

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-

NORMAN L. YELLON,

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on June 10 and 15, 1998 at the office of the Department of State located at 270 Broadway, New York, New York.

On June 10, 1998 the respondent was represented by David Harris, Esq. for the sole purpose of obtaining an adjournment because the respondent's regular attorney was actually engaged, which adjournment was granted. On June 15, 1998 the respondent was present and was represented by Ronald Jay Bekoff, Esq., Hession, Bekoff & Worth, 29 Roslyn Road, Mineola, New York 11501.

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

COMPLAINT

The complaint alleges that the respondent repeatedly notarized documents for filing in public offices through the use of a fraudulent notary public registration number and stamp.

APPLICATION FOR ADJOURNMENT

By mail and in person counsel for the respondent sought an adjournment on the grounds that the respondent is facing criminal prosecution arising out of the same transactions as underlie the complaint herein, and that although he wished to testify in his defense, to do so might jeopardize his defense in the criminal matter. The application for the adjournment was denied. *Oleshenko v NYS Liq. Auth.*, 21 NY2d 778, 288 NYS2d 474 (1968); *Langemyr v*

Campbell, 21 NY2d 796, 288 NYS2d 629 (1968); *Matter of Manigaulte*, 63 Misc2d 765, 313 NYS2d 322 (Supreme Court, Suffolk County, 1970).

FINDINGS OF FACT

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered on February 9, 1998 (State's Ex. 1).

2) Since June 2, 1997 the respondent has been a duly commissioned notary public. He was not so commissioned from at least January 1, 1993, the earliest date appearing in the Department of State's records, through June 1, 1997 (State's Ex. 1).

3) On April 30, 1993 the respondent notarized an affidavit of service of process, using thereon a stamp which indicated that he was a notary public qualified in Nassau County pursuant to a commission expiring on March 30, 1995. He also notarized such affidavits on August 17, 1993 (the full date of commission expiration does not appear on the certified copy of the affidavit placed in evidence), and on July 13, 1996 (the date of the commission expiration was not completed). All of the affidavits were subsequently filed in the office of the Clerk of the County of Suffolk (State's Ex. 2).

OPINION

Pursuant to Executive Law §135-a it is a misdemeanor for a person to hold himself out as entitled to act as a notary public or to assume or use the title of notary public without having first been so appointed. Through his actions in notarizing affidavits of service while not commissioned as a notary public the respondent violated that section.

Besides the violation of Executive Law §135-a, the acting as a notary public by administering oaths without being so commissioned is clearly an act of misconduct as contemplated by Executive Law §130. The fact that the misconduct occurred prior to the issuance of the respondent's commission does not insulate him from the imposition of sanctions. By acting without legal authority under the very statute pursuant to which he was subsequently commissioned the respondent demonstrated a disposition to conduct himself unlawfully and with complete disregard for the standards to which a notary is required to conform, *Division of Licensing Services v DeLessio*, 11 DOS 94, or, at the very least, if credence is given to his attorney's offer of proof (which of course is not evidence) that the respondent had previously been a commissioned notary public and had inadvertently failed to renew his commission, to regard his obligations with an unacceptably casual attitude.

CONCLUSIONS OF LAW

By notarizing affidavits of service at a time when he was not commissioned as a notary public the respondent violated Executive Law §135-a three times and engaged in acts of misconduct.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT Norman L. Yellon has violated Executive Law §135-a and engaged in acts of misconduct, and accordingly, pursuant to Executive Law §130, his commission as a notary public is revoked, effective immediately. The respondent is directed to 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: June 16, 1998