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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Accountant
(M0970R), Plainfield Housing
Authority

CSC Docket No. 2015-2429

Appointment Waiver

ISSUED: **SEP 04 2015** (SLK)

The Plainfield Housing Authority requests permission not to make an appointment from the July 7, 2014 certification for Accountant (M0970R).

The record reveals that on September 10, 2013, the appointing authority provisionally appointed Patricia Rehbein, pending open competitive examination procedures, to the subject title. The examination was announced with a closing date of November 11, 2013. The examination resulted in an employment roster of 23 eligibles which promulgated on July 3, 2014 and expires on July 2, 2017. It is noted that Rehbein applied for the subject examination but was deemed ineligible as being below the minimum requirements in education. Rehbein did not appeal the matter of her eligibility to the Civil Service Commission (Commission). On July 7, 2014, a certification was issued which contained the names of 14 eligibles.

The appointing authority returned the certification on December 9, 2014, indicating that Rehbein was removed from the title and no permanent appointment was made from the certification. It is noted that the appointing authority took no action to obviate the need for this examination at the time of the announcement or prior to its administration. See *N.J.A.C. 4A:10-2.2(a)1*. The appointing authority also requested an appointment waiver indicating that the position was being abolished due to budget cuts. On February 25, 2015, the Division of Appeals and Regulatory Affairs acknowledged the Plainfield Housing Authority's request for a waiver in the above matter. Moreover, the appointing authority was advised that if an appointment waiver was granted, it could be assessed for the costs of the selection process in the amount of \$2,048 and that it could submit within 20 days from the receipt of this notice reasons why costs of the selection process should not

be assessed. The appointing authority, despite being provided the opportunity, did not respond.

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

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 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 the result of the provisional appointment of Patricia Rehbein to the subject title. However, after a complete certification was issued, the appointing authority returned the certification and indicated that Rehbein was removed from the subject title. Consequently, since there is no provisional serving in the title at issue, there is sufficient justification for an appointment waiver.

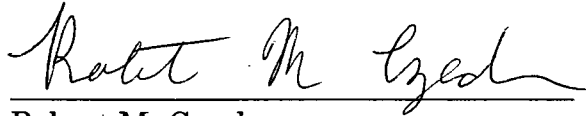
Although an appointment waiver is granted in this matter, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse for the costs of the selection process. While administering examinations 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, efforts and money to take these examinations in hopes of being considered for a permanent appointment. In this regard, the removal of a provisional is insufficient to support a waiver of the costs of the selection process. Thus, although a waiver is granted, it is appropriate that the appointing authority be assessed \$2,048 for the costs of the selection process.

ORDER

Therefore, it is ordered that a waiver of the appointment requirement 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 order.

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 2nd DAY OF SEPTEMBER, 2015



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