

18373

CERTIFICATE

FILED UNDER THE PROVISIONS OF CHAP. 1, TITLE 6
GENERAL LAWS 1956 of R. I.
AS AMENDED BY CHAPTER 3934 P/L 1957

(Registration fee is \$2.00^{5.00} and must accompany this certificate)

This is to CERTIFY that I, the undersigned

<u>Full Name</u>	<u>P. O. Address</u>
Donald Henson	10 Bond Road East Providence, Rhode Island

am the General Partner; and we, the undersigned

<u>Full Name</u>	<u>P. O. Address</u>
Stephen Feinstein	215 Waterman Street CAMP SANDOZ II Providence, Rhode Island CASCO, MAINE
Dr. Mayer A. Levitt	14 Upton Avenue Providence, Rhode Island
Irwin Sparr	66 Faunce Drive Providence, Rhode Island

are the Limited Partners of the business conducted under the name

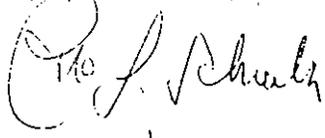
THE TENNIS CENTER, a Rhode Island limited partnership

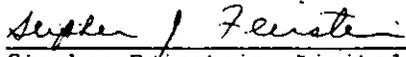
at Red Oak Drive, Johnston, Rhode Island

Signatures of ALL owners MUST be subscribed in space opposite

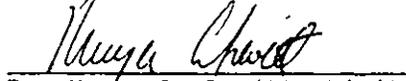


Donald Henson, General Partner

Witness to all

|



Stephen Feinstein, Limited Partner

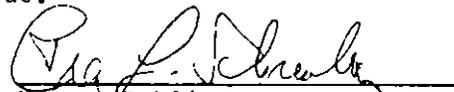


Dr. Mayer A. Levitt, Limited Partner



Irwin Sparr, Limited Partner

In Providence, County of Providence this 26th day of August, 1976, personally appeared before me the above subscribed Donald Henson, Stephen Feinstein, Dr. Mayer A. Levitt and Irwin Sparr and made oath that the above statements signed by them are true.



Notary Public

SEP 29 76 10:10 AM '76

AF/Program
SEP 29 1976

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DONALD HENSON
STEPHEN FEINSTEIN
DR. MAYER A. LEVITT
AND
IRWIN SPARR

LIMITED PARTNERSHIP

The Tennis Center

THE TENNIS CENTER
AGREEMENT OF LIMITED PARTNERSHIP
(AS AMENDED)

AGREEMENT OF LIMITED PARTNERSHIP, made as of the 26th day of August, 1976, by and among DONALD HENSON, residing at 10 Bond Road, East Providence, Rhode Island, as the General Partner, and STEPHEN FEINSTEIN of ^{CAMP SAHOSSET II, CASCO, MAINE} ~~215 Waterman Street, Providence, Rhode Island~~; DONALD HENSON of 10 Bond Road, East Providence, Rhode Island; DR. MAYER A. LEVITT of 14 Upton Avenue, Providence, Rhode Island; and IRWIN SPARR of 66 Faunce Drive, Providence, Rhode Island; as Limited Partners (the General Partner and the Limited Partners being sometimes hereinafter referred to collectively as the "partners");

W I T N E S S E T H :

1. Formation. The parties hereto do hereby form a limited partnership pursuant to the provisions of Chapter 13 of Title 7 of the General Laws of Rhode Island.
2. Name. The business of the partnership shall be conducted under the firm name of THE TENNIS CENTER.
3. Term. The partnership shall commence on the date of the filing for record of the Certificate of Limited Partnership in the office of the Secretary of State of the State of Rhode Island, and shall continue until terminated as hereinafter provided.
4. Purpose. The purpose of the Limited Partnership is to acquire for investment fee title to that certain parcel of real property with the improvements thereon, located at Red Oak

Drive, Johnston, Rhode Island, and to hold, own, improve, operate, manage, service, lease, mortgage and encumber the same and otherwise deal with the same as owner thereof, and to acquire additional real and personal property to the extent necessary and appropriate to carry out the foregoing purposes.

5. Principal Office. The principal place of business of the partnership shall be at Red Oak Drive, Johnston, Rhode Island, although other, additional places of business may be selected from time to time by the General Partner on notice to the Limited Partners.

