

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D21024  
C/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - October 17, 2008

WILLIAM F. MASTRO, J.P.  
REINALDO E. RIVERA  
JOSEPH COVELLO  
JOHN M. LEVENTHAL, JJ.

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2007-03746

DECISION & ORDER

Board of Trustees of Maha Lakshmi Mandir,  
Inc., etc., appellant, v Swasti Dubey, respondent.

(Index No. 5485/06)

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Storzer & Greene, PLLC, New York, N.Y. (Robert L. Greene of counsel), for  
appellant.

Sweeney, Gallo, Reich & Bolz, LLP, Rego Park, N.Y. (Michael H. Reich of counsel),  
for respondent.

In an action, inter alia, for injunctive relief, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Queens County (Weiss, J.), entered March 26, 2007, as denied that branch of its motion which was to reject that portion of a Referee's report (Darche, R.), dated October 19, 2006, as, after a hearing, recommended that the court certify the candidates listed on the slate proposed by the defendant as the elected officers, committee members, and trustees of Maha Lakshmi Mandir, Inc., and confirmed that portion of the Referee's report.

ORDERED that the order is affirmed insofar as appealed from, with costs.

“Where a referee's findings are supported by the record, the court should confirm the referee's report and adopt the recommendation made therein” (*Shen v Shen*, 21 AD3d 1078, 1079; *see Slater v Links at N. Hills*, 262 AD2d 299). Here, the record supports the referee's findings, including the determination that certain records offered by the plaintiff were not admissible under the business records exception to the hearsay rule (*see CPLR 4518[a]*; *Matter of Leon RR*, 48 NY2d 117,

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122; *Johnson v Lutz*, 253 NY 124; *Stock v Otis El. Co.*, 52 AD3d 816; *Whitfield v City of New York*, 48 AD3d 798; *Hochhauser v Electric Ins. Co.*, 46 AD3d 174). Accordingly, the Supreme Court properly confirmed that portion of the Referee's report that recommended that the court certify the candidates listed on the slate proposed by the defendant as the elected officers, committee members, and trustees of Maha Lakshmi Mandir, Inc.

MASTRO, J.P., RIVERA, COVELLO and LEVENTHAL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court