



B-73

**STATE OF NEW JERSEY**

In the Matter of Vivien Cosner,  
Department of Banking and  
Insurance

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

CSC Docket No. 2015-298

Classification Appeal

ISSUED: **APR 07 2015** (CAG)

Vivien Cosner appeals the attached decision of the Division of Agency Services (Agency Services) (formerly Division of Classification and Personnel Management) which found that her position with the Department of Banking and Insurance is properly classified as Supervisor of Operations. The appellant seeks a Supervisor of Investigations classification in this proceeding.

The record in the present matter establishes that the appellant received a regular appointment to the title of Supervisor of Operations on December 31, 2011. This position is located in the Office of Consumer Assistance, and the position reports to Toni Polihrom, Manager 1, Insurance. This position supervises five positions: one Senior Clerk Typist, two Technical Assistants, and two Investigators. The appellant seeks a reclassification of her position to Supervisor of Investigations. Agency Services performed a detailed analysis of the appellant's Position Classification Questionnaire (PCQ) signed by appellant on August 21, 2013, a performance evaluation, statements from Polihrom signed on August 27, 2013, and Gale Simon, Assistant Insurance Commissioner, signed on August 27, 2013, and a Table of Organization provided by the appointing authority.

The audit review found that appellant's assigned duties and responsibilities, as detailed in Agency Services' attached decision, were commensurate with the title of Supervisor of Operations. Agency Services found that an employee serving in the title of Supervisor of Operations is responsible for the supervision of staff who carry out specific operational procedures of a division or program. It also found that the incumbent is responsible for the establishment of procedures, as well as the

training of staff, to ensure the operational aspects of complaint processing are handled effectively and efficiently. Although the incumbent does supervise one employee who handles a full caseload of investigations, in respect to the other duties and responsibilities of the position, the amount of time supervising the single Investigator does not comport to being the primary function of the position. Therefore, Agency Services found that the current duties of the position are commensurate with those of an employee serving in the title of Supervisor of Operations.

Agency Services found that an employee serving in the title of Supervisor of Investigations is responsible for not only supervising Investigators, but is ultimately responsible for the investigations themselves. The duties of a Supervisor of Investigations are *primarily* investigation related. The primary duties of the subject position are, for the most part, not investigation related. Rather, they involve the oversight of the assignment of complaints among an investigative staff without culpability as to the completion of the investigations themselves. The incumbent ensures complaints received are of a complete and appropriate nature, and then ensures the complaints are properly logged and distributed among staff. The duties of the position do not include the review and responsibility for the investigations themselves. Therefore, Agency Services determined that the duties of the subject position are not commensurate with the duties of a Supervisor of Investigations.

On appeal, Ms. Cosner argues that she performed the duties of the title of Supervisor of Investigations until February 2014, when her duties were changed. She also argues that her "desk audit [PCQ] sat on the Assistant Commissioner Gale Simon's desk for 3 months, from June, 2013 to the date that the CSC received it, on September 19, 2013. The Administration submitted it, because it was sitting on Gale Simon's desk." In addition, she argues that she was performing all of the duties of the Supervising Investigator title until February 2014 when her duties were changed. She claims that this can be confirmed by Dana Foraker with the Human Resources unit. Additionally, she argues that, until March 2014, she and the other two Supervisors of Investigations were working on a project that entailed reviewing all of the automobile investigations and their closing codes for accuracy, of which she did one-third of the reviews. Further, she argues that, but for the removal of some duties, the "position" that she performed would have met the criteria for the title. Therefore, she is asking for recognition of the title for the work that she performed at the time, from the "desk audit" (PCQ) through February 2014. Further, she argues that the appointing authority is looking for verification that the duties that she was performing (until Gale Simon changed them) are equal to the title of Supervisor of Investigations.

Ms. Polihrom submitted a statement with the PCQ indicating that she disagrees with the appellant's statements of the work duties she performed and the percent of time of each duty. Specifically, Ms. Polihrom indicated that:

I disagree with the statements of work duties performed and percent of time of each duty. Vivien's main work duty performed is to sort and direct incoming mail for processing and assignment, provide guidance and direction to staff who log, process and assign complaints and inquiries, and to implement procedures for expeditiously preparing complaints for handling. Complaints are to be assigned to ensure even workloads among staff. Additional information is to be requested from complainants where necessary. Referrals are to be prepared to state or federal agencies where the matter is not within our jurisdiction. This work duty takes up 70% of time. Her other work duties are to provide advice/guidance to investigators who are assigned to logging and clerical staff as requested. This work duty takes up to 10% of time. The other duty is to monitor complaints in the imaging and complaint databases to ensure cases are opened correctly and review case activity monthly to determine how many complaints are being logged by each staff member. This duty takes up to 5% of time. Call Center back up is also a duty and this takes up 2% of time. Another duty is to check case count weekly to determine if complaints are being appropriately assigned. This duty is 2%. Conducting interviews of potential staff is one percent and supervise one investigator who handles a full case load is 10% of time. The investigator that is supervised handles complaints in one or two subject areas and investigations are limited to solicitation of a response from the company or producer and at times, conversations with the complainants.

