



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter Chief, Finance and
Accounts (M0257U), City of Newark

Request for Enforcement

CSC Docket No. 2017-3868

ISSUED: MARCH 27, 2018 (WR)

The Division of Agency Services (Agency Services) seeks enforcement of the attached Civil Service Commission (Commission) decision rendered on July 26, 2017, which ordered Newark to immediately dispose of the November 2, 2016 certification of the Chief, Finance and Accounts (M0257U) eligible list pursuant to *N.J.A.C. 4A:4-4.2(c)2i* by making a permanent appointment of a reachable and interested eligible;¹ immediately remove Charles Kairu, against whom a salary disapproval was issued; and remit \$1,000 in compliance costs, within 30 days from the issuance of the decision.

In its decision, the Commission also ordered that if Newark did not adhere to the timeframes for the proper certification disposition without an approved extension of time, it would be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000. However, Newark failed to properly dispose of the certification by August 25, 2017, 30 days from the issuance of the decision and did not request an extension. Consequently, on October 12, 2017, Agency Services requested enforcement of the Commission's July 26, 2017 decision.

As a result, Newark was notified that since it had failed to properly return the certification within 30 days, without an extension of time, the fine of \$100 per day began to accrue on August 25, 2017, and that to date a fine of \$10,000 was

¹ It is noted that the first-ranked eligible, Fidelia Uzoukwu Odotola indicated her interest in the subject position in a letter to this agency dated May 22, 2017.

owed. However, despite an opportunity to respond, Newark failed to submit any arguments nor did it return the subject certification.

Personnel records indicate that Kairu continues to serve provisionally in the subject title. Furthermore, it is noted that Ms. Uzoukwu-Odutola, the first ranked eligible on the subject eligible list has indicated her interest in the subject position.

CONCLUSION

In the prior decision, Newark was ordered to return the certification within 30 days of the issuance of the decision pursuant to *N.J.A.C. 4A:4-4.2(c)2i* by making a permanent appointment of a reachable and interested eligible and to immediately remove Kairu against whom a salary disapproval had been issued. However, Newark failed to return the certification for proper disposition by August 25, 2017. Moreover, in response to the instant request for enforcement, Newark failed to provide any response nor did it return the certification. Moreover, Kairu continues to serve provisionally in the subject title.

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). In the instant matter, despite numerous opportunities, Newark failed to properly dispose of the certification and it failed to request an extension of the disposition date. Instead, Newark's actions appear to be an attempt to circumvent Civil Service law and rules. Consequently, the fine of \$10,000 for the failure to adhere to the timeframes in the prior decision is appropriate.

ORDER

Therefore, it is ordered that Newark properly dispose of the November 2, 2016 certification of the eligible list for Chief, Finance and Accounts (M0257U) by making a permanent appointment of a reachable and interested eligible and removing Charles Kairu from the subject position within 30 days of the issuance of this decision. Additionally, for the reasons stated above, the Commission orders the assessment of a fine in the amount of \$10,000. Finally, Newark is ordered to immediately remit payment of the \$1,000 in compliance costs that was previously assessed.

If, at any time, Newark again does not adhere to the timeframes for the proper certification disposition without an approved extension of time, this matter

will be referred to the Office of the Attorney General for enforcement and recovery of fines and further costs and penalties as provided by law.

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 27th DAY OF MARCH, 2018

Dierdre L. Webster Cobb

Dierdre L. Webster Cobb
Chairperson
Civil Service Commission

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Attachment

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Charles Kairu
Fidelia Uzoukwu Odutola
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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter Chief, Finance and
Accounts (M0257U), City of Newark

CSC Docket No. 2017-3868

Salary Disapproval

ISSUED: **JUL 31 2017** (WR)

The appointing authority's failure to dispose of the certification for Chief, Finance and Accounts (M0257U), City of Newark, while a provisional employee is serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement.

The Commission has reviewed the salary disapprovals issued against the salary of Charles Kairu and has made the following findings of fact:

1. Kairu is currently serving provisionally in the title of Chief, Finance and Accounts.
2. There are vacancies for the title of Chief, Finance and Accounts and an outstanding certification was issued on November 2, 2016 from the M0257U eligible list.
3. The certification has not been properly disposed of and the appointing authority was advised of the required date of disposition.
4. The Certification Manager issued a Notice of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such action to the Commission.

5. No such appeal was taken, and no proper disposition of the certification was received; the salary disapproval, therefore, became a final administrative action.
6. By not properly disposing of this certification, the appointing authority is in violation of Civil Service law and rules.

In the instant matter, the appointing authority has refused to properly dispose of the certification issued to fill a vacancy occupied by a provisional employee. The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salary for which there is a disapproval is illegal and contravenes Civil Service law and rules.

The appointing authority, despite being given the opportunity, did not submit any arguments or documentation for the Commission's review.

ORDER

The Civil Service Commission orders the appointing authority to immediately dispose of the outstanding certification by making a permanent appointment of a reachable and interested eligible.¹ Additionally, the appointing authority is ordered to immediately separate any employee serving provisionally pending promotional examination procedures in the subject title who does not receive an appointment from the outstanding certification. Such disposition must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. If no proper disposition is made within this time period, the Civil Service Commission orders the constructive appointment of the highest ranked interested eligible. See *N.J.A.C. 4A:10-2.1(a)3; In the Matter of Battalion Fire Chief (PM1640E), Deputy Fire Chief (PM1423H), Atlantic City*, Docket No. A-229-87T7 (App. Div. December 8, 1988).

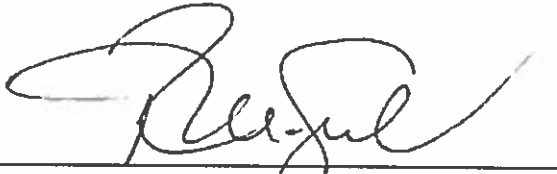
The Civil Service Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-3.2(a)5*, to be remitted within thirty (30) days of the issuance of this order. In the event the appointing authority fails to make a good faith effort to fully comply with this order within this time frame, it is additionally ordered that fines be assessed in the amount of one hundred dollars (\$100.00) per day, beginning on the thirty-first day following the issuance of this order and continuing each day of continued violation, up to a maximum of ten thousand dollars (\$10,000.00). See *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2; In the Matter of Fiscal Analyst (M1351H), Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). This matter will be referred to the

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Office of the Attorney General for enforcement and for recovery of illegal payments and fines as assessed herein if full compliance is not effected within thirty days.

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 26th DAY OF JULY, 2017



Robert M. Czoch, Chairperson
Civil Service Commission

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c: Charles Kairu
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