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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Francis Tulipano,
Assistant Zoning Officer (M0237U),
Teaneck

List Removal Appeal

CSC Docket No. 2017-1553

ISSUED: MAY 08 2017 (HS)

Francis Tulipano appeals the removal of his name from the eligible list for Assistant Zoning Officer (M0237U), Teaneck on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the open competitive examination for Assistant Zoning Officer (M0237U), which had a closing date of April 20, 2016. The resulting eligible list promulgated on July 14, 2016 and expires on July 13, 2019. The appellant's name was certified to the appointing authority on July 21, 2016. In disposing of the certification, the appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the certification notice.

In support of his appeal to the Civil Service Commission (Commission), the appellant submits a sworn, notarized statement indicating that he did not receive the certification notice.

In response, the appointing authority maintains that it did not receive a response to the certification notice from the appellant.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the

appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

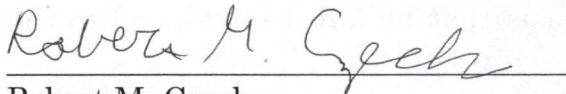
The appointing authority requested the removal of the appellant's name from the eligible list for Assistant Zoning Officer (M0237U) on the basis of his failure to respond to the July 21, 2016 certification. However, the appellant has submitted a sworn, notarized statement, attesting to the fact that he did not receive the certification notice. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his sworn, notarized statement. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate that his name be restored to the subject eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the eligible list for Assistant Zoning Officer (M0237U), Teaneck for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF MAY, 2017



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