



**STATE OF NEW JERSEY**

In the Matter of Sign Maker 2  
(M0076B), Hamilton

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

CSC Docket No. 2022-2339

Appointment Waiver

**ISSUED: JUNE 20, 2022 (AMR)**

Hamilton requests permission not to make an appointment from the November 23, 2020 certification for Sign Maker 2 (M0076B), Hamilton.

The record reveals that Hamilton provisionally appointed James Stevens, pending open competitive examination procedures, to the subject title, effective November 18, 2019. An examination was announced with a closing date of January 21, 2020, that resulted in a list of thirteen eligibles with an expiration date of November 18, 2023. It is noted that Stevens' provisional appointment was terminated effective February 23, 2021. Furthermore, there are currently no employees serving provisionally pending open competitive examination procedures in the subject title with the appointing authority.

The appointing authority returned the certification and requested a waiver of the appointment requirement, stating that Stevens was unaware of the examination announcement for the subject title, and therefore, failed to apply. He has since been separated from the subject title effective February 23, 2021. Thus, it maintained that the separation of Stevens negated the need to hire for the subject title.

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. In response, the appointing authority requests that the selection costs also be waived as it plans to possibly utilize the list in the future.

## 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 a result of the provisional appointment of Stevens. However, after a complete certification was issued, the appointing authority requested an appointment waiver, explaining that Stevens was unaware of the examination announcement for the subject title, and therefore, failed to apply. He has since been separated from the subject title. Thus, in conjunction with the fact that there are no provisionals currently serving, there is a 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 case, the Commission notes that the list in question will not expire until November 18, 2023. Further, the appointing authority has indicated that it believes utilization of the subject eligible list is probable. Accordingly, under the particular circumstances of this matter, it would not be appropriate to assess the appointing authority for the costs of the selection process at this time. Nevertheless, in the event it fails to utilize the subject eligible list by its expiration date of November 18, 2023, this matter can be reviewed to ascertain whether an assessment for the costs of the selection process should be made.

## ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted and no selection costs presently be assessed.

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

DECISION RENDERED BY THE

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CIVIL SERVICE COMMISSION ON  
THE 15<sup>TH</sup> DAY OF JUNE 2022

*Deirdre L. Webster Cobb*

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