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STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Howard Hayes,
Fire Officer 1 (PM1194S),
Jersey City

CSC Docket No. 2015-2580

Examination Appeal

ISSUED: MAY 08 2015

(RE)

Howard Hayes appeals the administration of the oral portion of the examination for Fire Officer 1 (PM1194S), Jersey City.

The oral portion of the first level fire supervisor examination was administered to the appellant on March 2, 2015. The oral portion of the Fire Officer 1 examination consisted of two scenarios: a fire scene simulation with questions designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to assess fire conditions and hazards in an evolving incident on the fireground (evolving); and a fire scene simulation designed to measure the knowledge of safe rescue tactics and procedures to safeguard citizens, supervision of fire fighters and the ability to plan strategies and tactics based upon a building's structure and condition (arriving). For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond to three questions. For the arriving scenario, a five minute preparation period was given and candidates had 10 minutes to respond to two questions.

In a letter postmarked March 13, 2015, the appellant appealed the testing conditions. Specifically, he states that shortly into his presentation of the evolving scenario, a device started beeping and the proctor moved about the room to find it. She silenced it, apologized, and told him to continue. He states that he composed himself but that it was not fair that his presentation was impacted. He does not request a remedy.

CONCLUSION

At the outset, *N.J.A.C. 4A:4-6.4(c)*, states that a candidate wishing to challenge the manner in which the examination was administered may file an appeal in writing at the examination site on the day of the examination. The Appellate Division of Superior Court has noted that "the obvious intent of this 'same-day' appeal process is to immediately identify, address and remedy any deficiencies in the manner in which the competitive examination is being administered." See *In the Matter of Kimberlee L. Abate, et al.*, Docket No. A-4760-01T3 (App. Div. August 18, 2003). The appellant filed an appeal of this issue seven days after he took the examination. As such, an appeal of this issue, *i.e.*, test administration, is untimely.

Nevertheless, a review of the merits of this appeal shows that appellant is not entitled to any further relief. The Commission makes every effort to insure that test administration is as uniform as possible for all candidates. Nevertheless, incidents occur which are unexpected. In this case, one minute into the appellant's presentation for the evolving scenario, a device started beeping. The appellant continued with his response, stating that he would assign a safety officer, a water officer, and an accountability officer, while the beeping was going on. The appellant paused in his presentation and said, "I'm sorry that..." The monitor said, "I'm sorry." The appellant looked down at his notes and said, "That's okay." He then continued with his response, stating that he would assign an accountability officer for personnel accountability roll calls. This pause and interaction occurred in ten seconds.

The appellant took almost ten minutes to complete his response, and he responded to all three questions. When he said, "That concludes my answer," the monitor said, "You can take a few more seconds." The appellant responded, "Yeah, that's okay, I only have a couple more, right?" The monitor said, "Okay, this concludes the fireground evolving scenario. I meant because of the interruption." The appellant stated, "Oh, I could have actually add something then?" The monitor stated, "Go ahead." The appellant then flipped up his notes, saying "Yeah, I'd like to add something on the, yeah." The monitor said, "I give you about twenty more seconds." The appellant said, "Twenty seconds? OK, I'll clear mine," and he reached for his timer. He looked up and said, "Okay. Alright. So I'd like to add something to the first scenario that I will have... Where was that? Ah, you know, I'm just gonna leave it at that. I was rolling before but ... Okay. That's okay." They turned off their timers and the monitor apologized again and said that the timer was malfunctioning earlier and she took them out of the room.

Basically, an unexpected occurrence happened during the appellant's presentation, that of a malfunctioning timer going off. The appellant spoke while the timer was beeping, but paused and had an interaction with the monitor. At the

end of the presentation, a remedy was immediately provided by the monitor. That is, she gave him extra time at the end of his presentation to continue. As the problem was immediately addressed by the monitor, there is no further remedy that is warranted in this situation.

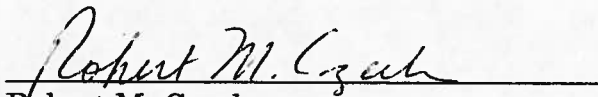
A thorough review of the record indicates that this appeal is untimely, the administration of the subject examination was proper and consistent with Civil Service Commission regulations, and that appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

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 6th DAY OF MAY, 2015



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