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Commissioner

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February 17, 2016

BY FIRST-CLASS AND CERTIFIED MAIL

JDG Investigations, Inc.
86-52 Woodhaven Boulevard, Floor 2
Woodhaven, NY 11421

RE: Denial of Application No. 814-2016-RPSO

Dear Applicant:

JDG Investigations, Inc. (“JDG”) submitted to the Department of Consumer Affairs (the “Department” or “DCA”) an application to renew its process serving agency license. This letter is to inform JDG that **the Department denies the application**. As explained below, the denial is based on the Department’s determination that JDG is not fit to be licensed, pursuant to New York City Administrative Code (“Code”) § 20-101, due to JDG’s failure to maintain standards of integrity, honesty, and fair dealing required of licensees.

Distribution of Process to Unlicensed Process Servers

Section 2-234a(a)(1) of Title 6 of the Rules of the City of New York (“6 RCNY”) states that “[a] process serving agency shall not assign or distribute process for service to an individual process server who ... is not licensed to serve process.” JDG assigned or distributed process to unlicensed process servers on at least 1,800 occasions from February 1, 2014 to August 29, 2014, in violation of 6 RCNY § 2-234a(a)(1).

Isaias Alicea (“Alicea”)

Alicea was licensed by the Department as a process server from 2004 to 2008. Alicea has not held a process server license since 2008. According to electronic records maintained on JDG’s behalf by CivilMap, LLC (“CivilMap”), and affidavits of service signed by Alicea, JDG distributed process to Alicea for service in New York City on approximately 640 occasions in 2014, even though he was not a licensed process server.

Scott Craig (“Craig”)

Craig obtained a process server license on or about April 30, 2014. Prior

to that date, he was not licensed to operate as a process server in New York City. However, according to electronic records maintained on JDG's behalf by CivilMap, and affidavits of service signed by Craig, JDG distributed process to Craig for service in New York City on approximately 293 occasions prior to April 30, 2014.

Zachary Livingston ("Livingston")

Livingston applied for a process server license on August 9, 2013. The Department denied his application on January 28, 2014. Livingston again applied for a process server license on April 11, 2014, but on April 17, 2014, he failed the process exam twice, resulting in another denial of his license application. On June 13, 2014, Livingston applied for a license a third time and passed the process server examination. The Department approved Livingston's license application on August 8, 2014. Prior to August 8, 2014, Livingston was not licensed as a process server.

However, according to electronic records maintained on JDG's behalf by CivilMap, and affidavits of service signed by Livingston, JDG distributed process to Livingston for service in New York City on approximately 847 occasions from February 28, 2014 to August 7, 2014.

David Smith ("Smith")

Smith was licensed as a process server from July 19, 1994 through March 31, 2014. He did not renew his license after it expired in 2014. However, according to affidavits of service signed by Smith, JDG distributed process to Smith for service in New York City on approximately 43 occasions after his license had expired.

Robert Givens

Robert Givens was not licensed as a process server from March 31, 2014 to May 3, 2015. According to affidavits of service signed by Robert Givens, however, JDG distributed process to Robert Givens during the period April 2, 2014 to April 23, 2014 on approximately fifteen occasions.

Failure to Disclose Required Information to the Department

6 RCNY § 1-01.1 states:

- (a) No applicant for a license or a renewal thereof shall fail to provide complete and truthful responses to all the information requested on an application for such license or renewal thereof and any documents related thereto.
- (b) No applicant for a license or renewal thereof shall conceal any information, make a false statement or falsify or allow to be falsified any certificate, form, signed

statement, application or report required to be filed with an application for a license that is to be issued by the department or for a renewal thereof.

6 RCNY § 2-234a(d) states:

- (1) A process serving agency must notify the Department in writing at the time of its application or renewal, or at such times as requested by the Department of:
 - (i) the names, addresses, and Department license numbers of each process server who serves process exclusively as an employee of the process serving agency; and
 - (ii) the names, addresses, and Department license numbers of each process server who serves process on behalf of the process serving agency.
- (2) If additional process servers are assigned process by the process serving agency or a new process server is hired to serve process exclusively as an employee of the process serving agency after the date of such application or renewal, the licensee must notify the Department in writing within five (5) days of the new assignment or employee with the names, addresses and Department license numbers of such additional process servers.

