

B-87



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of John Ackerman,  
Police Officer (S9999R), Berkeley  
Township

CSC Docket No. 2015-3094

List Removal Appeal

ISSUED: **DEC 18 2016** (EG)

Berkeley Township (Township,) represented by Thomas G. Gannon, Esq., appeals the attached determination by the Division of Agency Services (Agency Services) which found a sufficient basis to restore John Ackerman to the Police Officer (S9999R), Berkeley Township eligible list.

The subject eligible list was promulgated on May 2, 2014 and expires on May 1, 2016. In disposing of the May 2, 2014 certification, the appointing authority requested that the appellant's name be removed from the subject eligible list for falsification of his pre-employment application. Specifically, it claimed that Ackerman had not accurately indicated his employment with the Belmar Police Department or that he was dismissed from the Monmouth County Police Academy (Academy) in October 2007. In support of its request, the Township provided select pages of the application and documentation from Belmar indicating that Ackerman's last day of employment for pay was September 3, 2007. However, he indicated on his application that he was employed by Belmar from June 2006 to May 2008. Ackerman appealed to Agency Services, arguing that he did not intentionally falsify any information on his application and that the information provided by the Township did not indicate a deliberate failure to disclose information. Ackerman also argued that he was not paid by Belmar when he attended the Academy in the fall of 2007, and, as such, he was not required to disclose his dismissal. Agency Services restored Ackerman's name to the subject list.

On appeal to the Civil Service Commission (Commission), the Township argues that Ackerman failed to disclose that he attended and was dismissed from the Academy in October 2007. It asserts that if the appellant was employed by Belmar from May 2006 to May 2008 as he contends, then he had an obligation to provide notice that he was dismissed from the Academy in October 2007. Additionally, it claims that the fact the he was not being paid by Belmar at the time is not relevant as Belmar sponsored him into the Academy. Further, the Township contends that Ackerman was either employed by Belmar from May 2006 to June 2008 and was required to disclose his failure to the Academy on his application, or he was not employed during the period in question by Belmar. Either way, the Township asserts Ackerman submitted misleading, false or, at least, omitted critical background material. Finally, it argues that failure to disclose a police academy dismissal or failure to be truthful about his employment history are material and significant omissions that prevented the Township from fully evaluating Ackerman's fitness to become a Police Officer.

In response, Ackerman, represented by D. William Subin, Esq., reiterates that he did not intentionally falsify any information on his application and he was not paid by Belmar when he attended the Academy. Therefore, he contends that his name should remain on the subject list.

### CONCLUSION

*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 the appellant's name from an eligible list was in error. Additionally, *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 who has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process.

In the instant matter, Ackerman's name should be removed from the subject eligible list. The appellant argues that he was employed by Belmar from May 2006 to June 2008 and was not paid by Belmar when he attended the Academy. Therefore, he reasons that he was not required to disclose his dismissal from the Academy. The Commission disagrees. The information that the appellant failed to disclose is considered material and should have been accurately indicated on his employment application. 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 his 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.

In reviewing this matter, there appears to be a contradiction in Ackerman's claims. He indicates that he was both employed by Belmar from May 2006 to May 2008, and that he was not paid by Belmar when he attended the Academy in October 2007. However, Ackerman has not explained this discrepancy. Further, failing out the Academy is a significant material fact as the appellant was applying for a Police Officer position. This information should have been disclosed by Ackerman on his application. Applicants are required to provide a complete and accurate record of their background for review by an appointing authority as part of the pre-employment process. The record indicates that Ackerman failed to do so. Ackerman has argued that he did not intentionally falsify any information on his application. However, even assuming, *arguendo*, that the appellant merely forgot to include this information, 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) (A Fire Fighter applicant who alleged he could not recall certain information omitted from an application should be removed from the list since an honest mistake is not an allowable excuse for omitting relevant information from an application).

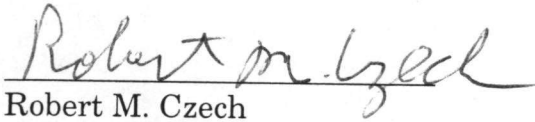
In this case, Ackerman should have made more of an effort to clearly explain his employment with Belmar and he should have disclosed the fact that he was dismissed from the Academy. His failure to disclose this information is indicative of his lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. In this regard, it is recognized that 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 Police Officers to present a personal background that exhibits respect for the law and rules. Accordingly, the Commission finds sufficient basis in the record to remove Ackerman's name from the eligible list for Police Officer (S9999R), Berkeley Township.

### ORDER

Therefore, it is ordered that this appeal be granted, and John Ackerman's name be removed from the Police Officer (S9999R), Berkeley Township eligible list.

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 16TH DAY OF DECEMBER, 2015



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Attachment

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