B-15

STATE OF NEW JERSEY

In the Matter of Alan Handler, *et al.* Department of Labor and Workforce Development	:	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC Docket Nos. 2015-1852; 2015-1916; 2015-1853; 2015-1914; 2015-1913	:	Classification Appeals

ISSUED: OCT 13 2015

Alan Handler, Thomas Malar, David Menist, Minesh Patel and Christopher Pfeffer appeal the attached determinations of the Division of Agency Services (DAS) that their positions with the Department of Labor and Workforce Development are properly classified as Auditor 2. The appellants seek Auditor 1 classifications in this proceeding. These appeals have been consolidated based upon the common issues presented.

The record in the present matter establishes that all of the appellants are currently serving permanently in the title of Auditor 2. Their positions are located in various sub-units of the Department of Labor and Workforce Development's Division of Employer Accounts. The appellants all report to higher level supervisory personnel and do not supervise any employees. The appellants sought reclassification of their positions to Auditor 1. DAS performed detailed analyses of the appellants' Position Classification Questionnaires (PCQ) and gathered information during telephone audits.

As a result, DAS found that the appellants' positions were properly classified as Auditor 2. DAS stated that an Auditor 2 acts as a team leader of professional auditors performing moderately difficult audits, or conducting audits of some complexity and importance such as auditing large, complete, integrated systems involving such elements as cost, inventory, and administrative accounting. An Auditor 2 may also coordinate and summarize interrelated audits performed by other auditors. In contrast, an Auditor 1 is considered to be a first line supervisor performing duties related to supervising and directing the work of the auditing unit,

disciplining, and evaluating performance. As the appellants are not responsible for supervising staff, DAS maintained that the preponderance of the appellants' current duties and responsibilities are commensurate with Auditor 2.

On appeal to the Civil Service Commission (Commission), Mr. Handler and Mr. Menist indicate that they are currently working with the Contested Case Unit and are responsible for conducting informal conferences to resolve disputed audit findings and to represent the Department in formal hearings before the Office of Administrative Law (OAL). They file briefs, interrogatories and exceptions in formal hearings, tasks that were previously performed by Deputy Attorneys General but have now been taken over by Auditors 1. Both also state that they arrange for conferences, which is not Auditor 2 work. They also providing Auditors 3 and other lower level staff with information in how to conduct audits, provide informal on-the-job training for subordinates, and teach them auditing operations. Further, both appellants contend that they currently organize and assign work to these individuals, review their work, and make recommendations on performance. They indicate that, due to retirements over a five year period and with no vacancies being filled, there is a lack of training offered by Auditors 1 or Supervising Auditors. Finally, both appellants state that they were was asked to complete more detailed and difficult cases.

Mr. Malar asserts that he reviews the work of 10 auditors, and makes corrections to their audits. He also states that he provides training to new hires and evaluates their work. The appellant maintains that this is supervision.

Mr. Patel asserts that, although he is not disciplining staff or completing performance evaluations, he is doing the duties of an Auditor 1. He maintains that the job specification for Auditor 1 is outdated and states that incumbents in this title are not responsible for disciplining or completing performance evaluations. Further, he states that he reviews the work of other auditors, and advises them of actions to take to correct them. He also states that he assists the Chief Auditor's office initiating field assignments for the three regions, is responsible for custodianship of Federal Tax Information (FTI), prepares yearly reports for the Internal Revenue Service (IRS), prepares weekly statistical reports for the Assistant Commissioner, and serves as a liaison for the Division's internal customers.

