



STATE OF NEW JERSEY

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

In the Matter of Code Enforcement
Officer (M0424V), City of Newark

Administrative Appeal

CSC Docket No. 2020-2236

ISSUED: MAY 22, 2020 (SLD)

The Division of Agency Services (Agency Services) seeks enforcement of the attached Civil Service Commission (Commission) decision rendered on December 18, 2019, which ordered the City of Newark (Newark) to immediately dispose of the May 21, 2018 certification of the Code Enforcement Officer (M0424V) eligible list pursuant to *N.J.A.C. 4A:4-4.2(c)2i*, immediately separate Regina Woodson and Shakeemah Foster,¹ against whom a salary disapproval was issued, if they did not receive an appointment from the outstanding certification and remit \$1,000 in compliance costs,² within 30 days from the issuance of the decision.

In its decision, the Commission also ordered that if Newark did not adhere to the timeframes for the proper certification disposition without an approved extension of time, it would be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000. However, Newark failed to properly dispose of the certification by January 21, 2020, 30 days from the issuance of the decision and did not request an extension. Consequently, on February 21, 2020, Agency Services requested enforcement of the Commission’s December 18, 2019 decision.

As a result, Newark was notified on March 3, 2020, that since it had failed to properly return the certification within 30 days, without an extension of time, the fine of \$100 per day began to accrue on January 21, 2020 and that to date, a fine of

¹ In the prior decision she was improperly listed as Foster Shakeemah.

² The record indicates that Newark has not remitted payment of the \$1,000 in compliance costs.

\$4,200 was owed. Additionally, Newark was advised that Woodson would be appointed from a special reemployment list for the title of Code Enforcement Officer, effective September 11, 2017. However, despite an opportunity to respond, Newark failed to submit any arguments nor did it return the subject certification.

Agency records indicate that Foster and Woodson continue to serve provisionally, pending open-competitive examination procedures.

Agency records indicate that Woodson was certified on August 20, 2014 from the special reemployment list for the subject title. In disposing of the certification, her name was “suspended” as her certification notice was returned by the postal authorities. It is further noted that at that time, a notice was not sent to Woodson notifying her of the suspension of her name and providing her with an opportunity to appeal.

Finally, agency records indicate that the subject certification contained six names, including Elmore Gaines, Jr., as the first ranked veteran eligible. The remaining five names were all listed at the same rank.

CONCLUSION

In the prior decision, Newark was ordered to return the certification within 30 days of the issuance of the decision pursuant to *N.J.A.C.* 4A:4-4.2(c)2i and to immediately remove Woodson and Foster, against whom a salary disapproval had been issued, if they were not appointed. However, Newark failed to return the certification for proper disposition by January 21, 2020. Moreover, in response to the instant request for enforcement, Newark failed to provide any response nor did it return the certification.

Initially, *N.J.A.C.* 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause. Agency records indicate that Woodson was certified on August 20, 2014 from the special reemployment list for the subject title. In disposing of the certification, her name was “suspended” as her certification notice was returned by the postal authorities. It is further noted that at that time, a notice was not sent to Woodson notifying her of the suspension of her name and providing her with an opportunity to appeal. Therefore, since Woodson’s name had previously appeared on a special reemployment list for the title of Code Enforcement Officer, for Newark, and her name was not removed from the special reemployment list, rather, her name was merely suspended, it is appropriate for the Commission to reactivate her name on the special reemployment list. Accordingly, good cause exists to record her appointment from the special reemployment list, effective September 11, 2017, the date she was appointed provisionally, pending open-competitive examination procedures.

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. *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2. See In the Matter of Fiscal Analyst (M1351H), Hudson County*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). In the instant matter, despite numerous opportunities, Newark failed to properly dispose of the certification and it failed to request an extension of the disposition date. Consequently, the fine of \$4,200 for the failure to adhere to the timeframes in the prior decision is appropriate.