JDG submitted an application to renew its process serving agency license on or about March 4, 2014. The application included a "Roster of Process Servers" in which JDG represented that the only process servers serving for JDG were John Givens and Stephen Crosby. JDG's representation was false. JDG failed to include in its "Roster of Process Servers" that unlicensed process servers Alicea, Craig, and Livingston were serving and would continue to serve process in New York City on JDG's behalf. JDG therefore, violated 6 RCNY §§ 1-01.1(a)-(b), 2-234a(d)(1).

In addition, JDG violated 6 RCNY § 2-234a(d)(2) by failing to inform the Department within five days of distributing process to unlicensed process server Smith that Smith would be serving process in New York City on JDG's behalf. Smith served or attempted to serve process on JDG's behalf on at least 43 occasions from April 1, 2014 to May 13, 2014.

False and Misleading Representations to the Department

In connection with their applications for process server licenses, the Department requested that Craig, Livingston, and Alicea submit to the Department letters of recommendation. Each of them submitted letters of recommendation written by John Givens on behalf of JDG.

In its March 28, 2014 letter recommending Craig for a process server license, JDG made a false representation that JDG had not used Craig to serve process prior to the date of the letter. Specifically, JDG stated that it "has used the services of Scott Craig as a messenger for [JDG's] office" and that JDG

was “seeking to promote Mr. Craig to a Process Server.” In fact, JDG had already used Craig to serve or attempt to serve process on over forty occasions between February 19, 2014 and March 27, 2014.

In its April 10, 2014 letter to the Department recommending Livingston for a process server license, JDG made a false representation that JDG had not used Livingston to serve process prior to the date of the letter. Specifically, JDG stated that JDG “has used the services of Zachary Livingston as a messenger for [JDG’s] office” and that JDG was “seeking to promote Mr. Livingston to a Process Server.” In fact, JDG had already used Livingston to serve or attempt to serve process on over fifty occasions between February 28, 2014 and April 9, 2014.

In its March 24, 2014 letter to the Department recommending Alicea for a process server license, JDG made a false representation that it had not employed Alicea prior to the date of the letter. Specifically, JDG stated that it was “seeking to employ Mr. Alicea *once his license is renewed*” (emphasis added).¹ In fact, JDG was not waiting until Alicea’s license was renewed to employ him. Between February 1, 2014 and March 21, 2014, JDG used Alicea to serve or attempt to serve process on over 50 occasions.

On April 25, 2014, John Givens, JDG’s President, told a Department Attorney during a telephone conversation that Craig’s only responsibility for JDG was to pick up paperwork from JDG’s clients. This statement was false. As stated above, JDG had been distributing process to Craig, who did not have a process server license, since at least February 19, 2014.

False Affidavits of Service

6 RCNY § 2-234 states that process serving agencies “shall at all times strictly and promptly conform to all laws, rules, regulations and requirements of the federal, state and municipal authorities relating to the conduct of licensees and the service of process in the State of New York and the preparation, notarization and filing of affidavits of service and other documents now in force or hereafter adopted during any license period.”

6 RCNY § 2-234a(a)(3) states that “[a] process serving agency shall not assign or distribute process for service to an individual process server who ... does not display integrity and honesty in his or her process serving activities.”

Use of False License Numbers

JDG violated 6 RCNY § 2-234 by preparing two affidavits of service on April 16, 2014 which falsely represented that John Givens was a licensed process server under DCA license number 824775. In fact, this license number had expired on March 31, 2014, and Mr. Givens did not attempt to renew the

¹Alicea submitted a new license application to DCA on March 4, 2014, not a renewal application.

license. Mr. Givens signed these affidavits of service and, therefore, JDG also violated 6 RCNY § 2-234a(a)(3).