6. Capital Contributions of the General Partner and Limited Partners.

6.1 The General Partner will contribute to the capital of the partnership for purposes of this agreement the sum of \$15,000.00.

The aforementioned contribution to the capital of the partnership shall be in addition to his acting as General Contractor and General Manager of the planned business.

6.2 The Limited Partners will contribute the following:

Stephen Feinstein	\$25,000.00
Dr. Mayer A. Levitt	\$50,000.00
Irwin Sparr	\$50,000.00

The liability of each Limited Partner is limited to his invested capital as aforementioned.

7. Additional Capital Contributions or Loans by the Partners.

7.1 The Limited Partners have not agreed to nor shall be required to make any additional contributions to the capital of the partnership.

7.2 If any General Partner or Limited Partner shall, upon consent of the General Partner, make loans or lend money to the partnership or advance monies on its behalf, the amount of any such loan or advance shall not be an increase in his capital contribution or entitle him to any increase in his share of the contributions of this limited partnership nor subject him to any greater proportion of the losses which it may sustain, but the amount of any such loan or advance shall be a debt due from this limited partnership to such partner, repayable upon such terms and conditions and bearing interest at such rates as shall be agreed upon by the advancing partner and the General Partner.

8. Income and Losses.

8.1 For the purposes of this agreement, the following terms shall have the respective meanings set forth below:

8.1.1 "Net income" and "net losses" shall mean the income or losses of the partnership from the operation and management of the partnership's property after all operating expenses incurred in connection with the partnership business have been paid or provided for, but before making any allowance for amortization or depreciation of the cost of any property of the partnership.

8.1.2 The term "capital account" when used in respect to any partner (General or Limited), shall mean the initial capital contribution of such partner, increased by (i) the amount of all additional contributions, if any, to the capital of the partnership made by such partner, (ii) the amount of all net income credited to the account of such partner

pursuant to Section 8.2, and (iii) the amount of any gain credited to the account of such partner pursuant to Article 12 or Section 20.3 hereof, and decreased by (a) the amount of all net losses charged to the account of such partner pursuant to Section 8.3, (b) the amount of all available net income distributed to such partner pursuant to Article 11, (c) the amount of all depreciation and amortization charged to the account of such partner pursuant to Articles 9 and 10, (d) the amount of any proceeds distributed to such partner pursuant to Article 12, and (e) the amount of any loss charged to the account of such partner pursuant to Section 20.3.

8.2 All net income of the partnership shall be credited to the capital accounts of the partners in the proportions set opposite their respective names below.

<u>General Partner</u>	<u>Percentage</u>
Donald Henson	3/28
<u>Limited Partners</u>	
Stephen Feinstein	5/28
Dr. Mayer A. Levitt	10/28
Irwin Sparr	10/28

8.3 Net losses suffered by the partnership shall be debited to the accounts of, and borne by, the partners in the proportions as set forth in Section 8.2 hereof.

9. Amortization. Amortization of all partnership property and assets shall be charged to the capital accounts of the partners in the proportions as set forth in Section 8.2 hereof.

10. Contribution of Appreciated Property. It is recognized that the adjusted basis for income tax purposes of the property contributed to this partnership by the General Partner less the principal amount of any mortgage on the aforesaid property

(hereinafter referred to as "the basis of the General Partner") may be less than an agreed value thereof. The partners desire (insofar as permitted by Section 704 (c) (2) of the Internal Revenue Code and tax laws of the State of Rhode Island) to make provision for the allocation of (i) depreciation on the property described in Schedule A (hereinafter referred to as "the property"), and (ii) gain or loss on the sale of the property, in such a manner so that the burden of the diminished basis of the General Partner shall be borne by the General Partner, and to the extent permitted, the Limited Partners are placed in the same position as they would have been if the basis of the General Partner was equal to the agreed value of such property.