Mr. Pfeffer argues that his duties are significantly more difficult than duties required of an Auditor 2. Similar to Mr. Handler and Mr. Menist, his duties at the time of the audit were as a "redetermination" auditor, and included representing the Department in OAL hearings and conducting conferences with staff, attorneys, and representatives of State and private agencies concerning audits performed. Mr. Pfeffer also contends that the ability to represent the Department at OAL requires specific knowledge, expertise, and experience that an Auditor 2 is not required to maintain or demonstrate. The appellant asserts that an Auditor 2 can participate

during a hearing, but only in the capacity of a witness for the department providing testimony regarding the original audit that is being contested. Next, the appellant states that it is his duty to conduct informal on-the-job training for subordinates concerning auditing operations and from August 2014 to the present, he has been involved with the training of Auditors 3 and Auditor Trainees. In addition to training, he is responsible for organizing and evaluating the Auditors so that a recommendation of hiring, firing and/or extending evaluation periods can be made. Also, the appellant states that he performed internal control reviews that included internal compliance audits. These audits required reviews and audit reports of work by auditors engaged in conducting external audits of financial documentation to ensure that a proper audit was accomplished.

In response, DAS argues that Auditor 2 is the proper classification for all five appellants. In this regard, it contends that the Auditor 1 title is a supervisory title as it is in the "R" Employee Relations Group (ERG), which is designated as the "Primary Level Supervisors Unit." It also indicates that as such, an incumbent in an Auditor 1 title would be required, *inter alia*, to be responsible for the preparation of employee performance evaluations. Finally, it indicates that it is in the process of modifying the Auditor 1 job specification to more clearly convey the supervisory requirement.

CONCLUSION

The definition section of the job specification for Auditor 1 states:

> Under direction of a supervisory official in a State department, institution, or agency, performs duties of significant difficulty and/or supervises a major auditing unit engaged in professional audits of private corporations, State government, or local school districts; does other related duties as required.

The definition section of the job specification for Auditor 2 states:

> Under general supervision in a State department or agency, leads a group of auditors conducting audits of financial transactions and records of private corporations, State, and local government, or local school districts, or independently conducts the more complex field or office audits or accounting work; does other related work.

In the instant matter, DAS appropriately found that the appellants' positions were properly classified as Auditor 2. While the definition of Auditor 1 provided above is not the paragon of clarity, it is clear that the title is at the supervisory level. In this regard, in addition to the inclusion of such language in the definition,

several examples of work listed in the job specification confirm that individuals in this title function as supervisors. For example, the very first example of work in the job specification states that an incumbent: "Directly supervises a group of auditors of lower grade in the conduct of field or internal audits, inspections and/or investigations of State agencies, institutions, private corporations, and those financial transactions and records coming under jurisdiction or regulation of State of New Jersey." By contrast, an Auditor 2 may only function as a lead worker.

Further evidence that the Auditor 1 title is at the supervisory level is its inclusion in the "R" ERG. In this respect, titles are assigned to ERGs based on the classification of the position by this agency. *See N.J.S.A.* 11A:3-1. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision.

Moreover, when a title is supervisory in nature, the Commission has found that, along with the myriad of other supervisory duties that must be performed, the essential component of supervision is the responsibility for formal performance evaluation of subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 8, 2001). As such, in order to be classified at the level of Auditor 1, an incumbent must supervise subordinate staff, including having the responsibility for performing formal performance evaluations. Merely making recommendations regarding a subordinate's performance, or even assisting in the preparation of a performance evaluation is not sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate's supervisor. A review of the record does not establish that any of the appellants perform such duties.

In this regard, while all of the appellants are functioning as lead workers, and perform complex auditing duties, such duties fall squarely in the job definition for Auditor 2. In this regard, a lead worker is not considered a supervisor. Leadership roles refer to persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. *See In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). Moreover, none of the appellants, with the possible exception of Mr. Pfeffer, indicate that they are responsible for formally evaluating the performance of subordinate staff.

Regarding Mr. Pfeffer, at the time of the audit, he indicated that his duties had changed. Specifically, he stated that his current duties include making personnel-related recommendations. However, it is unclear from the record whether these duties include completing formal performance evaluations as defined above. Accordingly, should Mr. Pfeffer believe his new duties now transform his

position to a supervisory level, as defined above, he may file a request for a new classification review pursuant to *N.J.A.C.* 4A:3-3.9.

