



## STATE OF NEW JERSEY

 FINAL ADMINISTRATIVE ACTION  
 OF THE  
 CIVIL SERVICE COMMISSION

 In the Matter of Accountant and  
 Senior Account Clerk, Bergen County

 CSC Docket Nos. 2019-706  
 2019-707

Salary Disapproval

ISSUED: December 20, 2018 (RE)

Bergen County's failure to dispose of the certifications for two lists while provisionals are serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement. These lists include: Accountant (C0001T/C0651U) (OL170240) and Senior Account Clerk (C0248V) (OL170920).

The Commission has reviewed the salary disapprovals issued against the salaries of various provisionals and has made the following findings of fact:

1. Provisional incumbents are currently serving each of the titles. For Senior Account Clerk, when the matter was referred, the provisional was **Salwomir Pobjarzyn**. He is no longer a provisional in this title, however, Sadie Ortiz is now a provisional. For Accountant, when the matter was referred, the provisional was **Clara Williams**. Additional provisional incumbents include Salwomir Pobjarzyn, Adwoa Asaawuku, Edith Martin, and Angelo Carollo.
2. There are vacancies for these titles and outstanding certifications have been issued.
3. The certifications have not been properly disposed of and the appointing authority was advised of the required dates of dispositions.

4. The Certification Manager issued Notices of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such actions to the Commission.
5. No appeals were submitted, and no proper disposition of the certifications was received; the salary disapprovals, therefore, became final administrative actions.
6. By not properly disposing of these certifications, the appointing authority is in violation of Civil Service law and rules.

In the instant matter, the appointing authority has refused to properly dispose of the certifications issued to fill the vacancies occupied by provisional employees. The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salaries for which there is a disapproval is illegal and contravenes Civil Service law and rules.

The appointing authority, despite being given the opportunity, did not submit any arguments or documentation for the Commission's review. It was explained to the appointing authority that Salwomir Pobjarzyn was provisionally appointed pending open competitive examination (PAOC) to Senior Account Clerk on January 9, 2017, which resulted in the announcement for Senior Account Clerk (C0248V). He did not appear on that eligible list and was subsequently made PAOC as Accountant on January 1, 2018. That appointment was disapproved as the eligible list for Accountant (C0001T) did not expire until April 8, 2018. The appointing authority was asked to submit a Position Classification Questionnaire (PCQ) for Pobjarzyn's position with specific duties listed, and it did not respond.

*N.J.S.A.* 11A:3-1 and *N.J.A.C.* 4A3-3.1(a) provide that each position in the career and unclassified services shall be assigned by the Civil Service Commission to a job title. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. The appointing authority's actions in regard to Pobiarzyn's position appear to be a circumvention of Civil Service regulations. Therefore, instead of perpetuating the misclassification of a position by providing a provisional appointment to a different title when a provisional incumbent does not appear on the eligible list for his title, the Division of Agency Services (Agency Services) should perform a classification review of this position so it can be determined which title is appropriate.

## ORDER

The Civil Service Commission orders the appointing authority to immediately dispose of the outstanding certifications by making permanent appointment of a reachable and interested eligible. Additionally, the appointing authority is ordered to immediately separate any employee serving provisionally pending open competitive examination procedures in the subject titles who do not receive an appointment from an outstanding certification. Such dispositions must be filed with the Certification Manager on or before thirty (30) days from the issuance of this order. If no proper dispositions are made within this time period, the Civil Service Commission orders the constructive appointments of the highest ranked interested eligibles from each list. See *N.J.A.C. 4A:10-2.1(a)3*; *In the Matter of Battalion Fire Chief (PM1640E)*, *Deputy Fire Chief (PM1423H)*, *Atlantic City*, Docket No. A-229-87T7 (App. Div. December 8, 1988).

The Civil Service Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000 per violation, pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-3.2(a)5*, to be remitted within thirty (30) days of the issuance of this order. In the event the appointing authority fails to make a good faith effort to fully comply with this order within this time frame, it is additionally ordered that fines be assessed in the amount of one hundred dollars (\$100.00) per day per violation, beginning on the thirty-first day following the issuance of this order and continuing each day of continued violation, up to a maximum of ten thousand dollars (\$10,000.00). See *N.J.S.A. 11A:10-3*; *N.J.A.C. 4A:10-2.1(a)2*; *In the Matter of Fiscal Analyst (M1351H)*, *Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). These matters will be referred to the Office of the Attorney General for enforcement and for recovery of illegal payments and fines as assessed herein if full compliance is not effected within thirty days.

Further, Agency Services is to perform a classification review of the position encumbered by Salwomir Pobjarzyn to determine its proper classification.

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 19th DAY OF DECEMBER, 2018



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Civil Service Commission

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c: Sadie Ortiz (CSC Docket No. 2019-707)  
Clara Williams (CSC Docket No. 2019-706)  
Salwomir Pobjarzyn (CSC Docket No. 2019-706)  
Adwoa Asaawuku (CSC Docket No. 2019-706)  
Edith Martin (CSC Docket No. 2019-706)  
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