



STATE OF NEW JERSEY

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

In the Matter of Alexis Rodriguez,
Fire Fighter (M1557T), North
Hudson Regional Fire and Rescue

Acknowledgment of Settlement

CSC Docket No. 2019-1592

ISSUED: JUNE 14, 2019

(HS)

North Hudson Regional Fire and Rescue (NHRFR), represented by Michael A. D'Anton, Esq., requests acknowledgement of its settlement agreement with Alexis Rodriguez as outlined within the Order of the United States District Court for the District of New Jersey (District Court).

By way of background, Rodriguez, a veteran, took and passed the open-competitive examination for Fire Fighter (M1557T), NHRFR, which had a closing date of August 31, 2015. At that time, Rodriguez was a resident of Paterson. The resulting eligible list promulgated on March 11, 2016 and expired on March 10, 2019. Rodriguez's name was certified to NHRFR on May 23, 2017 (OL170652). In disposing of certification OL170652, NHRFR indicated that Rodriguez responded to the notice of certification late, but it requested that his name be retained on the list for future consideration. The disposition of certification OL170652 was recorded by this agency on July 16, 2018. Rodriguez filed an appeal of his certification result with this agency, at which time Rodriguez was a resident of Lumberton. To resolve the appeal, NHRFR and Rodriguez entered into a settlement agreement. NHRFR indicated that they entered into this agreement on August 30, 2018. The agreement provided, among other things, that NHRFR would, subject to Rodriguez's fulfillment of certain conditions,¹ appoint him as a Fire Fighter during the "hiring and interview process expected to begin during the fall of 2018." Agency records reflect that Rodriguez continues to be a resident of Lumberton.

¹ Rodriguez's appointment was conditioned on his passage of the physical performance test, a psychological examination, a physical examination and a criminal background check.

The District Court entered a Consent Order, effective August 28, 2018, providing in effect that NHRFR could only appoint residents of Guttenberg, North Bergen, Union City, West New York, Weehawken, Jersey City and Newark from the M1557T eligible list. Therefore, the October 17, 2018 certification (OL181118), the next certification to issue from the M1557T list, contained residents of only those seven municipalities.² Since agency records reflected that Rodriguez was not a resident of any one of the municipalities, his name did not appear on certification OL181118. NHRFR requested that this agency certify Rodriguez's name so that NHRFR could appoint him in accordance with the settlement agreement. This agency responded that given the terms of the Consent Order, particularly the geographic limitations, and since NHRFR and Rodriguez appeared to have entered into the settlement agreement after the effective date of the Consent Order, this agency could not add Rodriguez's name to certification OL181118 or acknowledge the settlement agreement. This agency advised NHRFR to seek relief from the District Court. In its January 9, 2019 Order, the District Court ordered this agency to add Rodriguez's name to certification OL181118 for appointment consideration.

CONCLUSION

In this matter, NHRFR and Rodriguez reached a settlement whereby NHRFR would, subject to his fulfillment of certain conditions, appoint him from the M1557T eligible list. The District Court's August 28, 2018 Consent Order, however, limited the roster of individuals eligible for appointment from that list to residents of seven enumerated municipalities. Since agency records reflected that Rodriguez was not a resident of any one of those seven municipalities, his name did not appear on certification OL181118, the next certification to issue from the M1557T list. Nevertheless, the District Court has now entered an Order that effectively approves the settlement NHRFR and Rodriguez reached and orders its implementation, notwithstanding the terms of the Consent Order. In this regard, the Order directs this agency to add Rodriguez's name to certification OL181118. The policy of the judicial system strongly favors settlement. *See Nolan v. Lee Ho*, 120 N.J. 465 (1990); *Honeywell v. Bubb*, 130 N.J. Super. 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 N.J. Super. 472 (App. Div. 1961), *cert. denied*, 35 N.J. 61 (1961). This policy is equally applicable in the administrative area. A settlement will be set aside only where there is fraud or other compelling circumstances. *See Nolan, supra*. Under these circumstances, the Civil Service Commission acknowledges the settlement agreement, as outlined within the January 9, 2019 Order of the District Court, and finds that Rodriguez's name should be added to certification OL181118 for appointment consideration.

² Agency records reflect that certification OL181118 has been returned, but the disposition has not yet been recorded.

ORDER

Therefore, the Civil Service Commission acknowledges the settlement agreement, as outlined within the January 9, 2019 Order of the United States District Court for the District of New Jersey, and orders that Alexis Rodriguez's name be added to the October 17, 2018 certification (OL181118) issued from the eligible list for Fire Fighter (M1557T), North Hudson Regional Fire and Rescue, for appointment consideration.

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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