Additionally, the Commission rejects the appellants' argument that their positions should be reclassified to Auditor 1 since some of the duties they perform were formerly performed by incumbents in that title. In this regard, it is not uncommon for an employee to perform some duties which are above or below the level which is ordinarily performed. Moreover, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. *See In the Matter of Dennis Stover,* Docket No. A-5011-96T1 (App. Div. October 3, 1998), *affirming In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). *See also, In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995).

Accordingly, a thorough review of the entire record fails to establish that Alan Handler, Thomas Malar, David Menist, Minesh Patel and Christopher Pfeffer have presented a sufficient basis to warrant an Auditor 1 classification of their positions.

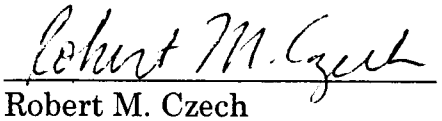
One final comment is warranted. There appears to be significant confusion regarding the Auditor 1 job specification. In this regard, the Commission notes that DAS has indicated that it is undertaking an analysis of the Auditor 1 job specification in order to make any necessary modifications in the verbiage regarding supervision.

ORDER

Therefore, the positions of Alan Handler, Thomas Malar, David Menist, Minesh Patel and Christopher Pfeffer are properly classified as Auditor 2.

This is the final administrative action in the matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 7th DAY OF OCTOBER, 2015



Robert M. Czech
Commissioner
Civil Service Commission

Inquiries
and
Correspondence:

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
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P.O. Box 312
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Attachments

c: Alan Handler
Thomas Malar
David Menist
Minesh Patel
Christopher Pfeffer
Thomas Healy
Kenneth Connolly
Joseph Gambino

CHRIS CHRISTIE
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
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Robert M. Czech
Chair/Chief Executive Officer

December 5, 2014

Mr. Alan Handler
44 N. White Horse Pike
Suite B
Hammonton, NJ 08037

Re: Classification Appeal – Auditor 2 (P23), Position # 940029, CPM Log# 06140014, EID # 000322839

Dear Mr. Handler:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation obtained during and subsequent to the audit conducted November 10, 2014, as well as the information provided by your immediate supervisor, John Raleigh, Auditor 1 (R26, 51074).

Issue:

You are serving permanently (RAP) in the title, Auditor 2 (P23, 51073), Department of Labor and Workforce Development. You contend you are performing duties and responsibilities commensurate with the title, Auditor 1 (R26, 51074).

Organization:

Your position is assigned to the Division of Employer Accounts, New Jersey Department of Labor and Workforce Development. You report directly to John Raleigh, Auditor 1 (R26, 51074). You have no supervisory responsibilities.

Findings of Fact:

The primary functions of your position are to perform redetermination audits of contested cases, including negotiating settlement agreements with employers.

You perform the following assigned duties and responsibilities:

- Conduct informal hearings of contested cases.
- Audit payroll records, cash disbursements, 1099's and tax returns to determine subcontractor status. Review any additional documentation provided by the employer during the informal hearing to determine if the initial audit determination was correct.
- Evaluate the validity of the subcontractor status per the 19(i)(6)(a)(b)(c) provision of the New Jersey State Unemployment and Disability law which determines if services performed are performed by an independent contractor or a covered employee and are taxable as employee wages.
- Determine supplemental liability and collect supplemental contributions.
- Negotiate settlement agreements with the employer and/or the employer's accountant or legal representation during informal hearings.
- Write detailed settlement agreements which include the settlement amount and the payment plan or payment in full.
- Ensure employer payment of contributions owed, as determined by the audit results.
- Represent the state during formal hearings before the Administrative Law judge when contested cases cannot reach a settlement agreement.
- Explain to employers the 19(i)(6)(a)(b)(c) provision of the New Jersey State Unemployment and Disability law.

