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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Senior Accountant
(C0047S), Burlington County

CSC Docket No. 2015-1364

Appointment Waiver Request

ISSUED: **MAR 10 2015** (LDH)

Burlington County requests permission not to make an appointment from the June 13, 2014 certification for Senior Accountant (C0961R).

The record reveals that the appointing authority provisionally appointed Danielle Fernandez, pending open-competitive examination procedures to the title of Senior Accountant, effective July 8, 2013. As a result of the provisional appointment, an examination was announced with a closing date of January 27, 2014. It is noted that Fernandez applied for the subject examination. Fernandez resigned, effective May 2, 2014. Thereafter, the appointing authority provisionally appointed John Miller, pending open-competitive examination procedures to the subject title, effective May 5, 2014. The resulting eligible list of 13 names, including Fernandez, promulgated on June 5, 2014 and expires on June 4, 2017. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On June 13, 2014, the names of 13 eligibles were certified from the subject eligible list. The appointing authority returned the certification and requested an appointment waiver as there were no provisional employees in the subject title.

In its request for an appointment waiver, the appointing authority asserted that it could not appoint any eligible from the certification due to budgetary constraints. It also asserted that Fernandez resigned May 2, 2014, and that it had provisionally appointed Miller to the subject title until funding was available to appoint Miller to the title of Business Manager, effective August 18, 2014. The appointing authority's request for an appointment waiver was acknowledged, and it

was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were submitted.

Agency records reveal that Miller was provisionally appointed, pending open-competitive examination procedures, to the title of Business Manager, effective August 18, 2014. In addition, agency records reveal that Fernandez resigned from her title of Senior Accountant, effective May 2, 2014. Lastly, agency records further reveal that there are no employees serving provisionally in the subject title with the appointing authority.

A review of the job specification for Senior Accountant reveals that an individual in that title performs the complex accounting work involved in preparing financial statements and in maintaining an accounting system. A review of the job specification for Business Manager reveals that an individual in that title administers the business affairs of an organization and is responsible for providing or obtaining a variety of management services essential to the operation of the organization.

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 for a list 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 title of Senior Accountant was generated as a result of the provisional appointment of Fernandez. Fernandez resigned before the subject list was promulgated. The second provisional, Miller, was hired, effective May 5, 2014. After a complete certification was issued, the appointing authority appointed Miller to the competitive title of Business Manager. A review of the relevant job specifications indicates that an individual in the title of Business Manager performs sufficiently different duties than an individual in the title of Senior Accountant. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

Although the appointment waiver is granted, 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 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

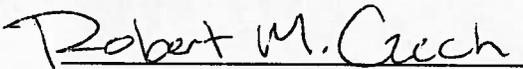
candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, the appointing authority stated that due to fiscal constraints, additional needs and expenses for employment training, it was not making any appointments from the subject eligible list. However, not only was Miller still serving provisionally at the time of the certification, the appointing authority appointed him to the competitive title of Business Manager. Finally, although the Commission is sympathetic to the fiscal constraints faced by the appointing authority, those constraints are no more significant than those faced by any other New Jersey County. Thus, although the request for a waiver is granted, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Civil Service Commission orders that the appointing authority be assessed for the costs of the selection process in the amount of \$2,048 to be paid 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 4th DAY OF MARCH, 2015



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