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## STATE OF NEW JERSEY

In the Matter of Rory J. Regan, Buyer (PC1374R), Ocean County

CSC Docket No. 2014-1190

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

**Examination Appeal** 

OCT 2 2 2014

**ISSUED:** 

(BS)

Rory J. Regan appeals the determination of the Division of Selection Services which found that he did not meet the requirements for the promotional examination for Buyer (PC1374R), Ocean County.

The promotional examination at issue was announced with education and experience requirements which had to be met as of the announced June 21, 2013 closing date. Specifically, all applicants had to possess a completed Bachelor's degree from an accredited college or university plus two years of experience in the large scale purchase of commodities, materials, equipment, and/or supplies. Applicants who did not possess the required education could substitute experience as indicated above on a year for year basis. Records indicate that the subject promotional examination was cancelled on November 9, 2013 due to a lack of qualified applicants.

The appellant filed an application on with he indicated that he possessed a Bachelor's degree plus experience as a provisional Buyer (7/12 to the closing date) and Management Assistant (11/09 to 6/12). The Division of Selection Services concluded that the appellant possessed one year of applicable experience as a provisional Buyer as of the closing date. Although his experience as a Management Assistant also involved responsibilities in the required areas, such responsibilities

were considered out-of-title and could not be accepted as qualifying experience by the Division of Selection Services. Consequently, the Division of Selection Services found the appellant ineligible for the subject promotional examination.

On appeal, the appellant argues that he satisfies the subject requirements. In support of his appeal, Scott Waters, Assistant County Road Supervisor, Ocean County, submits a letter indicating that the appellant has been performing the duties of a Buyer since May 2011, albeit out-of-title, while serving as a Management Assistant, and that he handled all purchasing, budgeting, and inventory responsibilities. Mr. Waters included a May 3, 2011 memorandum from Stephen S. Childers, County Road Department, reassigning the appellant to the purchasing function.

## CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the examination announcement by the closing date. N.J.A.C. 4A:4-2.6(c) provides that except when permitted for good cause, applicants for promotional examinations generally may not use experience gained as a result of out-of-title work to satisfy eligibility requirements. N.J.A.C. 4A:4-6.3(b) provides that, except for medical or psychological disqualification appeals, the appellant shall have the burden of proof.

In the instant matter, the record demonstrates that the appellant possessed seven months of applicable experience as a provisional Buyer as of the closing date. Although the appellant claims to have assumed appropriate responsibilities while serving as a Management Assistant, such responsibilities while serving in this capacity would be considered out-of-title work which generally cannot be used to satisfy experience requirements for promotional examinations announced with open-competitive requirements.

However, Scott Waters, Assistant County Road Supervisor, has endorsed the appellant's claims of performing such out-of-title work responsibilities while serving as a Management Assistant and indicated that the appellant had actually been performing the duties of a Buyer while serving in the Management Assistant title. Additionally, the Commission is mindful that the appellant continues to successfully serve as a provisional Buyer, the subject promotional examination has been cancelled due to a lack of qualified applicants, and that this is not a competitive situation. Accordingly, accepting the appellant's one year of out-of-title experience as a Management Assistant, for eligibility purposes only, will allow the appellant the opportunity to be considered for permanent appointment to the subject title.

## **ORDER**

Therefore, it is ordered that this appeal be granted, the cancellation of the examination be rescinded, and the appellant's application be processed as soon as possible.

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 22ND DAY OF OCTOBER, 2014

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Chairperson

Civil Service Commission

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c: Rory J. Regan
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