Except as hereinafter otherwise specifically provided, it is agreed that for the purpose of partnership accounting and for the purpose also of tax accounting, gain or loss with respect to contributed property shall be shared in the same percentages as the partners share net income as provided in Section 8.2 above.

but less than the adjusted book value, the General Partner shall report as his sole gain the difference between the adjusted tax basis of the partnership and such sale price; and (c) if such sale or disposition is made for an amount less than the adjusted tax basis of the partnership, the allowable tax loss, to the extent of the difference between the adjusted tax basis and the adjusted book value, shall first be allocated to the Limited Partners, to the extent of their book loss.

For the purpose only of adjusting income tax obligations among the partners, depreciation of all partnership property and assets shall be allocated in the proportion set forth below:

<u>General Partner</u>	<u>Percentage</u>
Donald Henson	3/28
<u>Limited Partners</u>	
Stephen Feinstein	5/28
Dr. Mayer A. Levitt	10/28
Irwin Sparr	10/28

11. Distribution of Available Net Income. As used in this agreement, the term "available net income" for any year shall mean the excess, if any, of (a) the net income of the partnership for such year, over (b) all amounts paid or accrued in such year on account of the amortization of any debts of the partnership. The partnership's available net income shall be distributed to the partners in the proportions as specified in Section 8.2 hereof not less often than monthly.

12. Proceeds of Mortgage Refinancing, Partial Condemnation, Etc. Any net excess insurance proceeds, and any net proceeds of mortgage refinancing, partial condemnation, sales of ease-

ments, rights of way or similar interests in the property of the partnership, and of sales of portions of the partnership property or interests therein, and other similar items which in accordance with generally accepted accounting practice are attributable to capital, shall, to the extent of any gain realized or loss incurred by reason thereof, be credited or charged, as the case may be, to the capital accounts of the partners in the proportions as specified in Section 8.2 hereof, and to the extent that any such net proceeds are determined by the General Partner to be available for distribution, shall be distributed to the partners in such proportions.

13. Books and Records.

13.1 At all times during the continuance of the partnership, the General Partner shall keep or cause to be kept full and true books of account, in which shall be entered fully and accurately each transaction of the partnership.

13.2 All of said books of account, together with an executed copy of the Certificate of Limited Partnership and of any amendments thereto, shall at all times be maintained at the principal office of the partnership and shall be open to the inspection and examination of the partners or their representatives during reasonable business hours. Such books shall be kept on the basis of an accounting period consisting of the calendar year.

13.3 The General Partner agrees to send the Limited Partners (a) financial reports of the partnership, including a balance sheet and profit and loss statements, within 30 days after the close of each quarterly period of each calendar year,

and (b) annual financial statements certified by independent certified public accountants indicating the share of each partner of the net income, net loss, depreciation and other relevant items of the partnership for such calendar year for Federal Income Tax purposes, within 60 days after the close of such calendar year.

14. Bank Accounts.

14.1 All funds of the partnership are to be deposited in the partnership name in such bank account or accounts as shall be designated by the General Partner.

14.2 Withdrawals from any such bank account or accounts shall be made only in the regular course of the partnership business and shall be made upon such signature or signatures as the General Partner may designate.

15. Management and Powers.

15.1 The management and control of the partnership business shall be exercised, and all decisions to be made by the partnership shall in all cases be made by the General Partner. No Limited Partner may exercise any voice or control in the management of the partnership business or bind the partnership in any way whatsoever.

15.2 The General Partner shall possess and may enjoy and exercise all of the rights and powers of General Partners under the laws of the State of Rhode Island, including but not limited to the right and power to sell, lease, finance and operate the partnership real property; provided however, no sale of the partnership real property shall be effected unless the sale is first approved in writing by the written consent of the partners, both General and Limited, owning at least

seventy-five per cent (75%) of the interest of this partnership. With respect to financing, the General Partner shall have the right to mortgage, pledge, convey in trust or otherwise hypothecate the said real property and any other assets owned by the limited partnership to secure loans to the partnership, without procuring any consent of the Limited Partners, including for this purpose sale and leaseback of the partnership property; provided, however, that at no time shall aggregate indebtedness of the partnership (not including mortgage indebtedness) exceed \$10,000 without the written consent of the partners, both General and Limited, owning at least seventy-five per cent (75%) of the interest of this partnership. Further, the General Partner shall have the right to procure secondary financing at the then best available terms and rates for the purposes of renovations, alterations and repairs of the improvements upon the said real property, without procuring the consent of the Limited Partners.

