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STATE OF NEW JERSEY

In the Matter of Jason Chait,  
Police Officer (S9999R),  
Carteret

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-1638

List Removal Appeal

ISSUED: FEB 13 2017 (JET)

Jason Chait, represented by David DeFillippo, Esq., appeals the removal of his name from the Police Officer (S9999R), Carteret, eligible list, on the basis of falsification of his employment application and an unsatisfactory background report.

The appellant took the open competitive examination for Police Officer (S9999R),<sup>1</sup> achieved a passing score, and was ranked on the subsequent eligible list. The appellant's name was certified on February 11, 2015. Applicants were required to maintain continuous residency up to the date of appointment. *See N.J.A.C. 4A:4-2.11(c)1.* 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 report and falsification of his employment application. Specifically, the appointing authority asserted that the appellant was arrested in Brick Township in 2004 and charged with Receiving Stolen Property in violation of *N.J.S.A. 2C:20-7A*. It is noted that he participated in a Pretrial Intervention Program (PTI) and the matter was dismissed on January 5, 2006. Further, the appellant was arrested in Brick Township in 1997 and charged with Theft of Movable Properties in violation of *N.J.S.A. 2C:20-3(a)*. It is noted that the appellant performed eight hours of community service and the matter was dismissed.

<sup>1</sup> It is noted that the Law Enforcement Examination (LEE) (S9999R), eligible list promulgated on May 2, 2014 and expired on May 1, 2016.



Additionally, the appointing authority asserted that the appellant lived in Toms River at the time he applied for the subject position and falsely claimed on the employment application that he lived in Carteret. In addition, the appointing authority indicated that the appellant misrepresented on the employment application his record of attendance and academic performance at Ocean County Community College, and he failed to disclose the extent of his motor vehicle violations. The appointing authority also stated that the appellant was dismissed from the Monmouth County Police Academy for failing firearms qualifications in April 2014 following his appointment as a Special Class 2 Law Enforcement Officer, and he received a minor disciplinary action while serving as an Emergency Medical Technician (EMT) for the Carteret Fire Department.

On appeal to the Civil Service Commission (Commission), the appellant asserts that he served as a Special Class 1 and Class 2 Law Enforcement Officer and as an EMT in Carteret.<sup>2</sup> He explains that the appointing authority conducted background investigations prior to his appointment as a Special Class 1 and 2 Law Enforcement Officer and as an EMT, but did not express any concerns about his background prior to his appointments to those positions. In addition, the appellant contends that, since it was already aware of his background, it is now inappropriate to remove his name from the subject list as a result of his background report. In this regard, he states that all of the responses provided on his employment application for the subject position are the same responses that he provided on all of his other employment applications that he submitted to the appointing authority.

Additionally, the appellant asserts that the Theft of Movable Properties charge occurred when he was a juvenile and his friends decided to steal parts from a vehicle. The appellant explains that he completed community service and the charges were dismissed. Further, the appellant explains that his involvement with the Receiving Stolen Property charge was minor. In this regard, he states that he purchased a radio on e-bay and subsequently received a summons to appear in court.<sup>3</sup> The appellant participated in a PTI and the charges were dismissed. Moreover, the appellant maintains that, since the time of the 2004 arrest, he has consistently indicated on his employment applications that he was not arrested.

Further, the appellant asserts that he continuously maintained a residence in Carteret and he lived there while serving as a Special Class 1 Law Enforcement Officer and while in training as a Special Class 2 Law Enforcement Officer. The appellant acknowledges that he also owns a home in Toms River, but he moved because the property was in foreclosure. In addition, the appellant states that he

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<sup>2</sup> The appellant notes that he is also employed as an EMT in Monroe Township and Triboro First Aid. He also states that he owns his own business and he performs contract work for the appointing authority.

<sup>3</sup> The appellant states that he did not know the individual who sold him the radio on e-bay. He also states that he was assured that he was not arrested at the time of the 2004 incident.



merely misinterpreted the information on his college transcript and did not misrepresent the information on the employment application pertaining to his education at Ocean County Community College. The appellant adds that he attached a copy of his motor vehicle abstract with his application. The appellant states that his dismissal from the Police Academy for failing firearms qualifications and his minor disciplinary record as an EMT are not sufficient reasons to remove his name from the list.<sup>4</sup> Moreover, the appellant maintains that the appointing authority continues to contract with his company to perform work. The appellant provides several letters of recommendation in support of his appeal.

