



**STATE OF NEW JERSEY**

In the Matter of Gavin Sheehan and Joseph Rivera, Police Lieutenant (PM0942A), Linden	:	<b>FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION</b>
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CSC Docket Nos. 2020-515 and 2020-516	:	Examination Appeal
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**ISSUED:** October 29, 2019 (JH)

Gavin Sheehan and Joseph Rivera request that they be permitted to submit applications for the promotional examination for Police Lieutenant (PM0942A), Linden, after the application filing deadline.

By way of background, the announcement for the subject examination was issued on July 1, 2019 with an application filing deadline of July 22, 2019 and all on-line applications had to have been received by that date. It is noted the Police Lieutenant test is scheduled to be administered on October 10, 2019. A review of the record finds that 12 applications were filed.

On appeal, Sheehan indicates that he was on vacation from June 29 through July 27, 2019 and “the only exception being on July 20 when there was an emergency personnel shortage and my holiday was rescinded.” Sheehan explains that “on July 24 at 2335 hours I received a text message from a fellow Sergeant that contained a screen shot of Power DMS Daily Bulletin. Posted in the bulletin was the promotional announcement for Lieutenant . . . Upon receiving the text message, I logged into Power DMS and searched for ‘promotional announcement’ in the search feature. The query did not return results . . . I eventually was able to locate the document under Daily Bulletin 179 through 181 . . . It was issued late in the day on June 28, 2019, the day just prior to my vacation.” Sheehan notes that “the Power DMS policy states that ‘it is the responsibility of each employee to log into the PDMS system on a daily basis during their scheduled shift to review the material that has been posted to the site. I didn’t work a scheduled shift from June 29, 2019 until July 27, 2019. And finally, all employees must digitally sign for each

document posted to PDMS.” Sheehan adds that in speaking with the Chief of Police, “he acknowledged that no one had checked to see who had signed for the Power DMS until after learning that I had missed the deadline.” Sheehan argues that for past promotional announcements, candidates were “required to physically appear and sign for the announcement by the appointing authority and it had been posted at the police desk.” Sheehan concludes that during his vacation leave, “I had contact with the Department several times via phone, email, and text message . . . The announcement was posted on Power DMS where it was titled ‘Daily Bulletin’ and had not been tagged in a manner that would make it searchable.”<sup>1</sup> In support of his appeal, Sheehan submits additional documentation including: a City of Linden “Monthly Calendar” for July 2019; a copy of a text message containing the name “Rivera” at the top of the page, a photograph of the top right hand corner of the subject announcement and the message, “July 22nd deadline!!!!!!” with a series of emojis<sup>2</sup> and a response dated July 25, “Are u serious;” a copy of Linden Police Department Daily Bulletin No. 179, 180 181-19, Friday June 28, 2019, Saturday June 29, 2019, Sunday June 30, 2019 which provides, “ATTENTION...ALL SERGEANTS...1. Please see the below from the Civil Service Commission [r]egarding the upcoming Lieutenant Promotional Examination;” what appears to be the Power DMS electronic signature page for Daily Bulletin No. 179, 180 181-19 that has been redacted to only show Sheehan’s name; and a copy of *In the Matter of Allan Bilinski, Police Captain (PM0652V), Marlboro* (CSC, decided October 4, 2017).

Rivera presents that “on June 28th, 2019 my Chief of Police distributed the [subject] announcement . . .” on Power DMS but Rivera “did not receive and view the announcement until July 24th, when a non[-]police employee showed me a photo of the announcement that they had on their personal cell phone.” Rivera argues that the subject announcement was posted as an “Inter-Office Memorandum” but according to the “Written Directive SOP . . . this type of announcement should have been distributed as a Special Memorandum . . .” Rivera contends that “it is a common practice in my department that Power-DMS is not checked on a daily basis and many officers have a large backlog of written directives to sign for.” Rivera contends that “simply distributing a mislabeled memorandum onto a written directive system that the administration knows is not sufficiently checked by a large number of employees, and then not checking themselves to

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<sup>1</sup> A review of the record finds that in an email sent July 25, 2019 to the Division of Agency Services, Sheehan notes that “this summer I made a concentrated effort to spend more time at home with my [family]” and “even though I have been off from work, I have still invested a lot of time and money into my professional development and preparation for this upcoming exam, and have enrolled in a promotional class.” Thus, given his anticipation of and preparation for the subject test, it is not clear from the record why he was not making inquiries when he “had contact with the Department several times via phone, email, and text message.”

<sup>2</sup> The date that the photograph and accompanying message were sent is not indicated in the copy provided by Sheehan.

endure that all eligible candidates viewed and signed the memorandum, shows a lack of ensuring that all eligible candidates (including myself) were notified of the announcement.” Rivera adds that he “did not have time away from my mandatory supervisory obligations to see the announcement.” In support of his appeal, Rivera submits additional documentation including: a copy of Linden Police Department Daily Bulletin No. 179, 180 181-19, as noted above; Linden Police Department Standard Operating Procedures effective April 2, 2019 regarding the Written Directive System; and Linden Police Department Daily Bulletin No. 017-19 dated January 17, 2019 which provides “All personnel are required to electronically sign for assigned documents in PowerDMS. A number of employees have an excessive amount of documents that have not yet been signed off on. All employees must review and sign for their assigned documents ASAP;” and what appears to be the Power DMS electronic signature page for Daily Bulletin No. 179, 180 181-19 that has been redacted to only show Rivera’s name.

