

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**

Complaint No.: C180031

-against-

**TYRHEEM ORLANDO GERMAN,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on July 24, 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 Penny Zhu, Esq.

**COMPLAINT**

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

**FINDINGS OF FACT**

1) Notice of Hearing together with a copy of the Complaint was served by certified and regular mail addressed to the respondent at his last known business address and posted on April 23, 2018. The certified mail was delivered on a date not appearing on the return receipt, and the regular mail was not returned (State's Ex. 1).

2) On February 17, 2016 the respondent was granted a license as a real estate salesperson. That license expired on February 16, 2018 (State's Ex. 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 him 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 his last known business address. However, there is no evidence that at the time of the mailing the respondent was still employed at that address, his license having expired two months earlier.

Service properly made in a manner reasonably calculated to provide notice of the time, date, place, manner and nature of the proceedings is sufficient whether or not the opposing party actually receives the notice, see *Persad v Division of Licensing Services*, 63 DOS APP 09 (2009); *Pinger v Division of Licensing Services*, 23 DOS APP 07 (2007). However, inasmuch as in this case the evidence establishes that service was not reasonably calculated to provide notice the complaint must be dismissed.

**DETERMINATION**

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

/s/  
Roger Schneier  
Administrative Law Judge

Dated: July 24, 2018