

claimed that he "never missed a day [of work] and was never tardy" and thus, the report of his termination was based on a "false and malicious report." In support, he submitted a letter from the current branch manager at Stanley Steemer, in which he stated that there was no record of the appellant being terminated from his position. Rather, the manager said that the appellant's file indicated that he resigned voluntarily. However, CPM determined that the appointing authority had presented a sufficient basis to remove the appellant's name from the subject eligible list.

On appeal to the Civil Service Commission (Commission), the appellant reiterates that he does not have a negative employment record with Stanley Steemer. He claims that the manager of Stanley Steemer that the appointing authority's investigators spoke to "was fired, knew he was to be fired and went out of his way to write a bad employment record" that was not supported by the company or its records. In support of his appeal, the appellant supports a letter from the "new" Branch Manager of Stanley Steemer Toms River, New Jersey, who states that he could not find any written warnings generally, or, specifically, any "verbal or written warnings for tardiness or missing any days of work" concerning the appellant. He adds that the appellant's employment with Stanley Steemer "has been set as a Voluntary Resignation."

Despite the opportunity, the appointing authority did not respond.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)11 allows the Commission to remove an eligible's name from an eligible list for other valid reasons. Additionally, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove 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 appointment. Moreover, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows for the removal of an individual from an eligible list who has a prior employment history which relates adversely to the position sought. *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 his or her name from an eligible list was in error.

In the instant matter, the appointing authority removed the appellant for having an unsatisfactory employment record and for falsifying his employment application. As described above, it found that the appellant received verbal warnings for frequent absences and tardiness while employed at Stanley Steemer in Toms River, New Jersey and was terminated from his position for being absent for

five consecutive days without contacting his employer. On appeal, the appellant claims that he does not have a negative employment record with Stanley Steemer and was not terminated from his position. Moreover, he asserts that the false report by a former manager at Stanley Steemer was the basis of the appointing authority's decision to remove his name from the subject eligible list. The appellant provides several letters from the current Stanley Steemer manager which state that the appellant had never received any verbal or written warnings for his attendance and that he had resigned voluntarily. The appointing authority, despite the opportunity, has provided no evidence on appeal to contradict the appellant's claims. Accordingly, under these circumstances, the appellant has sustained his burden of proof and should be restored to the Correction Officer Recruit (S9987M), Department of Corrections, eligible list.

ORDER

Therefore, it is ordered that this appeal be granted and the list for Correction Officer Recruit (S9987M) be revived, and the appellant's name certified at the time of the next certification, for prospective employment opportunities only.

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 30th DAY OF JULY, 2014



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Civil Service Commission

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Attachment

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