



**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS**

**IN THE MATTER OF
PETER JONATHAN CRESCI
State Bar of Texas Card No. 24005767**

§
§
§

CAUSE NO. 65262

ORDER DENYING MOTION FOR SUBSTITUTE SERVICE

On this day, the Board considered the Motion for Substitute Service filed by Petitioner, the Commission for Lawyer Discipline, in the above-captioned reciprocal discipline matter on August 18, 2022. The Board finds as follows:

1. Strict compliance with Rule 106(b) of the Texas Rules of Civil Procedure is necessary to authorize substitute service. *See* BODA INTERNAL PROCEDURAL RULE 1.02–.03; *see, e.g., Spanton v. Bellah*, 612 S.W.3d 314, 316–17 (Tex. 2020).
2. The attempted service of the Order to Show Cause and Petition for Reciprocal Discipline and the First Amended Order to Show Cause and First Amended Petition for Reciprocal Discipline, while appearing to reference the same location, contain different listings for the city.
3. Neither the affidavit of Rockrick Pelton of the Oneida County Sheriff’s Office nor the affidavit of Det. Mazzucola of the Hudson County Sheriff’s Office specifies whether the address where they attempted service was believed to be a residence or business address where Respondent, Peter Jonathan Cresci, was believed to be located. *See Shelton v. Comm’n for Lawyer Discipline*, 2006 WL 6242394 (June 9, 2006).

4. None of the service attempt affidavits state that the information contained therein was within the affiants' personal knowledge. *Id.*
5. The affidavit executed by Det. Mazzucola of the Hudson County Sheriff's Office is neither sworn nor notarized.
6. Information referenced in Petitioner's motion contained in the State Bar of Texas membership database is not attached in admissible form.
7. Petitioner has not attempted to serve Respondent at either of the addresses currently listed with the State Bar of Texas membership database.
8. Petitioner has not attempted to serve Respondent by certified mail, return receipt requested. *See* BODA INTERNAL PROCEDURAL RULE 1.06.

For the foregoing reasons, Petitioner's Motion for Substitute Service is **DENIED** without prejudice to refiling.

SIGNED this 31st day of August 2022.

A handwritten signature in blue ink, appearing to read "Kevin H.", is written over a horizontal line.

CHAIR PRESIDING