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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Robert Tedeschi,
Conferee 1, Taxation (PS8623U),
Department of the Treasury

Examination Appeal

CSC Docket No. 2015-1541

ISSUED: APR 02 2015 (HS)

Robert Tedeschi appeals the validity of the Conferee 1, Taxation (PS8623U), Department of the Treasury promotional examination and alleges that certain candidates had knowledge of test content prior to taking the examination.

The subject examination was announced with a closing date of April 21, 2014 and was administered on November 6, 2014. The subject examination consisted of 70 multiple-choice questions, and candidates were required to answer 39 questions correctly in order to pass the examination. The appellant passed the examination with a final examination score of 82.52 and ranked twelfth on the resulting eligible list of 37 names, which was issued on November 19, 2014. In disposing of the November 27, 2014 certification, the appointing authority appointed A.S. and T.E.,¹ the first and second ranked eligibles, effective November 27, 2014.

On appeal, the appellant alleges that M.R., a Supervising Auditor, Taxation, the direct supervisor to A.S. and T.E. and one of two subject matter experts (SMEs) for the subject examination, wrote questions 61 through 80 of the examination pertaining to New Jersey Inheritance and Estate Taxes. He also alleges that A.S. and T.E. were given the answers to those questions. The appellant further alleges that T.E. shared the answers with F.C., the third ranked eligible on the eligible list.

¹ It is noted that A.S. and T.E. had been provisionally appointed, pending promotional examination procedures, to the subject title, effective July 13, 2013 and June 15, 2013 respectively.

Additionally, the appellant disputes the validity of the examination, arguing that questions 61 through 80 pertaining to New Jersey Inheritance and Estate Taxes could not all be correctly answered by a candidate employed outside of the inheritance tax section. The appellant also argues that the examination was biased in favor of A.S. and T.E. since they had been serving provisionally in the subject title. Finally, the appellant argues that the examination was not valid since some questions within the New Jersey Inheritance and Estate Taxes section tested information that he has never encountered as an Auditor Taxation Trainee, Auditor 3, Taxation and Auditor 2, Taxation.

In response, the appointing authority argues that the appellant's allegation that A.S. and T.E. were privy to the answers to questions 61 through 80 is unfounded since SMEs are not provided with final examination content and since SMEs are required to sign confidentiality agreements. The appointing authority contends that no credible information has been provided that remotely suggests the SMEs shared test content with any eligible candidate. The appointing authority explains that when a promotional announcement is to be tested via a written examination, this agency may request that an appointing authority select an SME to provide assistance in the development of a written examination or to clarify test items that this agency has identified as appropriate based on the job specification. The appointing authority argues that the SME should be an individual possessing thorough knowledge about the job function, particularly the knowledge, skills and abilities (KSAs) required to perform the duties of the title, and that the result would be a promotional examination that accurately reflects and evaluates the KSAs needed to perform the functions of the position. The appointing authority states that in most cases, the supervisor of the provisional employee or employees is selected as the SME and that in this particular case, the appointing authority identified two SMEs, M.R. and J.B., a Supervising Auditor, Taxation.

Despite an opportunity to do so, no further arguments were submitted by the appellant.

Agency records indicate that the SMEs wrote questions 61 through 80 for the subject examination pertaining to New Jersey Inheritance and Estate Taxes. It is also noted that this agency requires SMEs to pledge that they will maintain the confidentiality of examination content and treats examination items as confidential records.

CONCLUSION

N.J.A.C. 4A:4-2.10(b)5 prohibits the use or attempted use of unauthorized aids, information or assistance which includes helping or attempting to help another candidate when taking an examination. *N.J.A.C.* 4A:4-2.10(c) requires disqualification of participants in any prohibited act. Such participants may also be

rejected from future examinations and subject to punishment as provided by law. *N.J.A.C. 4A:4-6.1(a)6* permits the disqualification of an eligible who has made a false statement of any material fact or has attempted any deception or fraud in any part of the selection or appointment processes. *N.J.A.C. 4A:4-6.4(a)1* states, in pertinent part, that candidates may file an appeal with respect to the job-relatedness or appropriateness of test content and that the appeal shall specify the questions being challenged.

In the present matter, the appellant essentially alleges that an SME shared test content with two candidates ahead of the administration of the examination and that one of those candidates, in turn, shared test content with a third candidate. While the appointing authority's contention that SMEs are not provided with final examination content is at odds with agency records indicating that the SMEs in fact wrote questions 61 through 80 on the subject examination, it must be noted that the appellant presents only bare allegations of cheating. The appellant has not provided any substantive evidence to support his allegations that an SME ignored his obligation to maintain the confidentiality of examination content and that cheating among examination candidates occurred. Although the appellant also appears to object to the fact that the supervisor of the two candidates who were serving provisionally in the subject title served as an SME, the appellant has not established that such service was, by itself, improper. In this regard, an SME should be an individual who possesses a thorough understanding of the KSAs associated with the position under test. Given that the supervisor of a provisional employee should possess that understanding, the choice of such an individual to serve as an SME is reasonable. Given also that no substantive evidence has been presented suggesting that an SME shared test content, it is not apparent from the record that the selection of the SMEs in this case was flawed.

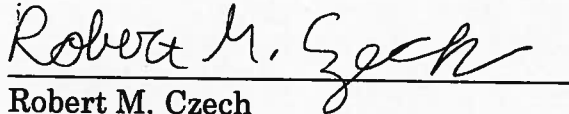
Finally, the appellant also disputes the validity of the subject examination. However, the Civil Service Commission has reviewed similar arguments presented in a separate appeal and has determined that the subject examination was valid. *See In the Matter of Heather Mastropasqua* (CSC, decided April 1, 2015).

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 1ST DAY OF APRIL, 2015



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