



STATE OF NEW JERSEY

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

In the Matter of Joseph Ritacco, Fire
Fighter (M1513T), Clifton

List Removal Appeal

CSC Docket No. 2019-102

ISSUED: JUNE 14, 2019 (HS)

Joseph Ritacco appeals the removal of his name from the eligible list for Fire Fighter (M1513T), Clifton on the basis that he falsified his preemployment application.

The appellant, a non-veteran, took and passed the open-competitive examination for Fire Fighter (M1513T), which had a closing date of August 31, 2015. The resulting eligible list promulgated on March 11, 2016 and expired on March 28, 2019.¹ The appellant's name was certified to the appointing authority on December 12, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to the falsification of his preemployment application. Specifically, the appointing authority asserted that the appellant failed to disclose, as the application required him to, that he was charged with simple assault in violation of *N.J.S.A. 2C:12-1(a)* as a juvenile, which was dismissed in 2004 upon completion of a diversion program, and with underage consumption/possession of alcohol on private property in violation of a municipal ordinance, which the appellant pled guilty to in 2007 when the appellant was an adult. The appointing authority also maintained that the appellant was outside the residency scope.

On appeal to the Civil Service Commission (Commission), the appellant asserts that he may have been mistaken for a different individual bearing his name.

¹ The eligible list was extended approximately one year to March 28, 2019.

In response, the appointing authority, represented by Katie Mocco, Esq., notes that documentation, which it submits, from the New Jersey Automated Complaint System (ACS) and the Family Automated Case Tracking System (FACTS) note the above-described charges and reflect the appellant's name. Thus, it maintains that the charges do pertain to the appellant and that no proof or indication to support a claim of mistaken identity has been provided.

In reply, the appellant asserts that he did not purposefully omit the charges, but if they happened, he was unable to remember their occurrence.

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 eligible's name from an eligible list when he 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 name from an eligible list was in error.

In this matter, the appointing authority maintains that the appellant did not disclose on his preemployment application that he was charged with simple assault and underage consumption/possession of alcohol on private property. In support, the appointing authority provides documentation from the ACS and FACTS noting these charges and bearing the appellant's name. The appellant claims that this may have been a case of mistaken identity but offers no evidence in support of this assertion. As such, the Commission cannot credit his base assertion. Thus, the appellant failed to disclose the charges on his application. It must be emphasized that it is the responsibility of an applicant, particularly an applicant for a sensitive position such as a Fire Fighter, to ensure that his preemployment application is a complete and accurate depiction of his history. In this regard, the Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on falsification of his employment application and noted that 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. 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 peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

Here, the appellant's omission is sufficient cause to remove his name from the eligible list. The preemployment application required disclosure of the

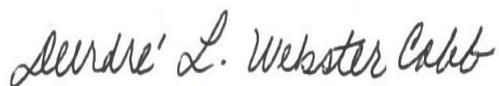
information. The type of omission presented is clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position. Indeed, an appointing authority's assessment of a prospective employee could be influenced by such information, especially for a position in public safety. Therefore, the information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his application. The appellant's failure to disclose the information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Fire Fighter. In this regard, the Commission notes that Fire Fighters hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the image of utmost confidence and trust. *See N.J.S.A. 40A:14-9.* The public expects Fire Fighters to present a personal background that exhibits respect for the law and rules. Accordingly, there is a sufficient basis to remove the appellant's name from the subject eligible list based on his falsification of the preemployment application. As such, it is not necessary to address whether the appellant satisfied the residency requirement.

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 12TH DAY OF JUNE, 2019



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