

DEPARTMENT OF STATE  
OFFICE OF THE SECRETARY OF STATE  
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In the Matter of

**Appollo Pitton,**

Appellant,

**DECISION AND ORDER  
15 DOS APP. 01**

-against-

**DEPARTMENT OF STATE  
DIVISION OF LICENSING SERVICES,**

Respondent

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Mr. Appollo Pitton [hereinafter “Appellant”] appeals from a judgement issued by the Office of Administrative Hearings revoking Appellant’s commission as a notary public. Division of Licensing Services [hereinafter “Respondent”] requests that the decision be confirmed.

Appellant submitted a Memorandum of Appeal objecting to the determination below.

Respondent submitted a Memorandum in Opposition.

ISSUE

This appeal determines if the Respondent acted in such a way as to violate the Appellant’s due process right to a fair hearing.

FINDINGS OF FACT

On May 2, 2001, the Office of Administrative Hearings [hereinafter “OAH”] sent the Appellant a notice of hearing that was scheduled for July 12, 2001 at 10:00 o’clock. The notice of

hearing was sent by certified mail to Appellant's address at 933 East 87<sup>th</sup> Street, Brooklyn, NY 11236. However, on June 4<sup>th</sup> the post office returned the certified mailing to Respondent as "unclaimed." On July 12, 2001 the OAH held the administrative hearing. Appellant did not appear. The Administrative Law Judge rendered an opinion confirming Respondent's denial of Appellant's application for a commission as a notary public. Appellant now asserts proper notice was not given.

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#### OPINION

The rules governing the procedure for administrative hearings are detailed by Executive Law § 131, State Administrative Procedure Act (SAPA) § 301, and Title 19 of the New York Code, Rules and Regulations (NYCRR) § 400.4. Pursuant to SAPA § 301(2) all interested parties to the hearing, ". . . shall be given reasonable notice of such hearing. . .". Reasonable notice includes the date, time, place and nature of the hearing. *Id.* This reasonable notice, ". . . shall be communicated in any matter permitted by the applicable regulatory statute or the Civil Practice Laws and Rules." 19 NYCRR § 400.4(a). Certified mail is one such permitted communication.

Appellant resides at 933 East 87<sup>th</sup> Street, Brooklyn, NY 11236. Notice of the hearing and the complaint were sent by certified mail to Appellant at 933 East 87<sup>th</sup> Street, Brooklyn, NY 11236. Appellant asserts that the notice of hearing was wrongfully sent to 733 East 87<sup>th</sup> Street. This allegation is simply untrue. Not only was the notice of hearing and attached complaint sent to 933 East 87<sup>th</sup> Street by certified mail, it was also mailed in compliance with the governing statutes. Reasonable notice specifying the time, date, place and nature of the hearing were sent to Appellant's last known address, which is also the address Appellant purports to reside. This notice thoroughly complies with the requirements of Executive Law § 131, SAPA § 301, and 19 NYCRR § 400.4.

DETERMINATION

The determination of the Administrative Law Judge is affirmed.

So ordered on:

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Randy A. Daniels  
Secretary of State