In response, the appointing authority, represented by Robert J. Bergen, Esq., asserts that the appellant was charged with Receiving Stolen Property and did not acknowledge during his home interview or on the employment application that he was charged. The appointing authority adds that he specifically denied that he was arrested, even after being confronted about it by the investigators. In addition, the appointing authority maintains that the appellant did not undergo a full background investigation or complete an entire employment application for his positions as a Special Class 1 and Class 2 Law Enforcement Officer and as an EMT. As such, the appointing authority explains that it did not learn of his arrest for Receiving Stolen Property until it received information from the State Police Identification System and a Global Subject Activity Report from the Ocean County Sheriff's Office. In this regard, the appointing authority states that the appellant was arrested on two prior occasions and should have known to provide such information on his employment application. Rather, he continued to deny the arrest and did not disclose the charges to law enforcement personnel who interviewed him.

In addition, the appointing authority contends that the appellant falsely claimed on the employment application that he was living in Carteret. Specifically, the appointing authority asserts that the background investigation revealed that the appellant owns a home in Toms River and he continues to reside there.<sup>5</sup> Further, the background investigation revealed that the appellant does not pay any rent at the [REDACTED] residence, rarely stays there, is not related to the owner of the property, does not have a bed or clothes there, and did not recall the names of the children who lived at the address.<sup>6</sup> As such, the appointing authority states that

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<sup>4</sup> The appellant notes that it did not prevent the appointing authority from re-appointing him as a Special Class 1 Law Enforcement Officer and he subsequently completed Special Class 2 Law Enforcement Officer training in 2004.

<sup>5</sup> The appointing authority notes that the appellant indicates in his certification that he still lives in Toms River with his wife.

<sup>6</sup> The appointing authority notes that the background investigator, Detective Cassens, indicated that the appellant was not a resident of [REDACTED] in [REDACTED]. In this regard, the investigator conducted multiple checks at the Daniel Street address over a three week period, and at no time did he observe the appellant's vehicle parked there. When confronted about the situation, the appellant admitted that he only stayed there occasionally. Additionally, Officer Vincent Bellino, who resides at



the appellant only stated that he lived in Carteret in order to satisfy Civil Service residency rules. Further, the appointing authority explains that the appellant falsely listed on the application that he stopped living at his Toms River home in July 2013, and only now states that he left the home in Toms River as a result of the foreclosure. The appointing authority contends that the appellant did not state during his interview or on the employment application that the Toms River home was in foreclosure status. Rather, he only stated that his mortgage was modified.

Additionally, the appointing authority asserts that the appellant attempts to minimize his adverse employment history while serving as an EMT in Carteret. Specifically, the appointing authority explains that he failed to report that the grandmother of an autistic child admonished him for yelling at the child who was under his care.<sup>7</sup> The appointing authority adds that the appellant was warned that any future displays of similar conduct would result in his termination. The appointing authority emphasizes that the employment application is not just a formality and should have been properly completed by the appellant. The appointing authority adds that the appellant did not previously provide the letters of recommendation that he now provides on appeal and, as such, the letters could not be fully reviewed as a part of the selection process. Further, the appointing authority asserts that the appellant's company is the only authorized installer for equipment in that jurisdiction, however, his contract work is limited to installing equipment and lighting installation on an as-needed basis is in no way similar to being selected and appointed to perform vital public safety work as a Police Officer.

### 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:4-4.7(a)1*, in conjunction with *N.J.A.C. 4A:4-6.1(a)9*, allows for the removal 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 an appointment.

*N.J.A.C. 4A:4-2.11(c)* provides that residency requirements shall be met by the announced closing date for an examination, and *N.J.A.C. 4A:4-2.11(c)1* provides

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the [REDACTED] Street address, indicated that he allowed the appellant to stay at his house whenever he wanted, and the investigator observed a futon in the basement where the appellant would allegedly sleep. The appellant's mail was also delivered at Bellino's address. As such, the investigator could not confirm that the appellant lived at that address. In fact, Bellino advised the investigator that the appellant had only stayed there a total of 30 to 40 times over a two year period.

<sup>7</sup> The appellant received a three-day suspension as a result of the incident.



“[w]hen an appointing authority requires residency as of the date of appointment, residency must be continuously maintained from the closing date up to and including the date of appointment.” *N.J.A.C. 4A:4-2.11(b)* provides that where residency requirements have been established, residence means a single legal residence. The following standards shall be used in determining legal residence:

1. Whether the locations in question are owned or rented;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent’s residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;
4. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the individual would be likely to remain in the claimed residence;
5. Whether the residence recorded on a driver’s license, motor vehicle registration, or voter registration card and other documents is the same as the legal residence. Post office box numbers shall not be acceptable; and
6. Whether the school district attended by children living with the individual is the same as the claimed residence.

