

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-

RICHARD J. HURLEY,

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on October 28, 1998 at the office of the Department of State located at 41 State Street, Albany, New York.

The respondent did not appear.

The complainant was represented by License Investigator III Richard Drew.

COMPLAINT

The complaint alleges that the respondent does not maintain a principal place of business within the State of New York in violation of 19 NYCRR 170.5.

FINDINGS OF FACT

1) On September 22, 1997 notice of hearing together with a copy of the complaint was sent to the respondent by both certified and regular first class mail addressed to the last business address appearing in the records of the Department of State (State's Ex. 1 and 2). Neither the return receipt nor either of the mailings was returned by the United States Postal Service.

2) At all times hereinafter mentioned the respondent was duly licensed as the qualifying officer of Richard J. Hurley Agency Inc., a licensed private investigator. That license will expire on June 23, 1999 (State's Ex. 3).

3) In an affidavit dated April 7, 1998 the respondent stated that he does not maintain a business address in the State of New York (State's Ex. 5).

OPINION

I- Pursuant to General Business Law (GBL) §79[2], notice of hearing in a proceeding in which the complainant seeks the revocation or suspension of a license as a private investigator must be served on the respondent at least fifteen days prior to the date set for the hearing. Such notice may be served by mailing same by registered mail to the last known business address of the respondent.<sup>1</sup> Therefore, inasmuch as there is evidence that notice of the place, time and purpose of the hearing was properly served, the holding of an ex parte quasi-judicial administrative hearing was permissible. *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- Pursuant to 19 NYCRR 170.5 a licensed private investigator is required to maintain a principal place of business in the State of New York. The respondent does not maintain such a place of business and, therefore, has violated that regulation.

#### CONCLUSIONS OF LAW

1) The holding of a ex parte hearing was proper.

2) By failing to maintain a principal place of business in the State of New York the respondent violated 19 NYCRR 170.5.

#### DETERMINATION

**WHEREFORE, IT IS HEREBY DETERMINED THAT** Richard J. Hurley has violated 19 NYCRR 170.5, and accordingly, pursuant to General Business Law §79, his license as a private investigator is revoked, effective immediately. The respondent is directed to immediately send his license and pocket 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: October 30, 1998

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<sup>1</sup> While the statute uses the term "registered mail," certified mail is also acceptable inasmuch as the only difference between the two is that registered mail is insured, while certified mail is not.