Review and Analysis:

Currently, your position is classified in the title, Auditor 2 (P23, 51073). The definition section of the job specification for the title states:

> "Under general supervision in a state department or agency, leads a group of auditors conducting audits of financial transactions and records of private corporations, state, and local government, or local school districts, or independently conducts the more complex field or office audits or accounting work; does other related work."

Incumbents in the title, Auditor 2, regularly act as a team leader of professional auditors performing moderately difficult audits. These audits are complex and may include the auditing of large, complete, integrated systems analyzing such elements as cost, inventory, and administrative accounting. Incumbents may also coordinate and summarize interrelated audits performed by other auditors.

You contend your position should be classified in the title, Auditor 1 (R26, 51074). The definition section of the class specification for this title states:

> "Under direction of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises a major auditing unit engaged in professional audits of private corporations, state government, or local school districts; does other related duties as required."

Incumbents in this title have irregular or variable work hours. They supervise subordinate auditors and conduct very complex or sensitive audits of serious and controversial matters which do not require a team approach. The title, Auditor 1 is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the auditing unit, discipline subordinate staff and evaluate staff performance.

The audit revealed you work a fixed 35 hour work week (9:00 am to 4:30pm, Monday through Friday). You work under general supervision and are responsible for reviewing initial audits completed by field auditors in contested cases, conducting informal hearings with employers, negotiating settlement agreements, determining employer liability, ensuring the employer pays the liability owed from the audit. You are also responsible for representing the New Jersey Department of Labor and Workforce Development in Administrative Law hearings where you present the facts of the case and defend the audit determination to the Administrative Law judge. You are not responsible for disciplining subordinate employees and evaluating staff performance and you have no supervisory duties. The duties and responsibilities assigned to you compare most favorably with the title, Auditor 2 (P23, 51073).

Determination:

It is our determination that the appropriate classification of your position is the title, Auditor 2 (P23, 51073). By copy of this letter the Appointing Authority is advised that your position is presently and properly classified.

If you wish to appeal this decision, you may do so within twenty days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments which you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Division of Appeals and Regulatory Affairs, Written Records Appeal Unit, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a

copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

Cheryl Legg

Cheryl Legg, Human Resource Consultant 5
Classification and Personnel Management

CL:kk
c. Mary Fitzgerald
File

CHRIS CHRISTIE
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Agency Services
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Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

December 8, 2014

Mr. Thomas Malar
New Jersey Department of Labor and Workforce Development
550 Jersey Ave.
New Brunswick, NJ 08903-2672

Re: Classification Appeal – Auditor 2 (P23), Position # 942303, CPM Log# 06140009, EID # 000340209

Dear Mr. Malar:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation obtained during and subsequent to the audit conducted November 18, 2014, as well as the information provided by your immediate supervisor, Mukesh Naik, Supervising Auditor (S28, 50965).

Issue:

You are serving permanently (RAP) in the title, Auditor 2 (P23, 51073), Department of Labor and Workforce Development. You contend you are performing duties and responsibilities commensurate with the title, Auditor 1 (R26, 51074).

Organization:

Your position is assigned to the Division of Employer Accounts, New Jersey Department of Labor and Workforce Development. You report directly to Mukesh Naik, Supervising Auditor (S28, 50965). You review audit determinations of field auditors for correctness and supervise in Mukesh Naik's absence. You are not responsible for evaluating staff performance or disciplining employees.

Findings of Fact:

The primary function of your position is to review non-contested case audits completed by field auditors for accuracy and approval.

You perform the following assigned duties and responsibilities:

- Review audits completed by field auditors (verification audits, employment experience transfer between entities audits, business acquisition by another company audits, IRS audit referrals, Wage and Hour audit referrals, etc.) for accuracy and compliance with the New Jersey Unemployment Compensation Law and Temporary Disability Benefits laws.

- Perform Tax Performance System reviews of other region's audit assignments.

- Testify as a subject matter expert in Appeal Tribunal Hearings on matters of employee/independent contractor relationships, officer compensation, and transfer of business ownership.