It is noted that in separate identical letters dated August 13, 2019, from Allan C. Roth, Esq., City of Linden Labor Relations Specialist, submitted on behalf of Sheehan and Rivera, Roth explains that the City currently “conducts the notification process in two ways. First, the Police Department places the promotional notice one time on its Power DMS program, which is put out to all officers on a daily basis. An officer who reviews the DMS program is required to electronically sign off. Second, job postings, including promotional notices, are placed in a glass bulletin board next to the City Clerk’s Office, which is two floors away from the Police Department. In checking Sergeant Sheehan’s<sup>3</sup> time, he was out of work during the time of the promotional examination notice.<sup>4</sup> Further, a check of his DMS log-in provides that he did not log into Power DMS on the date the promotional announcement was issued by the Police Department.”<sup>5</sup> Roth further notes that he “personally went to observe the promotional announcement posting located in front of the City Clerk’s Office. For reasons unbeknownst to me, the date for the closing of the promotional exam for Police Lieutenant was shaded a very faint grey, leaving the date of the closing almost unreadable.”<sup>6</sup>

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<sup>3</sup> In the letter written on Rivera’s behalf, Rivera’s name appears in place of Sheehan’s. However, Rivera does not indicate in his appeal that he was on leave during the application filing period. In addition, no documentation was submitted indicating that Rivera was on leave.

<sup>4</sup> Roth does not provide specific dates or any supporting documentation which would indicate the dates Sheehan was on leave.

<sup>5</sup> Roth does not indicate any subsequent dates that Sheehan or Rivera logged into the Power DMS system or any supporting documentation which would indicate their login dates.

<sup>6</sup> It is noted that the application filing deadline date appears in red text in the subject announcement and will appear grey if color printing is not available. However, it is noted that the closing date appears in black bolded text in the announcement.

## CONCLUSION

*N.J.A.C.* 4A:4-2.1(e) provides, in part, that applications for promotional examinations shall be submitted no later than 4:00 p.m. on the announced application filing date. *N.J.A.C.* 4A:4-6.3(b) provides that the appellant in an examination appeal shall have the burden of proof.

With respect to the appellants' concerns regarding how the announcement was posted to the Power DMS system and Rivera's assertion that he was unable to view the Power DMS system and attend to his duties, it is ultimately the responsibility of the candidate to review the Power DMS system for important information since it is the method chosen by the appointing authority, as noted above, to communicate promotional opportunities with its employees. *See e.g., In the Matter of Robin Cristi and Jennie Ramos, Police Sergeant (PM2041V), Jersey City (CSC, decided May 23, 2018).* Moreover, neither appellant claims that the subject announcement was not posted to the department's written communications system, Power DMS, prior to the July 22, 2019 application filing deadline. *See N.J.A.C.* 4A:4-2.1(b).

Regarding *In the Matter of Allan Bilinski, supra.*, the relevance of this matter is not clear. In this regard, as indicated in *In the Matter of Allan Bilinski, supra.*, the main issue before the Commission was the posting of the announcement.<sup>7</sup> Furthermore, unlike Bilinski, Sheehan indicates that he was anticipating the promotional announcement. Specifically, as noted above, in his email sent July 25, 2019 to Agency Services, Sheehan acknowledged that he was preparing for the Police Lieutenant examination. In this regard, it is noted that the Examination Information Alert Police Promotional Schedule (2019) (EIA) issued by the Division of Test Development and Analytics in January 2019 and available on the Commission website, indicated that announcements for Police Lieutenant were to be issued on July 1, 2019 and the application filing deadline would be July 22, 2019. In addition, the Civil Service Commission Public Safety Testing Law Enforcement Status Report July 2019, which was available on the Commission website, indicated that Linden was one of the anticipated jurisdictions to be tested. Since Sheehan was in anticipation of and preparing for the subject test, it is not clear from the record as to why he was unaware of the application filing deadline given the available resources in addition to the Power DMS system to which Sheehan, as he

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<sup>7</sup> As noted in that decision, Bilinski explained that "in years past, the promotional announcements were placed in [the division's] notification board . . ." and in a letter, the Police Chief acknowledged that the promotional announcement was not posted in the division's bulletin board. Thus, the Commission determined that the appointing authority did not clearly demonstrate that Bilinski was notified of the subject examination pursuant to *N.J.A.C.* 4A:4-2.1(b).

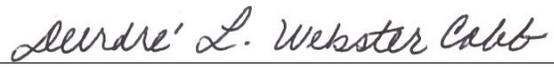
indicates above, had access from outside of his workplace,<sup>8</sup> as well as his frequent contact with the department while on leave.

**ORDER**

Therefore, it is ordered that these requests be denied.

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 23RD DAY OF OCTOBER, 2019



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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<sup>8</sup> Despite Sheehan's claim that officers are only required to log into the Power DMS system during their scheduled shift, Sheehan notes that he was at work on the day that the announcement was posted to the Power DMS system as well as on July 20 due to an "emergency personnel shortage." In addition, it is not clear why he would not access the Power DMS system while on leave given his preparation for the subject test.