



**STATE OF NEW JERSEY**

In the Matter of Loan Advisor  
(M1466H), City of Newark

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

CSC Docket No. 2018-1383

Appointment Waiver

**ISSUED: April 6, 2018 (AMR)**

The City of Newark requests permission not to make an appointment from the May 14, 2008 certification for Loan Advisor (M1466H).

The record reveals that the City of Newark provisionally appointed Kelly Schenck, pending open competitive examination procedures to the subject title, effective June 9, 2003. An examination was announced with a closing date of November 21, 2006 that resulted in a list of 7 eligibles with an expiration date of January 24, 2010. It is noted that Schenck is no longer serving as a Loan Advisor and there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

It is noted that in *In the Matter of Loan Advisor (M1466H), Newark* (MSB, decided September 26, 2007), the former Merit System Board granted the appointing authority's request for a waiver of the appointment of Kevin Hutchinson and assessed selection costs in the amount of \$2,048. According to agency records, the appointing authority paid the selection costs on February 19, 2008. Subsequently, Schenck's name was certified on May 14, 2008 from the subject list, but the appointing authority failed to properly return the certification. Accordingly, the Civil Service Commission (Commission) ordered the appointing authority to properly dispose of the certification and assessed compliance costs in the amount of \$500. *In the Matter of Loan Advisor (M1466H), Newark* (CSC, decided July 8, 2009). It is noted that the appointing authority paid these costs on September 29, 2009.

After remitting the compliance costs, on October 15, 2009, the appointing authority returned the certification indicating that a permanent appointment would not be made from the subject list because the provisional appointee, Schenck, was no longer serving. However, for reasons unexplained in the record, the appointing authority's request was not referred to the Commission in October 2009.

## 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 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, in part, as a result of the provisional appointment of Schenck, who is no longer serving in the subject title. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that due to vacating of Schenck, the Loan Advisor position was no longer warranted. In conjunction with the fact that there are no provisionals currently serving, 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 case, the appointing authority has already paid the selection costs for this exam and remitted the required compliance costs.

## ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted.

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 4<sup>th</sup> DAY OF APRIL , 2018

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