- Determine if an entity audit is needed following an Appeal Tribunal Hearing.

- Train Auditor Accountant Trainee.

- Provide guidance and instruction to field auditors on the proper completion of assignments.

Review and Analysis:

Currently, your position is classified in the title, Auditor 2 (P23, 51073). The definition section of the job specification for the title states:

> "Under general supervision in a state department or agency, leads a group of auditors conducting audits of financial transactions and records of private corporations, state, and local government, or local school districts, or independently conducts the more complex field or office audits or accounting work; does other related work."

Incumbents in the title, Auditor 2, regularly act as a team leader of professional auditors performing moderately difficulty audits or they conduct audits of some complexity and importance such as auditing large, complete, integrated systems involving such elements as cost, inventory, and administrative accounting. Incumbents may also coordinate and summarize interrelated audits performed by other auditors.

You contend your position should be classified in the title, Auditor 1 (R26, 51074). The definition section of the class specification for this title states:

> "Under direction of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises a major auditing unit engaged in professional audits of private corporations, state government, or local school districts; does other related duties as required."

Incumbents in this title supervise subordinate auditors and conduct very complex or sensitive audits of serious and controversial matters which do not require a team approach. The title, Auditor 1 is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the auditing unit, discipline subordinate staff and evaluate staff performance.

The audit revealed you are responsible for reviewing initial audits completed by field auditors in non-contested cases, performing Tax Performance System reviews to maintain quality control standards, testifying as an expert witness at Appeal Tribunal Hearings, and training an Auditor Accountant Trainee. You are not responsible for disciplining subordinate employees nor are you responsible for evaluating staff performance. The duties and responsibilities assigned to you compare most favorably with the title, Auditor 2 (P23, 51073).

Determination:

It is our determination that the appropriate classification of your position is the title, Auditor 2 (P23, 51073). By copy of this letter the Appointing Authority is advised that your position is presently and properly classified.

If you wish to appeal this decision, you may do so within twenty days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments which you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Division of Appeals and Regulatory Affairs, Written Records Appeal Unit, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

Cheryl Legg

Cheryl Legg, Human Resource Consultant 5
Classification and Personnel Management

CL:kk
c. Mary Fitzgerald
File

CHRIS CHRISTIE
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Lt. Governor

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Chair/Chief Executive Officer

December 4, 2014

Mr. David Menist
New Jersey Department of Labor and Workforce Development
Division of Employer Accounts
P.O. Box 942
Trenton, NJ 08625-0942

Re: Classification Appeal – Auditor 2 (P23), Position # 940125, CPM Log# 06140015, EID # 000314350

Dear Mr. Menist:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation obtained during and subsequent to the audit conducted November 5, 2014, as well as the information provided by your immediate supervisor, Steven Flashenberg, Supervising Auditor (S28, 50965).

Issue:

You are serving permanently (RAP) in the title, Auditor 2 (P23, 51073), Department of Labor and Workforce Development. You contend you are performing duties and responsibilities commensurate with the title, Auditor 1 (R26, 51074).

Organization:

Your position is assigned to the Division of Employer Accounts, New Jersey Department of Labor and Workforce Development. You report directly to Steven Flashenberg, Supervising Auditor (S28, 50965). You have no supervisory responsibilities.

Findings of Fact:

The primary functions of your position are to perform redetermination audits, including negotiating settlement agreements with employers and to train newly appointed employees assigned the title, Auditor.

You perform the following assigned duties and responsibilities:

- Conduct informal hearings of contested cases.
- Audit payroll records, cash disbursements, 1099's and tax returns to research subcontractor status along with any additional documentation provided by the employer during the informal hearing to determine if the initial audit determination was correct.
- Determine if the subcontractor in in compliance with the 19(i)(6)(a)(b)(c) provision of the New Jersey State Unemployment and Disability law which defines whether services performed are performed by an independent contractor or a covered employee.
- Change the employer's liability status when the initial audit determination was incorrect.
- Negotiate settlement agreements with the employer and/or the employer's accountant or legal representation during informal hearings.
- Ensure employer payment of contributions owed, as determined by the audit results.
- Represent the state during formal hearings before the Administrative Law judge when contested cases cannot reach a settlement agreement.
- Train newly hired Auditors.
- Meet with employers to discuss the 19(i)(6)(a)(b)(c) provision of the New Jersey State Unemployment and Disability law.

