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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Stephen Janetta,  
Family Service Specialist 1  
(PS3420K), Department of Children  
and Families

List Removal Appeal

CSC Docket No. 2017-1181

ISSUED: JUN 08 2017 (HS)

Stephen Janetta appeals the removal of his name from the eligible list for Family Service Specialist 1 (PS3420K), Department of Children and Families on the basis that he failed to respond to the certification notice.

The appellant, a non-veteran, took and passed the promotional examination for Family Service Specialist 1 (PS3420K), which had a closing date of October 22, 2012. The resulting eligible list promulgated on May 2, 2013 and expired on July 27, 2016. The appellant's name was certified to the appointing authority on June 9, 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.

On appeal to the Civil Service Commission, the appellant submits a sworn, notarized statement indicating that he did not receive the certification notice. He also requests that the appeal fee be refunded.

In response, the appointing authority indicates that it has no objection to returning the appellant's name to the subject eligible list as he submits a sworn, notarized statement indicating that he did not receive the certification notice.

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 Family Service Specialist 1 (PS3420K) on the basis of his failure to respond to the June 9, 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.

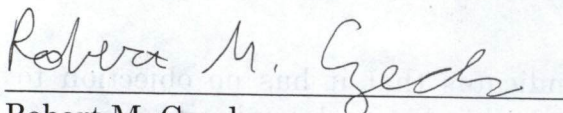
As to the appellant's request that the appeal fee be refunded, it is noted that this fee is for processing purposes only and shall not be refunded for any reason except when submitted in error for an exempt appeal. See *N.J.A.C.* 4A:2-1.8(f). As list removal appeals are not exempt from the fee, there is no basis for a refund. See *N.J.A.C.* 4A:2-1.8(a).

### ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Family Service Specialist 1 (PS3420K), Department of Children and Families be revived in order for the appellant to be considered for appointment at the time of the next certification 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 7<sup>TH</sup> DAY OF JUNE, 2017



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Chairperson

Civil Service Commission

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