



STATE OF NEW JERSEY

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

In the Matter of Police Officer
(S9999U), Scotch Plains

CSC Docket No. 2020-1812

Enforcement

ISSUED: MAY 22, 2020 (SLK)

The Division of Agency Services (Agency Services) requests that the Civil Service Commission (Commission) order Scotch Plains to return the February 22, 2019 certification of the eligible list for Police Officer (S9999U) for proper disposition.

By way of background, the February 22, 2019 (OL190176) certification containing 25 names was issued to Scotch Plains. Agency Services sent Scotch Plains a disposition deficiency notice indicating that the certification was not properly disposed of on August 22, 2019. Specifically, the notice indicated that the documentation for Scotch Plains' removal and/or bypass for the third, eighth, 16th, 17th and 18th positioned eligibles on the subject certification was missing. Further, its reasons for the removal, bypass or non-selection for the fourth, ninth, 13th and 19th positioned eligibles on the subject certification were not acceptable. Thereafter, Agency Services sent Scotch Plains a second disposition deficiency notice dated September 5, 2019, indicating that its reasons for the removal, bypass, or non-selection of the fourth, eighth, ninth, 13th, 16th, 17th, 18th, 19th and 21st positioned eligible were not acceptable. Thereafter, Agency Services continued to communicate with Scotch Plains in an attempt to resolve these deficiencies.

However, as Scotch Plains failed to resolve the deficiencies, Agency Services referred the matter to the Commission for enforcement. Specifically, it indicated that the 13th positioned eligible was coded as NA (not available for the current position), but the documentation that the eligible provided to Scotch Plains did not

state that the eligible was uninterested or not available for appointment. Agency Services informed Scotch Plains that if an eligible was actively deployed and expressed interest in an appointment, the position must be held, subject to a background check. In the alternative, it could have bypassed the eligible if it had an extra bypass to use under the Rule of Three. Further, the 16th ranked eligible was coded as R3 (unsatisfactory background report). However, Agency Services indicated that the eligible's termination from the New York Police Department in 2003, without any other negative background, was insufficient to support his removal based on an unsatisfactory background. Scotch Plains indicated that this eligible lived in New York and Agency Services advised that if it could provide documentation to support this claim, the eligible could be coded as R4 (outside residency scope). Additionally, the 17th positioned eligible was coded as R3. However, Agency Services advised that an eligible's financial situation cannot be considered a negative mark on one's background. It did request that Scotch Plains provide the eligible's driving abstract to support its claim that the eligible had an unsatisfactory driving record. Further, Agency Services informed Scotch Plains that it provided sufficient documentation to support the removal of the 18th positioned eligible from F2 (failed physical performance examination) to F3 (failed psychological examination), but it needed to indicate the amendment on the actual certification page. Also, the 19th positioned eligible was coded as NA, but Scotch Plains failed to provide documentation to support this. Finally, the 20th positioned eligible was coded as A5 (appointed), but Scotch Plains failed to provide all of the appointment information.

Scotch Plains was notified via letter from the Division of Appeals and Regulatory Affairs dated January 21, 2020, that the matter had been referred to the Commission for enforcement as it needed to provide the above-detailed information. It was also advised that any failure on its part to return the certification could subject it to the assessment of costs, charges and fines pursuant to *N.J.A.C.* 4A:10-2.2(b).

Despite several opportunities to do so, Scotch Plains has not returned the certification as requested nor has it submitted any additional information for the Commission to review in this matter.

CONCLUSION

N.J.A.C. 4A:4-4.8(b) requires an appointing authority to notify Agency Services of the disposition of a certification by the disposition due date in the manner prescribed by this agency. Clearly, Scotch Plains has violated this vital regulation. The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A.*

11A:10-3; *N.J.A.C. 4A:10-2.1(a)2. See In the Matter of Fiscal Analyst (M1351H), Newark, Docket No. A-4347-87T3 (App. Div. February 2, 1989).* Accordingly, as Scotch Plains has not resolved this matter despite several opportunities to do so, it is appropriate to impose a \$1,000 fine for its current lack of compliance. Further, Scotch Plains is ordered to return the certification within 20 days of the issuance of this decision with the requested documentation. If, at any time, Scotch Plains does not adhere to the timeframes for the proper certification disposition without an approved extension of time, it shall be assessed additional fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

ORDER

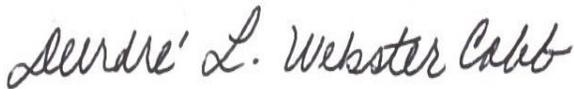
Therefore, it is ordered that the Scotch Plains properly dispose of the February 22, 2019 certification of the eligible list for Police Officer (S9999U) within 20 days of the issuance of this decision.

Moreover, the Commission orders that Scotch Plains be assessed a fine in the amount of \$1,000 to be remitted within 30 days of the issuance of this order.

If, at any time, the Scotch Plains does not adhere to the timeframes for the proper certification disposition without an approved extension of time, it shall be assessed additional fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

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
20TH DAY OF MAY, 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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and
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