Review and Analysis:

Currently, your position is classified in the title, Auditor 2 (P23, 51073). The definition section of the job specification for the title states:

> "Under general supervision in a state department or agency, leads a group of auditors conducting audits of financial transactions and records of private corporations, state, and local government, or local school districts, or independently conducts the more complex field or office audits or accounting work; does other related work."

Incumbents in the title, Auditor 2, regularly act as a team leader of professional auditors performing moderately difficult audits or they conduct audits of some complexity and importance such as auditing large, complete, integrated systems involving such elements as cost, inventory, and administrative accounting. Incumbents may also coordinate and summarize interrelated audits performed by other auditors.

You contend your position should be classified in the title, Auditor 1 (R25, 50964). The definition section of the class specification for this title states:

> "Under direction of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises a major auditing unit engaged in professional audits of private corporations, state government, or local school districts; does other related duties as required."

Incumbents in this title have fixed work hours. They supervise subordinate auditors and conduct very complex or sensitive audits of serious and controversial matters which do not require a team approach. The title, Auditor 1 is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the auditing unit, discipline subordinate staff and evaluate staff performance.

The audit revealed you work a fixed 35 hour work week (8:30am to 4:30pm, Monday through Friday). You work under general supervision and are responsible for reviewing initial audits completed by field auditors in contested cases, conducting informal hearings with employers, negotiating settlement agreements, determining employer liability, amending audits, ensuring the employer pays the liability owed from the audit and works with the employer to achieve future compliance with the

New Jersey State Unemployment and Disability Law. You are also responsible for representing the New Jersey Department of Labor and Workforce Development in Administrative Law hearings where you present the facts of the case and defend the audit determination to the Administrative Law judge. You are not responsible for disciplining subordinate employees and evaluating staff performance and you have no supervisory duties. The duties and responsibilities assigned to you compare most favorably with the title, Auditor 2 (P23, 51073).

Determination:

It is our determination that the appropriate classification of your position is the title, Auditor 2 (P23, 51073). By copy of this letter the Appointing Authority is advised that your position is presently and properly classified.

If you wish to appeal this decision, you may do so within twenty days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments which you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Division of Appeals and Regulatory Affairs, Written Records Appeal Unit, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

Cheryl Legg

Cheryl Legg, Human Resource Consultant 5
Classification and Personnel Management

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CHRIS CHRISTIE
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Lt. Governor

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Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

December 8, 2014

Mr. Minesh Patel
New Jersey Department of Labor and Workforce Development
124 Halsey St., 2nd Floor
P.O. Box 226
Newark, NJ 07101

Re: Classification Appeal – Auditor 2 (P23), Position # 940526, CPM Log# 06140007, EID # 000371436

Dear Mr. Patel:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation obtained during and subsequent to the audit conducted November 20, 2014, as well as the information provided by your immediate supervisor, Michael Reiser, Chief of Unemployment Benefits UI/DI (&30, 61428F).

Issue:

You are serving permanently (RAP) in the title, Auditor 2 (P23, 51073), Department of Labor and Workforce Development. You contend you are performing duties and responsibilities commensurate with the title, Auditor 1 (R26, 51074).

Organization:

Your position is assigned to the Division of Employer Accounts, New Jersey Department of Labor and Workforce Development. You report directly to Michael Reiser, Chief of Unemployment Benefits UI/DI (&30, 61428F). You have no supervisory responsibilities.

