

STATE OF NEW YORK  
DEPARTMENT OF STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Complaint of

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

Complainant,

**DECISION**

-against-

**JEFFREY T. CANALE,**

Respondent.

-----X

The above noted matter came on for hearing before the undersigned, Roger Schneier, on February 4, 1998 at the office of the Department of State located at 41 State Street, Albany, New York.

The respondent, of 391 Glen Street, Glens Falls, New York 12801, did not appear.

The complainant was represented by Litigation Counsel Laurence Soronen, Esq.

**COMPLAINT**

The complaint alleges that, as established by an opinion and an order of suspension issued by the New York State Supreme Court, Appellate Division, Third Judicial Department, the respondent was suspended as an attorney and thereby ceased to be eligible to be commissioned as a notary public inasmuch such commission was granted to him solely because of his status as an attorney, and that the findings in the opinion and order demonstrate that the respondent has demonstrated untrustworthiness and the lack of the requisite character and fitness to be commissioned, and by reason thereof seeks the revocation of the respondent's commission.

**FINDINGS OF FACT**

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered on December 31, 1997 (State's Ex. 1).

2) The respondent is a notary public pursuant to a commission expiring on November 30, 1998 (State's Ex. 1). The commission was issued based on the respondent's status as an attorney.

3) By an order of the Supreme Court of the State of New York, Appellate Division, Third Judicial Department entered on October 17,

1997 the respondent was suspended, pending final action, from the practice of law because of his conviction of violating Penal Law §105.05[1], conspiracy in the fifth degree, after having been charged with conspiring to swear falsely, for payment, in a custody proceeding, a "serious crime" (State's Ex. 1). By final order entered on January 22, 1998 the Court suspended the respondent from the practice of law for a period of two years and until further order (State's Ex. 3).

#### **OPINION**

I- The respondent was granted his commission as a notary public by virtue of his being an attorney. Accordingly, he was not required to meet any of the educational, experiential, or character standards imposed by the governing statutes. Executive Law §130.

II- The fundamental function of a notary public is the authentication of documents. The act of misconduct underlying the respondent's conviction, conspiracy to swear falsely, is directly related to that function, demonstrates that he cannot be trusted to perform that function honestly, and warrants, pursuant to Executive Law §130, the revocation of his commission as a notary public. *Division of Licensing Services v Erdheim*, 80 DOS 94.

#### **CONCLUSIONS OF LAW**

1) The respondent's commission as a notary public should be revoked inasmuch as he is no longer licensed to practice law and, therefore, the basis upon which he was granted the commission is no longer valid and he no longer qualifies to hold the commission.

2) The respondent has engaged in a act of misconduct which warrants the revocation of his commission as a notary public.

#### **DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** pursuant to Executive Law §130 the commission as a notary public of Jeffrey T. Canale is revoked, effectively immediately, and he is directed to immediately send his notary public identification card to Diane Ramundo, Customer Service Unit, Department of State, Division of Licensing Services, 84 Holland Avenue, Albany, NY 12208.

Roger Schneier  
Administrative Law Judge

Dated: February 18, 1998