



**STATE OF NEW JERSEY**

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

In the Matter of Mario Pereira,  
Police Officer (S9999R), Hoboken

CSC Docket No. 2016-4411

List Removal Appeal

**ISSUED: DEC 14 2016 (SLK)**

Mario Pereira, represented by Thomas J. Cammarata, Esq., appeals the attached decision of the Division of Agency Services upholding the removal of his name from the Police Officer (S9999R), Hoboken, eligible list on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Police Officer (S9999R), achieved a passing score, and was ranked on the subsequent eligible list. In disposing of the certification, the appointing authority requested the removal of the appellant's name from the eligible list on the basis of an unsatisfactory background. Specifically, the appellant was terminated from the Pepsi Bottling Company (Pepsi) for falsifying a timesheet. Additionally, he was cited on three occasions for speeding between 1998 and 2002 and for making an unsafe lane change in 2001. Moreover, the appellant pled guilty to unsafe operation of a vehicle in April 2008, unsafe lane change, failure to report an accident, and driving under the influence (D.U.I.) in November 2010, and a failure to possess a driver's insurance card in January 2012. His driver's abstract indicates that he was involved in five reported accidents between 2004 and 2010. The appointing authority noted that his responses to the motor vehicle history section of the application did not match his driver's abstract. The appellant appealed the matter to the Division of Agency Services, which upheld the removal of his name from the list.

On appeal, the appellant acknowledges that he pled guilty and had his driver's license suspended due to a November 2010 D.U.I. charge. He represents that his only other suspension occurred in 2012 due to his failure to pay for parking offenses and explains that his financial condition prevented him from timely paying. The appellant indicates that his last moving violation occurred over five years ago in 2010. He highlights that judges have been convicted of D.U.I. and have been allowed to continue as judges. As such, he argues that his driving record does not show a pattern of disregard for the law and is an insufficient basis for removing his name from the list. With regard to his termination from Pepsi, he states that Pepsi initially charged him with falsifying his time sheet. However, he denies that he falsified his timesheet and he filed a grievance. Further, he reached a settlement with Pepsi where he did not admit to any wrongdoing and received a financial settlement. Consequently, he contends that this settlement is evidence that he did not commit any wrongdoing while working for Pepsi. In reference to the appointing authority's note that his responses to the motor vehicle history section on his application do not match his driver's abstract, he states that he provided the information that was included in the driver's abstract he obtained prior to filling out his application. As such, he indicates that he did not make any intentional misrepresentation of his driving record.

Although provided the opportunity, the appointing authority did not submit any additional information or argument for the Civil Service Commission (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)9*, allows the Civil Service Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible with the duties of a law enforcement officer. *See In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

*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, even without considering the appellant's employment history, the appointing authority had sufficient reason to remove his name from the subject eligible list. A review of the appellant's background report indicates that he received three speeding tickets between 1998 and 2002, an unsafe lane change charge in 2001, an unsafe operation of a vehicle charge in 2008, a D.U.I. charge in 2010 (as well as an unsafe lane change and failure to report an accident from the same incident), and a failure to possess a driver's insurance card charge in 2012. The appellant has not disputed any of these charges. While he argues that his D.U.I. charge in 2010 is insufficient to remove his name from the list, the appellant's driving record shows a pattern of disregard of motor vehicle laws starting as early as 1998 and continuing to 2012. Additionally, while the appellant states that the November 2010 D.U.I. charge occurred more than five years ago, it is noted that the closing date for the examination was September 4, 2013. Thus, the D.U.I. charge occurred less than three years prior to the closing date. Additionally, the appellant was involved in a subsequent negative interaction with the law in January 2012 by failing to possess a driver's insurance card. The appellant's ability to drive a vehicle in a safe manner is not the main issue in determining whether or not he should remain eligible to be a Police Officer. These violations evidence disregard for the motor vehicle laws and the exercise of poor judgment. The appellant has offered no substantive explanation for these infractions. While the Commission is mindful of the appellant's recent attempts to remedy his driving record, it is clear that the appellant's driving record shows a pattern of disregard for the law and questionable judgment on his part. Such qualities are unacceptable for an individual seeking a position as a Municipal Police Officer. In this regard, it is recognized that a Municipal Police Officer is a law enforcement employee who must help keep order and promote adherence to the law. Municipal Police Officers hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). The public expects Municipal Police Officers to present a personal background that exhibits respect for the law and rules.

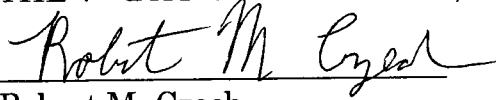
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999R), Hoboken, eligible list.

### 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 7<sup>th</sup> DAY OF DECEMBER, 2016



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

Attachment

- c: Mario Pereira
- Thomas J. Cammarata, Esq.
- Quentin Wiest
- Kelly Glenn



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
AGENCY SERVICES  
P. O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

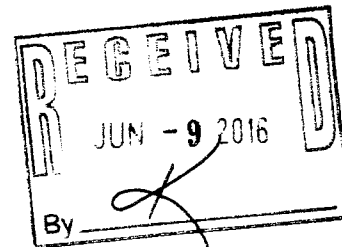
Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

June 7, 2016

Thomas J. Cammarata  
Cammarata, Nulty & Garrigan, LLC  
549 Summit Ave  
Jersey City, NJ 07306

**RE: Removal of Name from Eligible List – Mario Pereira**

**Title: Police Officer**  
**Jurisdiction: Hoboken**  
**Symbol: S9999R**  
**Certification No: OL141502**  
**Certification Date: 11/14/14**



Dear Mr. Cammarata:

This is in response to your correspondence contesting the removal of your client's name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with N.J.A.C. 4A:4-6.1(a)9, which permits the removal of an eligible candidate's name from the eligible list for "Other sufficient reasons". Other sufficient reasons include, but are not limited to, an unsatisfactory background which relates adversely to the title sought.

In support of its decision, the Appointing Authority provided a copy of the information found when conducting your client's Background Check which revealed that your client had numerous driving infractions, including a DUI. Additionally, your client had had his license suspended twice, once for the DUI, and the other occurrence was due to failure to pay parking tickets.

Furthermore, your client was terminated from Pepsi Bottling Company for falsifying a timesheet and was terminated from another employer, Loving Care Agency, for failing to perform to standards.

You argue that the termination from Pepsi should not be used as a reason to remove your client from the list because there was a Settlement Agreement and it shouldn't be used along with the DUI as the main reasons for his removal. Additionally, you provide context for the incident at Pepsi and the reason(s) for the driver's license suspensions; you argue that there is no pattern of disregard for the law indicated by his driving record which would warrant his removal.

Nonetheless, the Appointing Authority removed your client's name from the list after considering his entire Background Report, not for one incident or another. After a thorough review of our records and all the relevant material submitted, we find that there is not a sufficient basis to restore your client's name to the eligible list. Therefore, the Appointing Authority's decision to remove his name has been sustained and the appeal is denied.

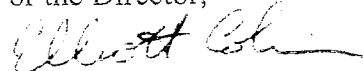
In accordance with Merit System Rules, this decision may be appealed to the Division of Appeals and Regulatory Affairs (DARA) within 20 days of receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 C.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, C. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

Address all appeals to:

Henry Maurer, Director  
Division of Appeals and Regulatory Affairs  
Written Appeals Record Unit  
PO Box 312  
Trenton, NJ 08625-0312

Sincerely,  
For the Director,



Elliott Cohen  
Human Resource Consultant  
Local Placement Services

Quentin Wiest, Business Administrator  
City of Hoboken  
94 Washington Street  
Hoboken, NJ 07030