Findings of Fact:

The primary function of your position is to ensure audits (completed by field auditors and approved by their supervisors) are in compliance with United States Department of Labor Tax Performance System standards.

You perform the following assigned duties and responsibilities:

- Perform Tax Performance System reviews: review and approve New Jersey Unemployment Compensation Law and Temporary Disability Benefits compliance audits completed by field auditors and approved by their supervisors for accuracy and compliance with the United States Department of Labor Tax Performance System requirements.

- Act as Federal Tax Information custodian. Ensure all tax information received is properly stored and highly secured and prepare Annual Safeguard Activity Report for the Director of the Division of Employer Accounts of the Internal Revenue Service (per IRS publication 1075).

- Initiate audit assignments for the New Brunswick and Hammonton offices. Receive, review and validate audit requests received from program areas (Temporary Disability Benefits, Unemployment Benefits, Wage and Hour, etc.) and utilize IRS data for audit leads to generate assignments for the offices, which are then passed down to the field auditors for completion via their direct supervisor.

- Prepare weekly statistical reports, including the number of audits completed in the week, the year-to-date audit assignment completions, under-reported gross wages and contributions, and misclassified workers for the Assistant Director.

- Assist in the training of auditors on the subject of the Tax Performance System.

Review and Analysis:

Currently, your position is classified in the title, Auditor 2 (P23, 51073). The definition section of the job specification for the title states:

> "Under general supervision in a state department or agency, leads a group of auditors conducting audits of financial transactions and records of private corporations, state, and local government, or local school districts, or independently conducts the more complex field or office audits or accounting work; does other related work."

Incumbents in the title, Auditor 2, regularly act as a team leader of professional auditors performing moderately difficulty audits or they conduct audits of some complexity and importance such as auditing large, complete, integrated systems involving such elements as cost, inventory, and administrative accounting. Incumbents may also coordinate and summarize interrelated audits performed by other auditors.

You contend your position should be classified in the title, Auditor 1 (R26, 51074). The definition section of the class specification for this title states:

> "Under direction of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises a major auditing unit engaged in professional audits of private corporations, state government, or local school districts; does other related duties as required."

Incumbents in this title supervise subordinate auditors and conduct very complex or sensitive audits of serious and controversial matters which do not require a team approach. The title, Auditor 1 is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the auditing unit, discipline subordinate staff and evaluate staff performance.

The audit revealed the primary focus of your position is to ensure Tax Performance System requirements are met on audits completed by field auditors. You are responsible for reviewing audits completed by field auditors (and have received first level approval from their director supervisors) for compliance with the Tax Performance System standards, you act as the Federal Tax Information Custodian and initiate audit assignments for one and one-half offices (the entire New Brunswick office and half of the Hammonton office). You are not responsible for disciplining subordinate employees nor are you responsible for evaluating staff performance. The duties and responsibilities assigned to you compare most favorably with the title, Auditor 2 (P23, 51073).

Determination:

It is our determination that the appropriate classification of your position is the title, Auditor 2 (P23, 51073). By copy of this letter the Appointing Authority is advised that your position is presently and properly classified.

If you wish to appeal this decision, you may do so within twenty days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments which you wish considered should be submitted within the specified timeframe. Appeals should be addressed to the Division of Appeals and Regulatory Affairs, Written Records Appeal Unit, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

Cheryl Legg

Cheryl Legg, Human Resource Consultant 5
Classification and Personnel Management

CL:kk
c. Mary Fitzgerald
File

CHRIS CHRISTIE
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Agency Services
P. O. Box 313
Trenton, New Jersey 08625-0313

Robert M. Czech
Chair/Chief Executive Officer

December 5, 2014

Mr. Christopher Pfeffer
124 Halsey St., 2nd Floor
P.O. B. 226
Newark, NJ 07101

Re: Classification Appeal – Auditor 2 (P23), Position # 940524, CPM Log# 0614008, EID # 000320296

Dear Mr. Pfeffer:

This is to inform you of our determination concerning the classification appeal referenced above. The determination is based upon a thorough review and analysis of the Position Classification Questionnaire submitted and the information and documentation obtained during and subsequent to the audit conducted November 24, 2014, as well as the information provided by your immediate supervisor, Pankaj Shah, Auditor 1 (R26, 51074).

