



Julie Menin
Commissioner

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December 28, 2015

BY FIRST-CLASS AND CERTIFIED MAIL

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

RE: **Denial of Application No. 9597-2014-APSI**

Dear Mr. Givens:

You submitted to the Department of Consumer Affairs (the "Department" or "DCA") an application for an individual process server license. In connection with your application, the Department conducted an investigation of your business practices. This letter is to inform you that **the Department denies your application**. As explained below, the denial is based on the Department's determination that you are not fit to be licensed, pursuant to New York City Administrative Code ("Code") § 20-101, due to your failure to maintain standards of integrity, honesty, and fair dealing required of licensees.

Your Ownership and Control of JDG Investigations, Inc.

You are the sole owner and sole officer of JDG Investigations, Inc. ("JDG"), a process serving agency operating under DCA License Number 1290160. You admitted during a deposition on May 20, 2015, that you "direct, control and supervise" JDG's business operations. Your intimate involvement with, and control over, the day to day operations of JDG is evidenced by the following: You signed JDG's Certificate of Incorporation; personally obtained bonds for JDG and its process servers; signed and submitted to the Department all of JDG's license and license renewal applications; signed and submitted to the Department JDG's "Process Server Organization Roster of Employees" and "Roster of Process Servers;" signed and submitted to the Department JDG's "Process Serving Agency Compliance Plan Affirmation;" signed and submitted to the Department JDG's "Process Serving Agency Recordkeeping Certification;" and wrote and submitted to the Department recommendation letters on behalf of JDG employees who were applying for process server licenses from the Department. You also notarize affidavits of service signed by JDG's process servers, and respond personally to inquiries addressed to JDG.

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.” You and JDG assigned or distributed process to unlicensed process servers on at least 1,800 occasions from December 17, 2013 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 behalf of JDG by CivilMap, LLC (“CivilMap”) and affidavits of service signed by Alicea, you and 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. You were aware that Alicea served process in New York City in 2014 because you notarized most of Alicea’s affidavits of service.

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 behalf of JDG by CivilMap and affidavits of service signed by Craig, you and JDG distributed process to Craig for service in New York City on approximately 293 occasions prior to April 30, 2014. You were aware that Craig served process in New York City prior to April 30, 2014 because you notarized most of Craig’s affidavits of service.

Zachary Livingston (“Livingston”)

Livingston applied for a process server license on August 9, 2013. Due to his failure to respond to a letter from the Department, 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 behalf of JDG by CivilMap and affidavits of service signed by Livingston, you and JDG distributed process to Livingston for service in New York City on approximately 925 occasions from December 17, 2013 to August 7, 2014. You were aware that

Livingston served process in New York City prior to August 8, 2014 because you notarized most of Livingston's affidavits of service.

David Smith ("Smith")

Smith was licensed as a process server from July 19, 1994 through March 31, 2014. He did not renew his license before it expired in 2014. However, according to affidavits of service signed by Smith, you and JDG distributed process to Smith for service in New York City on approximately forty-three occasions after his license had expired. You were aware that Smith served process in New York City after March 31, 2014 because you notarized most of Smith's affidavits of service.

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, you and JDG distributed process to Robert Givens during the period April 2, 2014 to April 23, 2014 on approximately fifteen occasions. You were aware that Robert Givens attempted to serve process for JDG in New York City after March 31, 2014 because you notarized most of his affidavits of service.

False and Misleading Representations to the Department

The Department requests that certain license applicants submit letters of recommendation in support of their applications. The Department relies on these recommendation letters in determining whether the applicants are fit to hold Department licenses. The Department requested recommendation letters from Craig, Livingston, and Alicea.

In your March 28, 2014 letter to the Department recommending Craig for a process server license, you made a false representation that JDG had not used Craig to serve process prior to the date of the letter. Specifically, you stated that JDG "has used the services of Scott Craig as a messenger for [its] office" and that it 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 your April 10, 2014 letter to the Department recommending Livingston for a process server license, you made a false representation that JDG had not used Livingston to serve process prior to the date of the letter. Specifically, you stated that JDG "has used the services of Zachary Livingston as a messenger for [its] office" and that it 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 December 17, 2013 and April 9, 2014.

In your March 24, 2014 letter to the Department recommending Alicea for a process server license, you made a false representation that JDG had not employed Alicea prior to the date of the letter. Specifically, you stated that JDG 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 fifty occasions.