In addition, in violation of 6 RCNY § 2-234 and 6 RCNY § 2-234a(a)(3), JDG prepared and JDG's President, John Givens, notarized hundreds of affidavits of service which JDG and Mr. Givens knew or should have known contained false license numbers, including:

- (1) affidavits of service signed by Alicea in 2014, which misrepresented that he was a currently licensed process server under the license number 1181137 (Alicea's license to operate as a process server expired in 2008);
- (2) affidavits of service signed by Craig prior to when he was licensed, which misrepresented that he was a currently licensed process server under the license number 1551721;
- (3) affidavits of service signed by Livingston prior to when he was licensed, which misrepresented that he was a currently licensed process server under the license number 1471009;
- (4) affidavits of service signed by Smith after his process server license expired, which misrepresented that he was a currently licensed process server under the license number 912050; and
- (5) affidavits of service signed by Robert Givens after his process server license expired, which misrepresented that he was a currently licensed process server under the license number 1154828.

Sewer Service/False Affidavits of Service

6 RCNY § 2-234a(b) states that “[a] process serving agency shall develop and implement policies and procedures set forth in a written Compliance Plan to ensure that an individual process server acts with integrity and honesty and complies with the recordkeeping requirements applicable to process servers.” Code § 20-406.2 states that process serving agencies are “legally responsible for any failure to act in accordance with the laws and rules governing service of process by each process server to whom it has distributed, assigned or delivered process for service.”

JDG assigned to Livingston process for service in 2014. As described below, Livingston signed false affidavits of service with respect to several of those services, and repeatedly failed to serve the assigned process in compliance with CPLR § 308.

April 1, 2014 False Affidavits

Livingston swore in an affidavit of service that on April 1, 2014 at 12:30 p.m., he served papers at [REDACTED] Livingston swore in a separate affidavit of service that fifteen minutes later, at 12:45 p.m., he served papers at St. Barnabas Hospital, which is located at 4451 Third Avenue in the Bronx. Given the distance between these two locations and the time it would

have taken Livingston to travel from one location to the other, he could not have performed both of these services at the dates and times to which he swore in his affidavits.

In addition, Livingston swore in an affidavit of service that on April 1, 2014 at 3:13 p.m., he served papers in the Bronx. Livingston swore in a separate affidavit of service that seventeen minutes later, at 3:30 p.m., he served papers in Long Island City. Given the distance between the Bronx and Long Island City and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the dates and times to which he swore in his affidavits.²

April 10, 2014 False Affidavit

Livingston swore in an affidavit of service that on April 10, 2014, at 12:30 p.m., he served papers at [REDACTED]. Livingston swore in a separate affidavit of service that three minutes later, at 12:33 p.m., he served papers at Bronx Lebanon Hospital in the Bronx. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the dates and times to which he swore in his affidavits.³

² These conclusions are further buttressed by Livingston's claims, in affidavits of service, that on April 1, 2014, he went back and forth between Queens and the Bronx several times between 10:00 a.m. and 3:30 p.m. which makes no practical sense. Specifically, Livingston swore in affidavits of service that he served papers at the following times and locations on April 1, 2014:

10:00 a.m. – Bronx
11:00 a.m. – Jackson Heights, Queens
11:10 a.m. – Elmhurst, Queens
12:30 p.m. – Jamaica, Queens
12:45 p.m. – Bronx
1:23 p.m. – Jamaica, Queens
2:00 p.m. – Bronx
3:00 p.m. – Bronx
3:13 p.m. – Bronx
3:30 p.m. – Long Island City

³ These conclusions are further buttressed by Livingston's claims, in affidavits of service, that he went back and forth between three counties to serve process on April 10, 2014, which makes no practical sense. Specifically, Livingston swore in affidavits of service that he served papers at the following times and locations on April 10, 2014:

9:25 a.m. – Astoria, Queens
10:25 a.m. – Bronx
10:45 a.m. – Bronx
12:30 p.m. – Brooklyn
12:33 p.m. – Bronx
1:20 p.m. – Bronx
3:30 p.m. – Jamaica, Queens

April 16, 2014 False Affidavits

Livingston swore in an affidavit of service that on April 16, 2014 at 9:27 a.m., he served papers at [REDACTED]. Livingston swore in a separate affidavit of service that three minutes later, at 9:30 a.m., he served papers in the Bronx. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the dates and times to which he swore in his affidavits.

