter:
- a. *Capital One Bank v. Deneka Manuel*, CV-10327-11/BX.
14. Upon information and belief, Respondent's affidavit of service was required to be filed with the court in that matter.
15. The affidavit of service does not have the name or address of the process server organization from which Respondent received process for service.

**FAILURE TO COMPLY WITH REPORTING REQUIREMENTS**

**Failure to Report Traverse Hearings**

16. In the last two (2) years, Respondent's service of process was contested on at least five (5) occasions.
17. The Respondent failed to report in writing to the Department the time, date, court, name of judge, index number, title and/or finding of a traverse hearing where service by him was contested, within ten days of receiving notice of such hearing.
18. Although mandated by law to do so, Respondent failed to report to the Department traverse hearings scheduled or held in the following matters:
- a. *Capital One Bank (USA), N.A. v. Deneka Manuel*, CV-10427-11/BX; traverse hearing scheduled for May 20, 2011;

- b. *Citibank v. Mervis Fay Lewis*, CV-016054-11/BX; traverse hearing held on September 13, 2011; and
- c. *Discover Bank v. Lascell Spence*, CV-028027-11/BX; traverse hearing scheduled for October 3, 2011.
- d. *American Express Centurion Bank v. Nicholas Sands*, CV-105721-09/NY; traverse hearing held on April 20, 2010 (traverse sustained).
- e. *FIAA Card Services v. Hei S. Chang*, Index No. 4498-10, traverse hearing scheduled for March 21, 2012.

**“SEWER SERVICE” AND FILING FALSE  
AFFIDAVITS OF SERVICE WITH A COURT**

19. On or about June 8, 2010, the Department received a consumer complaint filed by Susan K. Treitler, CD # 500122534.
20. Respondent falsely affirmed in an affidavit of service that he filed in the court in the matter of *Toyota Motor Credit Corp. v. Susan K. Treitler*, Index No. 6313/2010, Civil Court, Queens County, that he had served her a summons and complaint at her place of residence on February 11, 2010 at 2:36 p.m. by substituted service upon “John” Treitler, an alleged relative of the Defendant.
21. Ms. Treitler complains that she (a) never received the summons and complaint in the matter; (b) she has no relative named John Treitler; and (c) she lives alone and was not present at her residence on the date and time referenced in the affidavit of service.
22. On or about March 23, 2010, the Department received a consumer complaint filed by Ana Krall-Ziroglu, CD # 500121784.
23. Respondent falsely affirmed in an affidavit of service that he filed in the court in the matter of *FIA Card Services NA FKA Bank of America NA v. Ana M. Krall*, Index No. 63551/2009, Civil Court, Queens County, that he had served her a

summons and complaint at her place of residence on August 21, 2009 at 9:15 a.m. by substituted service upon "Jane" Krall, an alleged relative of the Defendant.

24. Ms. Krall-Ziroglu complains that she (a) never received the summons and complaint in the matter; (b) she has no relative named John Treitler; and (c) she lives alone and was not present at her residence on the date and time referenced in the affidavit of service.

### CHARGES

#### FAILURE TO COMPLY WITH RECORD-KEEPING REQUIREMENTS

##### Unlawful Corrections in Records of Process Served

##### Counts #1 - #10

25. The allegations of paragraphs #6 - #8 above are incorporated by reference as though fully realleged herein.
26. Respondent failed to maintain a bound volume or log free of impermissible erasures, obliterations or redactions, in violation of the Rules of City of New York, Title 6, § 2-233(b)(8).

#### Failure to Record the Name of the Court In Which The Action Was Commenced

##### Counts #11 - #20

27. The allegations of paragraphs #9 - #10 above are incorporated by reference as though fully realleged herein.
28. Respondent failed to maintain records showing the court in which the action was commenced, in violation of the Rules of City of New York, Title 6, § 2-233(a)(2)(vi).

**Failure to Record the Type of Service Effectuated**

**Counts #21 - #30**

29. The allegations of paragraphs #11 - #12 above are incorporated by reference as though fully realleged herein.
30. Respondent failed to maintain records describing whether personal, substituted, conspicuous or corporate service was effected, in violation of the Rules of City of New York, Title 6, § 2-233(b)(3).

**DEFECTIVE AFFIDAVITS OF SERVICE**

**Affidavit of Service Do Not Contain the Name or Address of the Process Server Organization From Which Respondent Received Process**

**Count #31**

31. The allegations of paragraphs #13 - #15 above are incorporated by reference as though fully realleged herein.
32. Respondent's affidavit of service does not have the name or address of the process server organization from which Respondent received process for service, in violation of General Business Law ("GBL") § 89-ff.

**FAILURE TO COMPLY WITH REPORTING REQUIREMENTS**

**Failure to Report Traverse Hearings**

**Counts #32-#34**

33. The allegations of paragraphs #16 - #18 above are incorporated by reference as though fully realleged herein.
34. The Respondent failed, on five occasions, to report to the Department in writing the time, date, court, name of judge, index number, title and/or finding of a traverse hearing where service by him was contested, within ten days of

receiving notice of such hearing, in violation of the Rules of City of New York, Title 6, § 2-236.

**“SEWER SERVICE” AND FILING FALSE AFFIDAVITS OF SERVICE WITH A COURT**

**Counts #35-#36**

35. The allegations of paragraphs #19 - #24 above are incorporated by reference as though fully realleged herein.
36. By virtue of engaging in sewer service, Respondent failed to strictly and promptly conform to all laws, rules, regulations and requirements of the federal, state and or municipal authorities now in force relating to the conduct of process servers and the service of process in the State of New York, in violation of the Rules of City of New York, Title 6, § 2-234, General Business Law (“GBL”) § 89-ee(1) and New York Civil Practice Laws and Rules § 308.

**LACK OF FITNESS**

37. The allegations of paragraphs #1 - #36 above are incorporated by reference as though fully realleged herein.
38. 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) finding Respondent permanently unfit to hold any Department licenses; 2) imposing maximum fines 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](mailto:adjournmentrequests@dca.nyc.gov) (preferred method);** by fax to 212-361-7766; or by mail to: DCA Administrative Tribunal, 66 John Street, 11<sup>th</sup> 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](mailto:aliu@dca.nyc.gov); or by mail to Alvin A. Liu, DCA Legal Division, 42 Broadway, 9<sup>th</sup> 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.

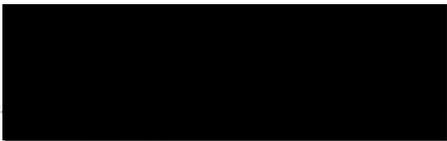
**REPRESENTATION:** Although it is not required, you may choose to bring a lawyer or authorized representative to the hearing.

**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](http://www.nyc.gov/consumers) or call 311.

Dated: March 13, 2012  
New York, New York

For: **Jonathan Mintz**  
Commissioner

By:   
Staff Counsel  
Legal Division