

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-

**MARK D. DEINHART,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on November 3, 1999 at the New York State Office Building located at 65 Court Street, Buffalo, New York.

The respondent did not appear.

The complainant was represented by License Investigator III Marcia Reinagel.

**COMPLAINT**

The complaint alleges that the respondent, formerly a commissioned notary public, was disbarred, and that by reason thereof his commission should be revoked.

**FINDINGS OF FACT**

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered on October 2, 1999 (State's Ex. 1).

2) The respondent was a duly commissioned notary public pursuant to a commission renewed on April 27, 1997 and expired on April 27, 1999. The commission was issued by reason of his being an attorney at law in the State of New York (State's Ex. 1).

3) On May 7, 1999 the respondent was disbarred (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. Executive Law §130; State Administrative Procedure Act §301; *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- The respondent is no longer a notary public, his commission having expired. Since his commission expired more than six months ago he is not entitled to renew the commission without first complying with all of the requirements applicable to non-attorney applicants. Executive Law §130. Accordingly, since there is neither a commission nor a renewal right upon which to act, this tribunal lacks subject matter jurisdiction, and the complaint must be dismissed.

**DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** the complaint is dismissed.

Roger Schneier  
Administrative

Law Judge

Dated: November 8, 1999