Finally, agency records indicate that Mr. Gaines was removed as a Code Enforcement Officer with Newark, effective September 3, 2013. *See In the Matter of Elmore Gaines* (CSC, decided July 30, 2014) (Reconsideration denied, February 4, 2015). Therefore, pursuant to *N.J.A.C. 4A:4-6.1(a)5*, Newark may remove his name from the eligible list on that basis.

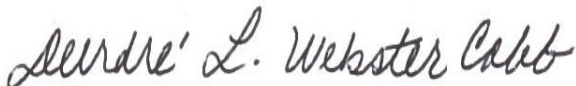
ORDER

Therefore, it is ordered that Newark properly dispose of the May 21, 2018 certification of the eligible list for Code Enforcement Officer (M0424V) within 30 days of the issuance of this decision. It is also ordered that Shakeema Foster be immediately separated from her position as Code Enforcement Officer. Further, it is ordered that Regina Woodson's appointment from the special reemployment list for Code Enforcement Officer be recorded, effective September 11, 2017.

Additionally, for the reasons stated above, the Commission orders the assessment of a fine in the amount of \$4,200, to be paid within 30 days of the issuance of this decision. Finally, Newark is ordered to immediately remit payment of the \$1,000 in compliance costs that was previously assessed.

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
20TH DAY OF MAY, 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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and
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Attachment

c: Aondrette Williams
Elmore Gaines
Regina Woodson
Shakeemah Foster
Kelly Glenn
Records Center



STATE OF NEW JERSEY

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

In the Matter of Code Enforcement
Officer (M0424V), City of Newark

Administrative Appeal

CSC Docket No. 2020-749

ISSUED: December 20, 2019 (SLD)

The appointing authority's failure to dispose of the certification for Code Enforcement Officer (M0424V), City of Newark, while provisional appointees were serving in the title, has been referred to the Civil Service Commission (Commission) for enforcement.

The Commission has reviewed the salary disapproval issued against the salary of Regina Woodson and Foster Shakeemah and has made the following findings of fact:

1. Regina Woodson and Foster Shakeemah are currently serving provisionally in the title of Code Enforcement Officer.
2. There is a vacancy for the title of Code Enforcement Officer, and an outstanding certification was issued on May 21, 2018 from the M0424V eligible list.
3. The certification has not been properly disposed of and the appointing authority was advised of the required date of disposition.
4. The Certification Manager issued a Notice of Salary Disapproval to the appointing authority and afforded it an opportunity to appeal such action to the Commission.

5. No such appeal was taken, and no proper disposition of the certification was received; the salary disapproval, therefore, became a final administrative action.
6. By not properly disposing of this certification, 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 certification issued to fill the vacancy occupied by a provisional employee. The appointing authority has not contested or appealed the findings of the Certification Manager. The payment of salary for which there is a salary 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.

ORDER

The Commission orders the appointing authority to immediately dispose of the outstanding certification by making a permanent appointment of a reachable and interested eligible.¹ Additionally, the appointing authority is ordered to immediately separate any employee serving provisionally pending open competitive examination procedures in the subject title who does not receive an appointment from the outstanding certification. Such disposition must be filed with the Certification Manager on or before 30 days from the issuance of this order. If no proper disposition is made within this time period, the Commission orders the constructive appointment of the highest ranked interested eligible. 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 Commission further orders that the costs incurred in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-3.2(a)5*, to be remitted within 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 \$100 per day, beginning on the 31ST day following the issuance of this order and continuing each day of continued violation, up to a maximum of \$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), Highlands*,

¹ The first ranked veteran eligible, Elmore Gaines, has appealed his non-appointment. However, agency records indicate that Mr. Gaines was removed as a Code Enforcement Officer with Newark, effective September 3, 2013. See *In the Matter of Elmore Gaines* (CSC, decided July 30, 2014) (Reconsideration denied, February 4, 2015). Therefore, pursuant to *N.J.A.C. 4A:4-6.1(a)5*, Newark may remove his name from the eligible list on that basis.

Docket No. A-4347-87T3 (App. Div. February 2, 1989). This matter 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 30 days.

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 18TH DAY OF DECEMBER 2019



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Chairperson
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