15.3 The General Partner shall be responsible for all management decisions.

16. Rights and Duties of Partners.

16.1 The General Partner agrees to devote to the partnership such of his time and to render such services as may be required for the efficient conduct of the business of the partnership.

16.2 It is expressly understood that the General Partner may engage in any other business investment excepting tennis-oriented businesses, including the ownership of or investment in real estate and the operation and management of real estate, and neither the partnership nor any of the partners thereof shall have any rights in and to said businesses,

professions or investments, or the income or profits derived therefrom.

16.3 The General Partner may employ, on behalf of the partnership, such persons, firms or corporations as he in his judgment, shall deem advisable to the proper operation and management of the business of the partnership, including, without limitation, such managing agents, accountants, attorneys, architects, engineers, appraisers and experts, on such terms and for such compensation, as the General Partner in his discretion may deem proper.

16.4 The General Partner shall be compensated pursuant to an agreement of the parties of a unanimous nature for performing administrative and property management services as long as the General Partner shall perform such services.

16.5 The General Partner shall not be liable, responsible or accountable in damages or otherwise to any of the partners for any acts performed by him within the scope of the authority conferred on him by this Agreement, or for his failure or refusal to perform any acts except those expressly required by the terms of this Agreement, so long as he acts in good faith and not with willful misconduct or negligence of his duties hereunder.

16.6 Except as otherwise expressly provided in this Agreement, no partner shall have the right to demand the return of his contribution to the capital of the partnership, or any part thereof, until the partnership has been dissolved and terminated, and no partner shall have the right to demand or receive property other than cash in return for his contribution. Each partner expressly waives the right to bring an

action in any court for partition of real property owned by the partnership.

17. Death, Bankruptcy or Retirement of the General Partner.

17.1 The General Partner may elect to retire from the partnership upon giving at least 90 days' written notice of his intention so to do to each of the other partners. Such notice shall be effective to cause the dissolution of the partnership on the date fixed therein for the retirement of such General Partner.

17.2 In the event of the death or bankruptcy of the General Partner, the partnership shall be dissolved on the 90th day after the occurrence of such event.

17.3 Notwithstanding sections 17.1 and 17.2 hereof, the business of the partnership may be continued on the terms and conditions of this agreement after the retirement, death or bankruptcy of the General Partner if, within 90 days after the date of such death or bankruptcy, or prior to the date of such retirement, the Limited Partners unanimously agree to accept a successor General Partner to continue the business of the partnership.

17.4 If the business of the partnership shall be continued after the retirement, death or bankruptcy of the General Partner, the status of the interest of the retiring General Partner or of the estate or legal representative of the deceased or bankrupt General Partner shall be changed to that of a Limited Partner, subject to all of the terms and conditions of this agreement.

18. Assignability of Partnership Interests.

18.1 A Limited Partner's interest may be assigned in whole or in part, but no assignee of a Limited Partner's

interest shall have the right to become a substituted Limited Partner in place of his assignor unless:

- (a) the assignor shall designate in writing to the General Partner his intention that his assignee is to become a substituted Limited Partner;
- (b) all remaining Partners consent in writing to the admission of the assignee as a substituted Limited Partner;
- (c) the assignee shall execute such instruments as the General Partner deems necessary or desirable to effect his admission as a substituted Limited Partner and to evidence his acceptance of the terms of this agreement; and
- (d) the assignee shall pay all reasonable expenses in connection with his admission as a substituted Limited Partner.

18.2 An assignee who does not become a substituted Limited Partner shall succeed only to the rights of his assignor to receive distributions from the Partnership as provided in this agreement.

18.3 In the event that in accordance with the provisions of this agreement the interest of a Limited Partner is assigned or transferred to two or more persons, trusts or charities, or a portion of the interest of a Limited Partner is assigned to one or more persons, trusts or charities, in computing (a) the amount of net income, net losses, gain or loss on sale of partnership property, depreciation and any

other items to be credited or charged to the assignee or assignees, and (b) the amount of available net income, distributions upon liquidation of the partnership and other items to be distributed to the assignee or assignees, such computation shall be made as if there continued to be only the original Limited Partners, and the amount so arrived at in respect of the assignor Limited Partner shall then be divided between or among such Limited Partners and/or all the assignees of such Limited Partners in proportion to the percentage of the interest of such Limited Partners held by each.

