

STATE OF NEW YORK  
DEPARTMENT OF STATE  
OFFICE OF ADMINISTRATIVE HEARINGS  
-----X

In the Matter of the Complaint of

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

Complainant,

**DECISION**

-against-

**THERESA DEVOE,**

Respondent.  
-----X

The above noted matter came on for hearing before the undersigned, Roger Schneier, on May 30, 2018 at the office of the Department of State located at 123 William Street, New York, New York.

The respondent failed to appear.

The complainant was represented by David Mossberg, Esq.

**COMPLAINT**

The complaint alleges that the respondent real estate salesperson failed to provide evidence that prior to submitting her license application she completed the required qualifying education, and did not cooperate with the complainant's investigation of her application.

**FINDINGS OF FACT**

Notice of Hearing calendared for January 25, 2018, together with a copy of the Complaint was served by certified and regular mail addressed to the respondent at her last known residence address and posted on December 6, 2017. Neither the mail nor the return receipt was returned by the Postal Service. By fax dated January 24, 2018 the respondent requested an adjournment, and on or about February 7, 2018 a notice of adjournment to May 30, 2018 was sent to the respondent by regular mail addressed to her at her last known business address. The respondent ceased employment at that address on October 18, 2017 (State's Ex. 1 and 2).

**OPINION AND CONCLUSIONS OF LAW**

To obtain personal jurisdiction and bind the respondent to the agency decision the complainant must properly serve the respondent with notice of the hearing and a copy of the Complaint and afford her the opportunity to be heard. *See*, Siegel, New York Practice § 58 (4<sup>th</sup> ed. 2005). Notice of Hearing and a copy of the Complaint were served by certified and regular mail addressed to the respondent at her last known residence address. Receipt of the notice was demonstrated by the fact that the respondent subsequently contacted the tribunal and requested an adjournment. However, the notice of adjournment was not sent to the respondent's residence but, rather, to an office address at which she no longer worked, and there is no proof that it was delivered to her. I find, therefore, that it has not been established that the respondent was properly notified of the date of the adjourned hearing and, therefore, that the matter must be dismissed without prejudice.

**DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** the matter is dismissed without prejudice.

/s/  
Roger Schneier  
Administrative Law Judge

Dated: May 30, 2018