



**STATE OF NEW JERSEY**

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

In the Matter of Senior Account Clerk  
(C0248V), Bergen County

CSC Docket No. 2020-1454

Appointment Waiver

**ISSUED: AUGUST 26, 2020**

Bergen County requests permission not to make an appointment from the August 7, 2017 certification for Senior Account Clerk (C0248V).

The record reveals that Bergen County provisionally appointed Salwomir Pobiaryzyn to the title of Senior Account Clerk, effective January 9, 2017. This appointment generated an open-competitive examination announcement with a closing date of April 24, 2017. The resulting eligible list of six names promulgated on August 3, 2017 and expires on August 2, 2020.

The appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee was no longer serving in the title. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. *See N.J.A.C. 4A:10-2.2(a)1.*

The appointing authority's 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. In response, the appointing authority indicated that the provisional has been removed but that it plans on utilizing the eligible list prior to its expiration. The appointing authority did not provide any other additional information for the Civil Service Commission (Commission) to review.

A review of agency records indicates that there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

### **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 the result of the provisional appointment of Pobiaryzn to the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that the provisional was no longer serving, but that it planned to utilize the list prior to its expiration. Therefore, 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, it 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 resulting 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, removing a provisional in the title is insufficient to support a waiver of the costs of the selection process. Additionally, the subject list expired on August 2, 2020. Therefore, there is no basis on which to defer selection costs. 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 a waiver of the appointment requirement be granted. Additionally, the Civil Service 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 order.

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 19<sup>TH</sup> DAY OF AUGUST 2020

*Deirdre' L. Webster Cobb*

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Deirdré L. Webster Cobb  
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