In addition, Livingston swore in an affidavit of service that on April 16, 2014 at 1:25 p.m., he served papers in the Bronx. Livingston swore in a separate affidavit of service that five minutes later, at 1:30 p.m., he served papers in Brooklyn. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the dates and times to which he swore in his affidavits.

April 24, 2014 False Affidavit

Livingston swore in an affidavit of service that on April 24, 2014 at 1:15 p.m., he served papers at [REDACTED] in the Bronx. Livingston swore in a separate affidavit of service that at the same exact time, he served papers at [REDACTED] in Brooklyn. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the exact same time.

April 25, 2014 False Affidavit

Livingston swore in an affidavit of service that on April 25, 2014 at 11:30 a.m., he served papers at [REDACTED] in the Bronx. Livingston swore in a separate affidavit of service that at the same exact time, he served papers at [REDACTED] in the Bronx. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the exact same time.

April 29, 2014 False Affidavit

Livingston swore in an affidavit of service that on April 29, 2014 at 2:30 p.m., he served papers at [REDACTED] in the Bronx. Livingston swore in a separate affidavit of service that at the same exact time, he served papers at [REDACTED] in the Bronx. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the exact same time.

June 4, 2014 False Affidavit

Livingston swore in an affidavit of service that on June 4, 2014 at 1:30 p.m., he served papers at [REDACTED] in the Bronx. Livingston swore in a separate affidavit of service that at the same exact time, he served papers at St. Barnabas Hospital, which is located at 4451 Third Avenue in the Bronx. Given the distance between these two locations and the time it would have taken Livingston to travel from one location to the other, he could not have performed both of these services at the exact same time.

Livingston's numerous false affidavits, and his repeated failure to comply with the CPLR when serving process assigned to him by JDG, show clearly that JDG violated 6 RCNY § 2-234a(b) by failing to develop and implement policies and procedures to ensure that its individual process servers act with integrity and honesty,

Failure to Record GPS Locations

6 RCNY § 2-233b is entitled "Electronic Record of Service." 6 RCNY § 2-233b(2)(i) states that "[o]n every occasion that a process server attempts or effects service of process, the process server must ensure that the mobile device makes an electronic record of the GPS location, time and date of the attempted or effected service immediately after attempting or effecting service."

6 RCNY § 2-234a(a)(4) states that "[a] process serving agency shall not assign or distribute process for service to an individual process server who . . . does not comply with the recordkeeping requirements applicable to the service of process in the City of New York, including maintaining an electronic record of service."

According to electronic records maintained on behalf of JDG by CivilMap, during the period August 2, 2013 through September 20, 2014 JDG assigned, distributed or delivered process to individual process servers Andre Crawford, David Smith, Debbie Cruz, Isaias Alicea, John Givens, Robert Givens, Scott Craig, Stephen Crosby and Zachary Livingston, who failed, on at least 3,852 occasions, to record the GPS location for their services and attempted services, in violation of 6 RCNY § 2-234a(a)(4).

Misrepresentations on JDG's Web Site

Section 20-700 of the Code states: "No person shall engage in a deceptive or unconscionable trade practice in the sale, lease, rental or loan or in the offering for sale, lease, rental, or loan of any consumer goods or services"

Section 20-701 of the Code defines a "deceptive trade practice" as "[a]ny false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind made in connection with the sale, lease, rental or loan or in connection with the offering for sale, lease,

rental, or loan of consumer goods or services, or in debts, which has the capacity, tendency or effect of deceiving or misleading consumers.” This includes “representations that goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have” or that “the supplier has a sponsorship, approval, status, affiliation, or connection that he or she does not have.”

