



**STATE OF NEW JERSEY**

In the Matter of Administrative  
Analyst (M0279S), Jersey City

CSC Docket No. 2019-849

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

Request for Enforcement

**ISSUED: JANUARY 22, 2019 (SLK)**

The Division of Agency Services (Agency Services) requests that the Civil Service Commission (Commission) order Jersey City to return the August 3, 2016 certification of the eligible list for Administrative Analyst (M0279S), Jersey City for proper disposition.

The record reveals that the M0279S examination was announced with a May 19, 2014 closing date, which resulted in an employment roster of 14 eligibles. The list promulgated on January 15, 2015 and expired on January 14, 2018. Certification OL150080 was issued which contained the names of the 14 eligibles, with two being appointed on January 20, 2015, two being removed, and 10 remaining on the list. Thereafter, on March 31, 2015, Jersey City provisionally appointed Shawn Thomas as an Administrative Analyst, pending open competitive examination procedures, to the subject title. It is noted that Thomas applied for the subject examination, but Agency Services determined that he was ineligible, which he did not appeal. On August 3, 2016, certification OL160928 was issued which contained the names of the 10 remaining eligibles. Its disposition was due on November 3, 2016. Subsequently, on July 26, 2017, Thomas was provisionally appointed to a different title. Thereafter, on November 24, 2017, the Division of Agency Services (Agency Services) sent Jersey City a deficiency notice indicating that the disposition of certification OL160928 had not been received. Upon receiving no reply, on September 13, 2018, Agency Services sent the matter to the Division of Appeals and Regulatory Affairs (DARA) for compliance. On October 1, 2018, DARA informed Jersey City that since personnel

records indicated that the provisional was no longer serving in the position, it could seek an appointment waiver. Additionally, the letter indicated that pursuant to *N.J.A.C.* 4A:10-2.2(b), the Commission may also take any action set forth in *N.J.A.C.* 4A:10-2.1 including the assessment of costs, charges and fines. Moreover, the letter advised Jersey City that it may be subject to the costs of the selection process in this matter in the amount of \$2,048 and it would have 20 days to present reasons why it should not be assessed these costs. Despite given this opportunity, Jersey City did not respond.

A review of agency records indicates that there are no employees recorded as serving provisionally pending open competitive examination procedures in the subject title with Jersey City.

## CONCLUSION

*N.J.A.C.* 4A:10-2.1, states, in pertinent part, that where there is evidence of a violation of or noncompliance with Title 11A, New Jersey Statutes, or Title 4A, *N.J.A.C.*, the Commission may assess costs, charges and fines not to exceed \$10,000.

*N.J.A.C.* 4A:10-2.2(a) states that when the examination process has been initiated due to the appointment of a provisional or at an appointing authority's request, the appointing authority shall make an appointment from a resulting complete certification.

*N.J.A.C.* 4A:10-2.2(a)2 states that an appointing authority may, for valid reasons such as fiscal restraints, petition the Commission not to make a permanent appointment. The petition may grant such a petition, but may order the appointing authority to reimburse the Commission for the costs of the selection process.

*N.J.A.C.* 4A:10-2.2(b) states in addition to the actions which the Commission may take in (a) above, the Commission may take any action set forth in *N.J.A.C.* 4A:10-2.1. Prior to any such action being taken, the appointing authority shall be given notice and an opportunity to respond.

In the instant matter, as there is no longer a provisional employee serving in the title, notwithstanding that Jersey City did not submit a request, it is appropriate to grant it an appointment waiver. However, as Jersey City previously made two appointments from the list on certification OL150080, it would be inappropriate to assess Jersey City for the selection costs for M0279S. Nevertheless, the Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. See *N.J.S.A.* 11A:10-3 and *N.J.A.C.* 4A:10-2.1(a)2. See *In the Matter of Fiscal Analyst (M1351H)*, Newark, Docket No. A-4347-87T3 (App.

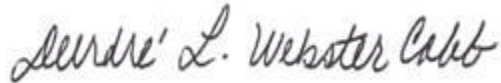
Div. February 2, 1989). Agency Services sent Jersey City a deficiency notice on November 24, 2017 for its failure to return the disposition of certification OL160928. Further, DARA sent Jersey City a letter advising that it could request an appointment waiver as the provisional was no longer serving in the position and that it may be subject to fines in accordance with *N.J.A.C. 4A:10-2.1*. However, as Jersey City has not provided any response as to why it did not return the disposition of certification OL160928 to Agency Services or why it did not respond to DARA to seek an appointment waiver, and Agency Services and DARA spent considerable resources on the enforcement of this matter, Jersey City shall be assessed \$1,000 for noncompliance under *N.J.A.C. 4A:10-2.1*.

### ORDER

Therefore, it is ordered that a waiver of the appointment requirement be granted. Further, the Commission orders that Jersey City be assessed \$1,000 in compliance costs pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-2.1*, to be remitted within 30 days of the issuance of this decision.

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 16<sup>th</sup> DAY OF JANUARY, 2019



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