Issue:

You are serving permanently (RAP) in the title, Auditor 2 (P23, 51073), Department of Labor and Workforce Development. You contend you are performing duties and responsibilities commensurate with the title, Auditor 1 (R26, 51074).

Organization:

Your position is assigned to the Division of Employer Accounts, New Jersey Department of Labor and Workforce Development. You report directly to Pankaj Shah, Auditor 1 (R26, 51074). You provide training and instruction to new auditors, but you have no supervisory responsibilities.

Findings of Fact:

The primary functions of your position are to perform redetermination audits, including negotiating settlement agreements with employers and training new auditors.
You perform the following assigned duties and responsibilities:

- Conduct informal hearings on contested cases.
- Change employer's liability when initial audit determination was incorrect.
- Negotiate settlement agreements with the employer and/or the employer's accountant or legal representation during informal hearings.
- Secure employer payment of contributions owed, as determined by the audit results.
- Represent the state during formal hearings before the Administrative Law judge when contested cases cannot reach a settlement agreement.
- Train new Auditors.
- Meet with employers and/or their attorney to discuss the 19(i)(6)(a)(b)(c) provision of the New Jersey State Unemployment and Disability law which determines if services performed are considered performed by an independent contractor or a covered employee.

Review and Analysis:

Currently, your position is classified in the title, Auditor 2 (P23, 51073). The definition section of the job specification for the title states:

> "Under general supervision in a state department or agency, leads a group of auditors conducting audits of financial transactions and records of private corporations, state, and local government, or local school districts, or independently conducts the more complex field or office audits or accounting work; does other related work."

Incumbents in the title, Auditor 2, regularly act as a team leader of professional auditors performing moderately difficult audits or they conduct audits of some

complexity and importance such as auditing large, complete, integrated systems involving such elements as cost, inventory, and administrative accounting. Incumbents may also coordinate and summarize interrelated audits performed by other auditors.

You contend your position should be classified in the title, Auditor 1 (R26, 51074). The definition section of the class specification for this title states:

> "Under direction of a supervisory official in a state department, institution, or agency, performs duties of significant difficulty and/or supervises a major auditing unit engaged in professional audits of private corporations, state government, or local school districts; does other related duties as required."

Incumbents in this title supervise subordinate auditors and conduct very complex or sensitive audits of serious and controversial matters which do not require a team approach. The title, Auditor 1 is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are first level supervisory positions. As such, incumbents supervise and direct the work of the auditing unit, discipline subordinate staff and evaluate staff performance.

The audit revealed you work under general supervision and are responsible for reviewing initial audits completed by field auditors in contested cases, conducting informal hearings with employers, negotiating settlement agreements, ensuring the employer pays the liability owed from the audit and training new field auditors. You are also responsible for representing the New Jersey Department of Labor and Workforce Development in Administrative Law hearings where you present the facts of the case and defend the audit determination to the Administrative Law judge. You are not responsible for disciplining subordinate employees and completing performance evaluations of staff. The duties and responsibilities assigned to you compare most favorably with the title, Auditor 2 (P23, 51073).

Determination:

It is our determination that the appropriate classification of your position is the title, Auditor 2 (P23, 51073). By copy of this letter the Appointing Authority is advised that your position is presently and properly classified.

If you wish to appeal this decision, you may do so within twenty days of receipt of this letter. Since an appeal will be subject to final administrative review, all arguments which you wish considered should be submitted within the specified

timeframe. Appeals should be addressed to the Division of Appeals and Regulatory Affairs, Written Records Appeal Unit, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

Cheryl Legg

Cheryl Legg, Human Resource Consultant 5
Classification and Personnel Management

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