I did not complete item #9, Order of Difficulty, because I do not agree with the employee's statement of work performed.

Ms. Simon submitted a statement with the PCQ indicating that:

I disagree with the employee's statement of work duties and time allocation. As noted by the employee's immediate supervisor, the primary work duties of the employee are sorting and processing incoming consumer complaints relating to insurance. These complaints total approximately 600 per month and are submitted via mail, fax and on-line. The employee must identify complaints that need additional information from the complainant, that should be referred to other state or federal agencies or other units with the department, and that can be logged into the department's complaint processing and letter generation systems.

The employee supervises three clerical staff and two investigators, an investigator 1 and an investigator 3. The investigator 1 is a logger who enters data into the complaints processing system which opens the complaint, assigns an investigator and generates a letter to the company that is the subject of the complaint and an acknowledgment letter to the complainant. The investigator 3 handles complaint files but, such complaints are routine and simple in nature (e.g. claim denial, rate increase and cancellation.). The investigator 3 reviews the company response to the complaint, solicits additional information where necessary, and closes the file with a letter to the complainant. No depositions, interviews, subpoenas or testimony is involved in such investigations.

The appointing authority does not support the subject appeal, as indicated on the Fiscal and Management Statement signed by John J. Walton on September 19, 2013.

### CONCLUSION

The definition section of the job specification for Supervisor of Operations states:

Under direction of a supervisory official in a state department or agency, has direct responsibility for work operations of a division program operating area; does other related duties.

The definition section of the job specification for Supervisor of Investigations states:

Under direction of a Chief of Investigations or other supervisory official, plans, organizes, assigns and supervises the investigations involving alleged non-compliance with State statutes and regulatory requirements; does other related duties.

In the instant matter, the appellant's position is properly classified as Supervisor of Operations. Appellant was performing functions that were appropriate to her permanent title of Supervisor of Operations. The information gathered from her PCQ and related material revealed that the position was responsible for the supervision of staff who carry out specific operational procedures of a division or program. It also found that the incumbent is responsible for the establishment of procedures, as well as the training of staff, to ensure the operational aspects of complaint processing are handled effectively and efficiently. Although the incumbent does supervise one employee who handles a full caseload of

investigations, in respect to the other duties and responsibilities of the position, the amount of time supervising the single Investigator does not comport to being the primary function of the position. The position under review supervises five positions: one Senior Clerk Typist, two Technical Assistants, and two Investigators. Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized.

Although appellant argues that her desk audit [PCQ] sat on Assistant Commissioner Gale Simon's desk for 3 months, from June, 2013 to the date that the CSC received it, on September 19, 2013, the PCQ that was submitted was signed by appellant on August 21, 2013. On appeal, appellant did not submit a different PCQ dated in June 2013. Although appellant claims that her arguments regarding her former duties can be confirmed by Dana Foraker with the Human Resources unit, she provides no support letter to validate her arguments. Thus, there is no evidence that she was primarily performing the duties of a Supervisor of Investigations. Based upon the information provided at the time of the audit, the position under review was properly classified as Supervisor of Operations.

A thorough review of the entire record establishes that the appellant has failed to present a sufficient basis to warrant a Supervisor of Investigations classification of her position. The appellant has not shown that the duties she performed at the time of the audit were not properly performed by an incumbent in the Supervisor of Operations title.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review is to be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 1<sup>ST</sup> DAY OF APRIL 2015

*Robert M Czech*

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals and  
Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
PO Box 312  
Trenton, New Jersey 08625-0312

Attachment

c: Vivien Cosner  
Lisa Joy  
Kenneth Connolly  
Joseph Gambino



Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF CLASSIFICATION AND PERSONNEL MANAGEMENT  
P.O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

May 23, 2014

Ms. Vivien Cosner  
c/o New Jersey Department of Banking and Insurance  
Division of Administration  
PO Box 325  
Trenton, New Jersey 08625-0325

**Subject:** Classification Determination – Vivien Cosner [REDACTED]; New Jersey Department of Banking and Insurance; Consumer Protection Services/Consumer Assistance; CPM Log #10130092

Dear Ms. Cosner:

This is in response to the classification appeal received September 19, 2013 submitted to this office on your behalf by Ms. Lisa Joy, Manager 1, Human Resources. The package indicates you are appealing your current permanent title of Supervisor of Operations (57684/S26) and you believe the appropriate classification of your position is Supervisor of Investigations (56793/S28).

