



STATE OF NEW JERSEY

In the Matter of Harry Tisch,
Building Management Services
Specialist 2 (S0902S), Statewide
Affairs

FINAL ADMINISTRATIVE
ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-3267

List Removal Appeal

ISSUED: **OCT 21 2016** (SLK)

Harry Tisch, represented by Steven W. Griegel, Esq., appeals the the removal of his name from the eligible list for Building Management Services Specialist 2 (S0902S), Statewide, on the basis of falsification of his application.

By way of background, certification OS150835 was issued to the Department of Military and Veterans Affairs (DMAVA) on November 20, 2015. The appellant, a disabled veteran, was in the first position. In disposing of the certification, the appointing authority appointed the non-veteran eligible in the second position and requested the removal of the appellant's name, contending that he falsified his employment application. Specifically, the appointing authority asserted that the appellant submitted an employment application and resume on January 5, 2016 that did not include a position he had left with the Department of the Treasury (Treasury) for not completing his working test period. Subsequently, he sent the appointing authority a copy of additional references which were different than the ones listed on his application and demanded that they be contacted because he knew he had to be offered the position based on his veterans status. Further, on January 25, 2016, the appellant sent an email to the appointing authority requesting that it advise him of a specific start date because his current employer, the Department of Community Affairs (DCA), wanted him to start another project and he did not want to begin a new project if he was going to leave his job for a position. The appointing authority

also noted that the appellant's working test period for his position with the DCA was extended on January 25, 2016 for two months. Thereafter, on January 26, 2016, the appellant submitted a sheet with human resources contacts for various State agencies and demanded that the appointing authority contact these individuals, who were not primary human resources contacts. Additionally, the appointing authority found that the appellant had a resume on the website Indeed.com which had different information than the resume he supplied the appointing authority.

On appeal, the appellant denies that he ever stated to the appointing authority that he "knows he has to be offered the position." He states that he provided five references on his January 5, 2016 employment application which included names, town of residence, and accurate phone numbers. Thereafter, on January 9, 2016, he provided the full address for two of the references which had not been provided on the application. He also states that he inadvertently used the wrong last name for one of his references, which he corrected. Therefore, he argues that he did not falsify his application, but simply provided more detailed information and that all of his references could have been contacted based on the information provided on his original application. The appellant contends that the reason he let the appointing authority know that DCA wanted him to start another project was because he was trying to be courteous to DCA by not starting a new project if he could not finish it and not because he was being "overly-aggressive" in the employment process. With respect to his not putting his 1.5 months of employment with Treasury on his application and resume, he acknowledges that this was an oversight on his part. However, he highlights that, on January 9, 2016, he advised the appointing authority regarding his employment with Treasury and maintains that he did so without prompting and therefore he was not "caught" falsifying his application. He supplies documentation proving that he worked for the Housing and Mortgage Finance Agency (HMFA) and that it is incorrect that his position with Treasury ended due to his failure to complete his working test period. Instead, he supplies documentation that states he resigned from his position with Treasury.

Although provided the opportunity, the appointing authority did not submit any additional information or argument for the Commission to review.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an individual from an eligible list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

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 or her name from an eligible list was in error.

In the instant matter, the appointing authority presented a valid basis to remove the appellant's name from the subject list. A review of the appellant's employment application indicates that the appellant represented that he worked for DCA from June 2015 to the present and for HMFA from March 2015 to June 2015. The resume that he submitted with his application indicated that he worked for DCA from September 2015 to the present and for HMFA from March 2015 to September 2015. He did not list on either his application or resume that he previously worked for Treasury. However, agency personnel records indicate that he worked for Treasury from March 23, 2015 until May 15, 2015, and he did not complete his working test period, and then started working for DCA on September 21, 2015. Agency personnel records would not reflect his service with the HMFA as the employees of that entity are not subject to the provisions of Title 11A.

The appellant claims that he was not "caught" in a lie and simply updated his employment information, which including his experience at Treasury, after he realized that he inadvertently omitted it. However, the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. See *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003). Clearly, the appellant's position with Treasury, where he resigned prior to the completion of his working test period, is material to the subject position. It is also noted that the appellant's resume that was posted on Indeed.com and printed by the appointing authority on January 25, 2016, also represents that he worked for HMFA from March 2015 to September 2015 and DCA from September 2015 to the present and does not mention his employment with Treasury. Further, according to the appointing authority, the appellant submitted the above referenced updated employment sheet on January 25, 2016, well after he filled out the required application for the appointing authority dated January 5, 2016.

Regardless, an applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991). In this case, it is difficult to believe that the appellant simply forgot to put his experience with Treasury on his application and resume and mistakenly put the wrong dates regarding his experience with HMFA and DCA on his application and the wrong dates regarding his experience with HMFA on his resume when these positions were held within one year of submitting his application and resume with the appointing authority. Moreover, as stated above, even if there was not any intent on the appellant's part to deceive the appointing authority, he is responsible for the accuracy of his application. Accordingly, the

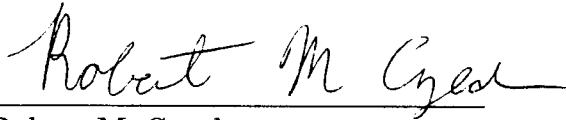
appellant has not met his burden of proof in this matter that he did not falsify his application.

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 19th DAY OF OCTOBER, 2016



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