19. Dissolution of the Partnership.

19.1 The partnership shall be terminated and dissolved upon the happening of any of the following events:

- (a) pursuant to Section 17, the death, bankruptcy or retirement of a General Partner if no General Partner remains;
- (b) the distribution of substantially all, or the sale or abandonment of substantially all of the business assets and properties of the partnership; or
- (c) the occurrence of any event which under the laws of the State of Rhode Island, causes the dissolution or termination of a limited partnership.

19.2 Upon any such voluntary dissolution, or upon any other dissolution of the partnership in accordance with the provisions of this agreement, the partnership shall immediately commence to wind up its affairs and shall then be liquidated as provided in Article 20 of this agreement.

20. Gain, Loss and Distribution on Dissolution. Upon any dissolution or termination of the partnership:

20.1 The General Partner shall prepare or cause to be prepared a statement, certified by independent certified public accountants, setting forth the assets and liabilities of the partnership as of the date of dissolution, and such statement shall be furnished to all the partners.

20.2 The assets of the partnership shall be liquidated as promptly as possible, but in an orderly and business-like manner so as not to involve undue sacrifice.

20.3 Any gain realized, or loss incurred, by the partnership upon the sale of its assets, shall be credited or charged to the partners in the proportions as specified in Section 8.2 hereof.

20.4 The proceeds of any sale and all other assets of the partnership shall be applied and distributed as follows, in the following order of priority:

20.4.1 To the payment of the debts and liabilities of the partnership and the expenses of liquidation.

20.4.2 To the setting up of any reserves which are deemed necessary for contingent or unforeseen liabilities of the partnership, pursuant to the request of all partners owning at least seventy-five per cent (75%) of the interest of this partnership.

20.4.3 Any surplus shall be distributed to all partners as set forth in the Uniform Limited Partnership Act of the State of Rhode Island based upon the capital accounts of the partners. If it becomes absolutely necessary to make a distribution of partnership property in kind, due to the

economic impracticability of liquidating the assets of the partnership, such property shall be transferred and conveyed to the General and Limited Partners so as to vest in each of them as a tenant-in-common an undivided interest in the whole of said property equal to his interest had there been a distribution of net cash proceeds in accordance with Section 20.4.

21. Further Assurances. Each party to this agreement agrees to execute, acknowledge, deliver, file, record and publish such further certificates, amendments of certificates, instruments and documents, and to do all such further acts and things, as may be required by law, or as may, in the opinion of the General Partner, be necessary or advisable to carry out the intents and purposes of this agreement.

22. Notices. Unless otherwise specified in this agreement, all notices, demands, requests or other communications which any of the parties to this agreement may desire or be required to give hereunder (hereinafter referred to collectively as "Notices") shall be in writing and shall be given by mailing the same by first-class mail, postage prepaid, addressed as follows:

22.1 If to the partnership, c/o Donald Henson, 10 Bond Road, East Providence, Rhode Island, or at such other address as may be designated by the partnership by notice to all parties given pursuant to the terms of this Article 22.

22.2 If to the General Partner, at the same address as designated above, or at such other address as may be designated by the General Partner by notice to the Limited Partners given pursuant to the terms of this Article 22.

22.3 If to the Limited Partners, pursuant to Page 1 of this agreement, or at such other address as may be designated by such Limited Partner by notice to the partnership given pursuant to the terms of this Article 22. Notices given in compliance with the provisions of this Article 22 shall be deemed given when placed in the mails.

23. Rhode Island Law. This agreement is made in the State of Rhode Island pursuant to the provisions of the laws of such State affecting partnerships, and shall be construed accordingly.

24. Specific (Not General) Power of Attorney. The Limited Partners hereby constitute and appoint the General Partner their true and lawful attorney, and empower and authorize such attorney, in the name, place and stead of such Limited Partners, to make, execute, sign, acknowledge and file in such place or places as may be required by law a Certificate of Limited Partnership and any amendments thereto, and any other certificates or instruments which by law may be required to be made and filed, and to include therein all information required by law, hereby ratifying and confirming all action which may be taken by said attorney pursuant to this Article.