On April 25, 2014, you 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

False License Numbers

You signed two affidavits on April 16, 2014, in which you falsely represented that you were a licensed process server under DCA license number 824775. In fact, this license number had expired on March 31, 2014, and you did not attempt to renew the license.

In addition, you notarized hundreds of affidavits of service which you 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.

Livingston's 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."

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

As evidenced by the conduct described below, you and JDG failed to implement policies adequate to ensure that JDG's process servers act with integrity and honesty.

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] in Jamaica. 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 [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 dates and times that he claimed.

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 that he claimed.

Livingston, therefore, swore falsely on at least two affidavits of service and failed to serve process in compliance with section 308 of the New York Civil Practice Law and Rules ("CPLR") on at least two occasions.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] in Brooklyn. 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

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

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 that he claimed. Livingston, therefore, swore falsely on at least one affidavit of service and failed to serve process in compliance with CPLR § 308 on at least one occasion.³

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] in Elmhurst. 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 that he claimed.

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 that he claimed.

Livingston, therefore, swore falsely on at least two affidavits of service and failed to serve process in compliance with CPLR § 308 on at least two occasions.

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.

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

Livingston, therefore, swore falsely on at least one affidavit of service and failed to serve process in compliance with CPLR § 308 on at least one occasion.

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. Livingston, therefore, swore falsely on at least one affidavit of service and failed to serve process in compliance with CPLR § 308 on at least one occasion.

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. Livingston, therefore, swore falsely on at least one affidavit of service and failed to serve process in compliance with CPLR § 308 on at least one occasion.

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 [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. Livingston, therefore, swore falsely on at least one affidavit of service and failed to serve process in compliance with CPLR § 308 on at least one occasion.

Failure to Maintain GPS Records

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) states that “[a] process serving agency shall not assign or distribute process for service to an individual process server who . . . (4) 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, you and JDG distributed process to individual process servers who failed, on at least 3,852 occasions, to record the GPS location for their services and attempted services.

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, or in the collection of consumer debts.”

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.”

You and JDG violate section 20-700 of the Code by misrepresenting on JDG’s website that you are “licensed by the New York City Department of Consumer Affairs as a Process Server.” In fact, your process server license expired on March 31, 2014.

You and JDG also violate section 20-700 of the Code by misrepresenting 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

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.”

In March 2014, JDG’s former client, ACS, asked you and JDG about the license status of the process servers that JDG used to serve process for ACS. In your email response of March 21, 2014, you 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.⁴

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

In the same e-mail, you 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. Jimmie Rowlett # 0845244
5. Andre Crawford # 1455795

In fact, Zachary Livingston, Isaias Alicea, David Smith, Robert Givens, Andre Crawford and **you** had not passed the process server exam 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 **you** 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.

You compounded your lies on April 18, 2014 by stating to ACS in a separate e-mail:

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 Process server licenses typically expire on February 28 of even years. The Department, however, granted the following process servers temporary permission to operate while their renewal applications were being reviewed: Stephen Crosby, David Smith, Robert Givens, Debbie Cruz, Jimmie Rowlett, and Andre Crawford.



**Department of
Consumer Affairs**

4. Andre Crawford
5. Zachary Livingston
6. Isaias Alicea
7. Scott [C]raig
8. Debbie Cruz
9. David Smith

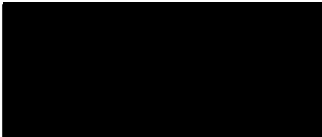
All of which has [sic] passed the exam and [are] awaiting ID cards. Once we received [sic] that letter or any of the servers had received [sic] their ID Card prior, it will be forwarded to you.

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

Fitness to Hold a Process Server License

Based on the foregoing, you fail to maintain standards of integrity, honesty and fair dealing and, pursuant to section 20-101 of the Code, the Department determines that you are not fit to hold any Department license and denies your application for a process server license.

Sincerely,



Senior Staff Attorney
Legal Division



CERTIFICATE OF MAILING

I, Shannon Bermingham, of the Legal Division of the New York City Department of Consumer Affairs, certify that on December 28, 2015, I mailed the attached 10-page letter dated December 28, 2015 by placing it in two envelopes addressed as listed below and then placing the addressed envelopes, with prepaid postage, into a United States Postal Service mailbox. I, Shannon Bermingham, further certify that one of the envelopes addressed as listed below was sent by certified mail no. 7007 3020 0000 8660 1365.

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



Signature