

STATE OF NEW YORK  
DEPARTMENT OF STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Application of

**JOHN E. BUIS**

DECISION

For a Commission as a Notary Public

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on January 15, 1997 at the New York State Office Building located at 333 East Washington Street, Syracuse, New York.

The applicant, of 16 Mechanic Street, Baldwinsville, New York 13027, did not appear.

The Division of Licensing Services (hereinafter "DLS") was represented by Supervising License Investigator Michael Coyne.

**ISSUE**

The issue before the tribunal is whether the applicant should be denied a commission as a notary public because of a prior criminal conviction.

**FINDINGS OF FACT**

1) By application dated October 2, 1996 the applicant applied for a commission as a notary public (State's Ex. 2).

2) On May 17, 1989 the applicant plead guilty to a charge of Grand Larceny in the third degree, and on July 20, 1989 he received a sentence of five years probation and restitution. On February 3, 1993 he was granted a Certificate of Relief From Disabilities on which it was indicated that it was intended to "(r)elieve the holder of the forfeitures, disabilities or bars hereinafter enumerated" without any forfeitures, disabilities or bars being enumerated (State's Ex. 3).

3) By letter dated October 16, 1996 the applicant was advised by DLS that it proposed to deny his application because he had been convicted of a disqualifying criminal offense and had not submitted a Certificate of Good Conduct or Executive Pardon, but that he could request an administrative review. The applicant requested such a review, and by letter dated November 6, 1996 was advised by DLS that it continued to propose to deny the application. By letter dated November 27, 1996 the applicant requested a hearing and, accordingly, the matter having been referred to the tribunal

on December 13, 1996, notice of hearing was served on the applicant by certified mail addressed to him at the address appearing on his application and signed for by Joanne Buis on December 21, 1996 (State's Ex. 1).

**OPINION AND CONCLUSIONS OF LAW**

I- The holding of an ex parte quasi-judicial administrative hearing was permissible, inasmuch as there is evidence that notice of the place, time and purpose of the hearing was properly served. *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- A hearing on an application for a commission as a notary public is held at the request and instance of an applicant who has been notified of the proposed denial of the application. 19 NYCRR 400.4[b]. At the hearing it would have been the applicant's burden to establish that he is qualified and entitled to be commissioned as a notary. Executive Law §130; State Administrative Procedure Act §306.

The applicant made a timely request for a hearing, but, although properly notified, failed to appear at the appointed time and place. He is, therefore, deemed to have withdrawn the request for a hearing and, more than 35 days having elapsed since he was advised of the proposed denial, the decision to deny the application is final. *Matter of the Application of Joseph G. Russo*, 47 DOS 95; *Matter of the Application of Alice Beck Connor*, 21 DOS 95; *Matter of the Application of Reginald L. Hunter*, 25 DOS 92.

**DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** the application of John E. Buis for a commission as a notary public is denied.

Roger Schneier  
Administrative Law Judge

Dated: January 17, 1997