This office has conducted a thorough review of the information received. This information included the State Position Classification Questionnaire you prepared and signed; a recent performance evaluation (PES); statements from your immediate supervisor (Ms. Toni Polihrom, Manager 1, Insurance); statements from the Assistant Insurance Commissioner (Ms. Gale Simon) and a Table of Organization provided by the Appointing Authority.

**Organization:**

Your position is located in the New Jersey Department of Banking and Insurance, Office of Consumer Assistance. Your immediate supervisor is Ms. Toni Polihrom (Manager 1, Insurance). You currently supervise one Senior Clerk Typist (Lauren Givens); two Technical Assistants (Patrick Pierre and Cheryl Bivens); and two Investigators (Julie Stockman-Burke and Eileen Cashman-Jermak).

**Findings of Fact:**

The primary responsibilities of the position include, but are not limited to the following:

- Supervise and direct staff in the logging and assignment of complaints (files, calls, etc...) for processing. Ensure even workload assignments among staff.



- Establish and implement procedures for expeditiously preparing complaints for handling. Obtain missing or incomplete complaint information as necessary. Refer external matters to the proper State or Federal authorities.
- Provide advice/guidance and updates to Inquiry Unit staff as needed. Train staff as to how policy provisions, statute and regulations affect the handling of complaints.
- Supervision of one Investigator who handles a full case load

**Review and Analysis:**

The requested title is that of Supervisor of Investigations (56793/S28). According to the classification specification, a Supervisor of Investigations is defined as follows:

Under direction of a Chief of Investigations or other supervisory official, plans, organizes assigns and supervises the investigations involving alleged non-compliance with State statutes and regulatory requirements; does other related duties.

An employee serving in the title of Supervisor of Investigations is responsible for not only supervising Investigators, but is ultimately responsible for the investigations themselves. The duties of a Supervisor of Investigations are primarily investigation related. The primary duties of the position in question are, for the most part, not investigation related. Rather, they involve the oversight of the assignment of complaints among an investigative staff without culpability as to the completion of the investigations themselves. The incumbent ensures complaints received are of a complete and appropriate nature, and then ensures the complaints are properly logged and distributed among staff. The duties of the position do not include the review and responsibility for the investigations themselves. Therefore the duties of this position are not commensurate with the duties of a Supervisor of Investigations.

The current title of the position is that of Supervisor of Operations (57684/S26). According to the classification specification, a Supervisor of Operations is defined as follows:

Under direction of a supervisory official in a state department or agency, has direct responsibility for work operations of a division program operating area; does other related duties.

An employee serving in the title of Supervisor of Operations is responsible for the supervision of staff who carry out specific operational procedures of a division or program. In the present matter, the incumbent is responsible for the supervision of staff who are responsible for the logging and assignment of complaints received by the Division of Consumer Protection Services. The incumbent is responsible for the establishment of procedures, as well as the training of staff, to ensure the operational aspects of complaint processing are handled effectively and efficiently. And while the incumbent does supervise one employee who handles a full case load of investigations, in respect to the other duties and responsibilities of the position, the amount of time supervising the single investigator does not comport to being the primary function of the position. As a result, the current duties of the position are commensurate with those of an employee serving in the title of Supervisor of Operations.



Ms. Vivien Cosner  
May 23, 2014

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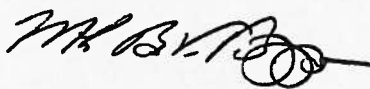
**Determination:**

The review has revealed the current duties and responsibilities assigned to Ms. Vivien Cosner are commensurate with the enclosed job specification for the title of Supervisor of Operations (57684/S26). This specification is descriptive of the general nature and scope of the functions which may be performed by an incumbent in this position. Please note the examples of work are for illustrative purposes and are not intended to restrict or limit the performance of related tasks not specifically listed. The relevance of such specific tasks is determined by an overall evaluation of their relationship to the general classification factors listed in the specification.

Therefore, the Ms. Cosner is presently and properly classified in her permanent title of Supervisor of Operations (57684/S26).

According to the New Jersey Administrative Code (N.J.A.C. 4A:3-3.9), the affected employee or an authorized employee representative may appeal this determination within 20 days of receipt of this notice. This appeal should be addressed to Written Record Appeals Unit, Division of Merit System Practices and Labor Relations, P.O. Box 312, Trenton, New Jersey 086225-0312. Please note the submission of an appeal must include written documentation and/or argument substantiating the portions of the determination being disputed and the basis for appeal.

Sincerely,



Mark B. Van Bruggen  
Supervising HR Consultant

Enclosure  
MVB

C: Ms. Lisa Joy, Appointing Authority  
PMIS Classification Determination Unit  
File

