



STATE OF NEW JERSEY

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

In the Matter of Investigator 2
(C0668T), Salem County Sheriff's
Office

CSC Docket No. 2016-4299
2016-4300

Appointment Waiver Request

ISSUED: July 31, 2017 (RE)

The Salem County Sheriff's Office requests permission not to make appointments from the February 5, 2016 and February 26, 2016 certifications for Investigator 2 (C0668T).

The record reveals that the Salem County Sheriff's Office provisionally appointed Robert M. Stussy, pending open-competitive examination procedures, to the title of Investigator 2, effective August 1, 2015. As a result of the provisional appointment, an examination was announced with a closing date of September 15, 2015. A disabled veteran headed the eligible list of five individuals. On February 5, 2016, the names of all five eligibles were certified from the subject eligible list (OL1160126), along with one individual from the prior eligible list (C0626R), who headed the list. For reasons unknown, a second certification (OL1160211), dated February 26, 2016, was issued with the names of four eligibles. It is noted that Stussy, a veteran, ranked third, with another veteran, on both lists, behind the (C0626R) candidate and a disabled veteran.

Thereafter, the Salem County Sheriff's Office separated Stussy from service on June 15, 2016. The Salem County Sheriff's Office took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On May 25, 2016, the Salem County Sheriff's Office returned the certification and requested appointment waivers, as there were no provisional employees in the subject title, and that due to budgetary constraints it was unable to make an appointment.

The Salem County Sheriff's Office request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received. Personnel records reveal that there are currently no employees serving provisionally in the subject title with the Salem County Sheriff's Office.

CONCLUSION

In accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the provisional appointment of Stussy. After a complete certification was issued twice, the Salem County Sheriff's Office requested appointment waivers, stating that it wished to vacate the subject title due to budgetary constraints and personnel records indicate that the provisional has been removed from the subject title. Consequently, since no provisional serving in the title at issue, there is a sufficient justification for an appointment waiver.

Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, that can be ordered to reimburse for the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the civil service system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resultant eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this regard, the removal of the provisional is insufficient to support a waiver of the costs of the selection process. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted. Additionally, the Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid within 30 days of the issuance of this decision.

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
THE 26th DAY OF JULY, 2017



Robert M. Czedh, Chairperson
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