

B-93



STATE OF NEW JERSEY

In the Matter of Accountant
(M0075S), Jersey City
Redevelopment Agency

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

CSC Docket No. 2015-1052

Appointment Waiver Request

ISSUED: FEB 09 2015 (CAG)

Jersey City Redevelopment Agency requests permission not to make an appointment from the May 19, 2014 certification for Accountant (M0075S), Jersey City Redevelopment Agency.

The record reveals that Jersey City Redevelopment Agency provisionally appointed Janet Hanna, pending open-competitive examination procedures, to the title of Accountant effective August 8, 2013. Thereafter, an examination (M0075S) was announced with a closing date of February 5, 2014. Hanna did not apply for the examination. However, 10 applicants were admitted to the qualifying unassembled examination. The resulting eligible list of 10 names promulgated on May 15, 2014 and expires on May 14, 2017. On May 19, 2014, the names of all 10 eligibles were certified (OL140651) from the subject eligible list. Jersey City Redevelopment Agency took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. Jersey City Redevelopment Agency returned the certification indicating that no permanent appointment would be made. It stated that it demoted Hanna to the title of Account Clerk and adjusted her duties as necessary. It also stated that it contracted with the outside accounting firm of Hodulik & Morrison, PA to act as Comptroller, Finance Director, CPA and RMA and, therefore, will not be using the title of Accountant for the foreseeable future.

Jersey City Redevelopment Agency was advised that it could request an appointment waiver and, if its request were granted, it could be assessed for the costs of the selection process.

In response, Jersey City Redevelopment Agency amended the certification and requested an appointment waiver. It indicated that Hanna was in the provisional position of Accountant which was an error since she should have been placed in the permanent title of Account Clerk. It also indicated that she had numerous personal problems/issues and it was trying to accommodate her so that she could retire in two years. In addition, it indicated that it has removed Hanna's difficult accounting duties and has given her much lighter tasks for which she is more suited. It reiterated that it has contracted with the financial firm of Hodulik & Morrison, PA to act as Comptroller/Finance Director, to oversee all financial and accounting activities until such time as it is in a position to hire an accountant or promote from within.

Jersey City Redevelopment Agency's request for an appointment waiver was acknowledged and 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.

Jersey City Redevelopment Agency supplemented its request and explained that, since Hanna, who was in the provisional position of Accountant, waived taking the examination to become permanent, it demoted her to an Account Clerk position. It states that it was unaware that Hanna would refuse to take the Accountant examination until it was notified of the upcoming test. It also states that Hanna indicated that, because of the language barrier, she would never finish the test and, in turn, fail. Therefore, it will pay the examination costs of \$2,048. Regarding the appointment waiver, Jersey City Redevelopment Agency states that it has entered into a Professional Services Agreement with the firm of Hodulik & Morrison, PA for accounting/financial services to assume the former duties of Hanna along with their other financial assignments.

Personnel records reveal that Hanna was separated from her provisional employment, effective April 2, 2014 and appointed permanently to the non-competitive title of Account Clerk.

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 subject title was generated as a result of the provisional appointment of Hanna. After a complete certification was issued, Jersey City Redevelopment Agency requested an appointment waiver,

stating that it was unaware that Hanna would refuse to take the Accountant examination until it was notified of the upcoming test and, since she waived taking the examination to become permanent, it demoted her to an Account Clerk position. In addition, Personnel records reveal that Hanna was separated from her provisional employment effective April 2, 2014 and appointed permanently to the non-competitive title of Account Clerk. Regarding the appointment waiver, Jersey City Redevelopment Agency states that it has entered into a Professional Services Agreement with the firm of Hodulik & Morrison, PA for accounting/financial services to assume the former duties of Hanna along with their other financial assignments. Accordingly, based on the foregoing, there is sufficient justification for an appointment waiver.

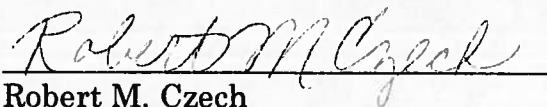
Although the appointment waiver is granted, both *N.J.S.A. 11A:4-5* and *N.J.A.C. 4A:10-2.2(a)2* state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the 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, Jersey City Redevelopment Agency states that it will pay the assessed selection costs. Accordingly, 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 Jersey City Redevelopment Agency 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 FEBRUARY 2015



Robert M. Czech

Chairperson

Civil Service Commission

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and
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