25. Captions. All section titles or captions contained in this agreement and the table of contents, if any, are for convenience only and shall not be deemed a part of this agreement.

26. Variations in Pronouns. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person or persons or entity may require.

27. Counterparts. This agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

28. Successors and Assigns. This agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, successors and assigns, and shall inure to the benefit of the parties hereto, and except as otherwise provided herein, their respective executors, administrators, legal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

Witness to all:
Paul Schreiber

THE TENNIS CENTER:

GENERAL PARTNER

[Signature] (seal)

LIMITED PARTNERS

[Signature] (seal)

[Signature] (seal)

[Signature] (seal)

VI. The General Partner will contribute \$25,000.00; three Limited Partners will contribute a total of \$125,000.00. The partnership will then purchase land in Johnston, Rhode Island, and manage and operate a business on that site.

VII. The Limited Partners have not agreed to nor shall be required to make any additional contributions to the capital of the partnership.

VIII. The contribution of the Limited Partners shall be returned, to the extent that funds are available for such purpose, after payment of all debts of the partnership and after the setting up of any reserves which the General Partner deems necessary for any contingent or unforeseen liabilities of the partnership, upon the termination and liquidation of the partnership. The Limited Partners shall also be entitled to receive a pro rata share of any net excess insurance proceeds of mortgage refinancing, partial or complete condemnation, sales of easements, rights of way or similar interests in the property of the partnership or interests therein, and other similar facets of the business which, in accordance with generally accepted accounting practices, are attributable to capital, which are deemed available by the General Partner for distribution.

IX. The pro rata share of the net profits or the other compensation by way of income which the Limited Partners shall receive by reason of their contribution is a percent of such net profits and other compensation as determined, from time to time, by said Limited Partners.

X. No assignee of a Limited Partner shall become or have the right to become a substituted Limited Partner in the place of his assignor except with the written consent of all of his remaining Limited Partners. The Limited Partners retain the right to agree otherwise.

XI. The General Partner shall not have the right to admit additional Limited Partners.

XII. No Limited Partner shall have the right to priority over other Limited Partners as to contributions or as to compensation by way of income unless the Limited Partners and the General Partner so agree.

XIII. Upon the retirement, death or bankruptcy of the General Partner, the business of the partnership may be continued on the terms and conditions of the Agreement of the parties, if, within ninety days after the date of such retirement, death or bankruptcy, or otherwise if so determined by the partners and properly indicated, or prior to the date of such retirement, the Limited Partners unanimously agree to accept a successor General Partner. This clause represents the understanding of the parties to the effect that the partnership will continue beyond the loss of the General Partner if the Limited Partners desire that it do so.

XIV. No Limited Partner shall have any right to demand or receive property other than cash in return for his contribution.

ATTEST: Ch. P. Schuch GENERAL PARTNER
[Signature]

ATTEST: Ch. P. Schuch LIMITED PARTNERS
[Signature]

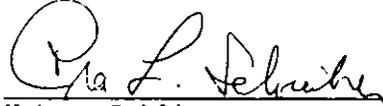
ATTEST: Ch. P. Schuch
[Signature]

ATTEST: Ch. P. Schuch
[Signature]

STATE OF RHODE ISLAND

COUNTY OF PROVIDENCE

In Providence, in said County and State, on this 26th day of August, 1976, before me personally appeared DONALD HENSON, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed.



Notary Public

STATE OF RHODE ISLAND

COUNTY OF PROVIDENCE

In Providence, in said County and State, on this 26th day of August, 1976, before me personally appeared STEPHEN FEINSTEIN, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed.



Notary Public

STATE OF RHODE ISLAND

COUNTY OF PROVIDENCE

In Providence, in said County and State, on this 26th day of August, 1976, before me personally appeared DR. MAYER A. LEVITT, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed.

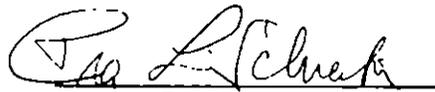


Notary Public

STATE OF RHODE ISLAND

COUNTY OF PROVIDENCE

In Providence, in said County and State, on this 26th day of August, 1976, before me personally appeared IRWIN SPARR, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed.



Notary Public