*See e.g., In the Matter of Roslyn L. Lightfoot* (MSB, decided January 12, 1993) (Use of a residence for purposes of employment need and convenience does not make it a primary legal residence when there is a second residence for which there is a greater degree of permanence and attachment). *See also, In the Matter of James W. Beadling* (MSB, decided October 4, 2006). Further, *N.J.A.C. 4A:4-6(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 argues that the appellant did not disclose on the employment application that he was charged with Receiving



Stolen Property. In the "Arrests, Summonses, Etc." section of the employment application, candidates were notified that "arrests and convictions that have been expunged or sealed must be included [on the employment application]. Failure to include an expungement or sealed arrest and/or conviction will result in immediate removal from the employment process. There are no exceptions." In response to question 66 on the employment application, "Have you ever been arrested, indicted, or convicted for any violation of the criminal law," the appellant checked "No." In addition, in response to question 70 on the employment application, "Have you ever been fingerprinted," the appellant checked "Yes," and answered "Sept./2012 Carteret Police Department Class 1 Special Officer." Additionally, in response to question 77 on the employment application, "Have you ever received a summons for violation of the motor vehicle laws in this or any other state," the appellant did not list five motor vehicle infractions listed on his abstract. Specifically, he failed to list Failure to use Directional Signal on January 26, 1998, Obstructing the Passage of Other Vehicles on December 12, 1998, Obstructing the Passage of Other Vehicles on September 13, 1999, Improper Display/ Fictitious Plates on March 19, 2000, and Obstructing the Passage of Other Vehicles on March 24, 2000. He also did not indicate on his application that he was attaching his driving abstract.

Based on the above, it is clear that the appellant did not properly complete the employment application. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Police Officer, to ensure that his employment 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 or her 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). With respect to the appellant's argument that the appointing authority was already aware of his background due to the prior applications he filed for EMT and a Special Class 1 and 2 Law Enforcement Officer, that argument does not change the outcome of the case. The appellant was required to provide the appointing authority with all of his background information on the subject application. Moreover, his service as a Special Class 1 and Class 2 Law Enforcement Officer Officer does not automatically entitle him to an appointment as a Police Officer. Special Class 1 and Class 2 Law Enforcement Officers are not Civil Service titles and any work performed in those positions does not rise to the level of work performed by a municipal Police Officer. Further, the appellant's contention that he was unaware that he was arrested is



unpersuasive since it is clear that he failed to disclose information in his background in response to the questions in the employment application. The type of omissions presented are 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. Even if the appellant provided documentation concerning the disposition of these charges in his previous employment applications for other positions in Carteret, it does not cure his omission of these items from the subject employment application.

The information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his employment application. In conclusion, the appellant's arrest history is material information that he should have accurately provided on his application, and the failure to do so constituted falsification of his employment 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 municipal Police Officer. Moreover, it was still the appellant's burden to provide an employment application that was accurate and complete. The Commission is mindful that a Police Officer is a special kind of public employee. 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).

With respect to the appointing authority's argument that the appellant misrepresented on the employment application that he lived in Carteret, the Commission agrees. The appellant did not provide any substantive information, such as a tax return, lease agreement, or deed, to refute the appointing authority's contentions. Initially, candidates were required to maintain continuous residency in Carteret after the September 4, 2013 closing date of the examination pursuant to N.J.A.C. 4A:4-2.11(c)1. In his August 11, 2016 certification, the appellant admits that he currently lives in Toms River. Since he admits that he did not maintain continuous residence in Carteret after the closing date, he cannot now be appointed to the subject position. Further, the record reflects business records as recent as July 29, 2016 indicating that his business address was J.C. Emergency Lighting at the same home address in Toms River. Based on the appellant's business records, it is plausible that he was simultaneously living and doing business in Toms River on a continuous basis. In addition, the investigator found, among other things, that the appellant did not pay rent at the Carteret address and he did not park his car there. In fact, the investigator indicated that he interviewed Vincent Bellino, a resident at the Carteret home, who stated that he allows the appellant to stay at that address. Although Officer Bellino provides a letter of recommendation, it does not confirm the appellant's residency or refute the investigator's findings. The appellant's service as an EMT and as a Special Class 1 and Class 2 Law



Enforcement Officer in Carteret does not change the outcome of the case, as his service in those positions does not establish that he continuously lived in Carteret after the closing date. Although the appellant argues in his certification that his home in Toms River was in foreclosure status, that information is of no moment. Accordingly, the Commission is persuaded that the appellant was not a permanent resident of Carteret and did not maintain continuous residence in that jurisdiction after the closing date. Accordingly, there is sufficient basis to remove the appellant's name from the eligible list.

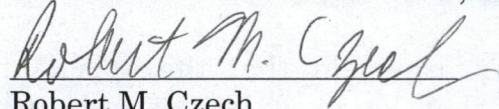
Since the appellant's name has been removed for the above noted reasons, it is unnecessary to address the issue pertaining to his criminal background and motor vehicle abstract.

### 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 8<sup>th</sup> DAY OF FEBRUARY, 2017



Robert M. Czech

Chairperson

Civil Service Commission

Inquiries  
and  
Correspondence

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

c: Jason Chait  
David DeFillippo, Esq.  
Robert J. Bergen, Esq.  
Daniel J. Reiman  
Kelly Glenn