JDG has violated section 20-700 of the Code by misrepresenting on its website from at least May 6, 2015 through the date of this letter that John Givens is “licensed by the New York City Department of Consumer Affairs as a Process Server.”⁴ In fact, his process server license expired on March 31, 2014.

JDG violates section 20-700 of the Code by misrepresenting on its web site that one of JDG’s clients is the New York City Administration for Children’s Services (“ACS”). In fact, ACS stopped using JDG’s process serving services in 2014.

Misrepresentations to Former Client ACS

In March 2014, ACS asked JDG about the license status of the process servers that JDG used to serve process for ACS. In its email response of March 21, 2014, JDG stated:

The following Process Servers are employed with JDG and had [sic] passed the exam. With the exception of Stephen Crosby, Scott, Isai[as] and Zachary are gathering additional documents requested routinely for every renewal period. There is no reason not to believe they will not be able to continue working after the March 31, 2014 extension letter.

1. Stephen Crosby # 1402806
2. Zachary Livingston # 1402806
3. Scott Craig # 1551721
4. Isai[as] Alicea # 1181137

In the same e-mail, JDG stated:

The following process servers are independent contractors that ha[ve] passed the DCA exam and will be able to work pas[t] the DCA March 31, 2014 extension letter. JDG use[s] these se[r]vers on a regular basis as back up to full fill [sic] our contract obligations.

1. David Smith # 912050
2. Robert T. Givens # 1154828
3. Debbie Cruz # 1282011

⁴ <http://jdginvestigations.com/>.

4. Jimmie Rowlett # 0845244
5. Andre Crawford # 1455795

In fact, Zachary Livingston, Isaias Alicea, David Smith, Robert Givens, Andre Crawford and John Givens had not passed the process server exam⁵ and would not be eligible to serve process in New York City after their temporary permission to operate expired on March 31, 2014. David Smith, Robert Givens, Andre Crawford and John Givens had not even submitted renewal applications to the Department, which is required prior to taking the examination. Zachary Livingston's application for a process server license had been denied on January 28, 2014, and he did not submit another application until April 11, 2014. Isaias Alicea did not pass the process server exam until April 9, 2014.

JDG compounded these misrepresentations by stating to ACS in a separate e-mail on April 18, 2014:

Please be advised that I have reached out to the DCA Dept.[] Attorney and requested a letter with the statuses with ID Cards for the following servers.

1. Stephen Crosby
2. John Givens
3. Robert Givens
4. Andre Crawford
5. Zachary Livingston
6. Isaias Alicea
7. Scott [C]raig
8. Debbie Cruz
9. David Smith

All of which has [sic] passed the exam and [are] awaiting ID cards. Once we received [sic] that letter or any of the servers had received [sic] their ID Card prior, it will be forwarded to you.

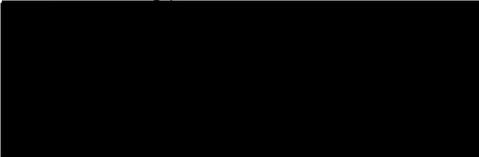
As of April 18, 2014, Livingston, Smith, Robert Givens, Andre Crawford and John Givens had not passed the process server exam and were not eligible to serve process in New York City. As of April 18, 2014, Smith, Robert Givens, Andre Crawford and John Givens had not even submitted renewal applications to the Department.

⁵ Section 20-406(c) of the Code states: "Each . . . applicant for a process server license or renewal thereof shall be required to pass an examination satisfactorily."

Fitness to Hold a Process Server License

Based on the foregoing, JDG fails to maintain standards of integrity, honesty and fair dealing and, pursuant to section 20-101 of the Code, the Department determines that JDG is not fit to hold any Department license and denies JDG's application to renew its process serving agency license.

Sincerely,



Senior Staff Attorney
Legal Division