

**STATE OF RHODE ISLAND
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In re: Joseph J. Nicholson, Jr.,
Respondent**

**Complaint No. 2015-1
Complaint No. 2015-2**

ORDER

This matter having been heard before the Rhode Island Ethics Commission on September 22, 2015, pursuant to Commission Regulation 1011, and the Commission having considered the Complaints herein, the arguments of the parties, and the proposed Information Resolution and Settlement, which is incorporated by reference herein, it is hereby

ORDERED, ADJUDGED AND DECREED

THAT, the Commission approves the Informal Resolution and Settlement as submitted; and

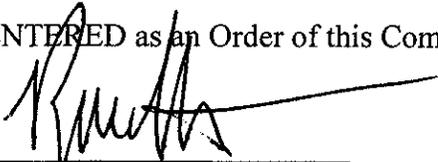
THAT, the Commission incorporates by reference herein the Findings of Fact and Admissions, and the Conclusions of Law, set forth in the Informal Resolution and Settlement; and

THAT, the Respondent failed to timely make required disclosures on his 2008-2013 Financial Disclosure Statements filed with the Commission, in violation of R.I. Gen. Laws § 36-14-16; and

THAT, the Respondent violated R.I. Gen. Laws § 36-14-5(a) by acting as the Newport City Solicitor in matters involving the City of Newport's loan to Clarke School Limited Partnership during the period from September 2013 through May 2014; and

THAT, the Respondent is ordered to pay a civil penalty in the amount of One Thousand Dollars (\$1,000).

ENTERED as an Order of this Commission,



Chairperson

Dated: 9/22/15

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BEFORE THE RHODE ISLAND ETHICS COMMISSION**

In re: Joseph J. Nicholson, Jr.
Respondent

Complaint No. 2015-1
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INFORMAL RESOLUTION AND SETTLEMENT

The Respondent, Joseph J. Nicholson, Jr., and the Rhode Island Ethics Commission (“Commission”) hereby agree to a resolution of the above-referenced matters as follows:

I. FINDINGS OF FACT & ADMISSIONS

A. Financial Disclosure

1. The Respondent was first appointed to the position of Newport City Solicitor (“Solicitor”) in 1988 and has served continuously in said capacity, except for the period of July 25, 2014 to date, during which time the Respondent has served as the Interim City Manager.
2. At all times hereto relevant, the Respondent has maintained a private law practice. In January 2010, the Respondent became a partner in the Newport, RI law firm of Nicholson & Sampson, LLP.
3. As a municipal appointed official during calendar years 2008 through 2013, the Respondent was required to file annual Financial Disclosure Statements with the Commission on or before the last Friday in April of each year.
4. In each of the calendar years from 2008 through 2013, the Respondent provided legal services to the Newport Housing Authority in excess of \$250.
5. On his timely filed Financial Disclosure Statements for calendar years 2008 through 2013, the Respondent failed to disclose that he provided legal services to the Newport

Housing Authority in excess of \$250, as required by R.I. Gen. Laws § 36-14-17(b)(2) and Commission Regulation 36-14-17001.

6. On April 17, 2015, the Respondent electronically amended his 2011, 2012 and 2013 Financial Disclosure Statements.

7. On April 20, 2015, the Commission received the Respondent's amendment to his 2008, 2009 and 2010 Financial Disclosure Statements in the US mail. Said amendment was dated and notarized on April 17, 2015.

B. Clarke School Limited Partnership

1. In December 1994, the City of Newport ("City") Community Development Block Grant Fund loaned \$1,350,000 as a second mortgage to Clarke School, LP ("Clarke School") to purchase and develop an old school property located at 24 Mary Street, Newport, RI, into an affordable senior housing project. Principal and accrued interest of 2.27% were payable from available net cash flow with the balance to be paid on December 12, 2012.

2. To finance the purchase and development of the property, Clarke School executed a first mortgage with Rhode Island Housing and Mortgage Finance Corporation ("RI Housing") and a second mortgage with the City. Clarke School executed a promissory note in the original principal amount of \$1,350,000 to the City which was secured by a mortgage against its property.

3. On September 26, 2012, the City Council approved a one (1) year extension of the maturity date of the promissory note to December 12, 2013.

4. In September 2013, Clarke School sought a second one (1) year extension of the maturity date of the promissory note to December 12, 2014. The City Council did not take

action to approve a second extension and Clarke School defaulted on its promissory note on December 12, 2013.

5. On December 13, 2013, the Respondent filed City of Newport v. Clarke School Limited Partnership, C. A. No. 13-0498, in Newport Superior Court, which alleged that Clarke School had defaulted on the promissory note and demanded a judgment in an appropriate amount, plus interest, costs and reasonable attorneys' fees.

6. After a hearing before Justice Bennett R. Gallo on July 7, 2104, Clarke School's Motion to Dismiss was granted by order dated July 30, 2014.¹

7. At all times hereto relevant, the Respondent and his brother-in-law, Craig S. Sampson, Esq., have been equal partners in the Newport, RI law firm of Nicholson & Sampson, LLP. Although they each have their own clients, they share equally in all income generated.

8. In 2013, Clarke School retained Attorney Sampson to represent it in two (2) eviction proceedings in Newport District Court: 1) Clarke School Limited Partnership v. Kimberly Dispirito, C.A. No. 13-782, ("Dispirito matter"), which was filed on September 9, 2013; and 2) Clarke School Limited Partnership v. Deborah Ward, C.A. No. 13-964, ("Ward matter"), which was filed on November 8, 2013.

9. By invoice dated November 19, 2013, issued on the law firm's letterhead, Clarke School was billed for professional services rendered in the Ward matter. By check dated December 26, 2013, Clarke School issued payment to "Nicholson & Sampson, LLP" in the full amount of \$450.

10. By invoice dated December 11, 2013, and issued on the law firm's letterhead, Clarke School was billed for professional services rendered in the Dispirito matter. By check

¹ The loan is a non-recourse loan, subject to a first mortgage held by RI Housing, which does not mature until March 2025.

dated January 8, 2014, Clarke School issued payment to “Nicholson & Sampson, LLP” in the full amount of \$450.

11. By invoice dated April 30, 2014, and issued on the law firm’s letterhead, Clarke School was billed for professional services rendered in the Dispirito matter, as well as research matter involving another tenant. By check dated May 14, 2014, Clarke School issued payment to “Nicholson & Sampson, LLP” for the full amount of \$250.

12. During the period that Attorney Sampson represented Clarke School, the Respondent acted in his official capacity as Solicitor in matters involving the City’s loan to Clarke School, and its December 12, 2013 default on same.

13. The Respondent represents that, unbeknown to him, his law partner, Attorney Sampson, provided legal services to Clarke School. As a fifty percent (50%) partner in the law firm, the Respondent accepts responsibility for the oversight that occurred.

14. The Respondent further represents that his law firm has purchased and installed conflict check software to ensure that no such conflict arises in the future.

II. CONCLUSIONS OF LAW

A. Financial Disclosure

1. As the Newport City Solicitor, a municipal appointed official, the Respondent was at all relevant times subject to the financial disclosure mandate of R.I. Gen. Laws § 36-14-16.

2. The Respondent failed to timely disclose his provision of legal services in excess of \$250 to the Newport Housing Authority on his Financial Disclosure Statements for calendar years 2008 through 2013, in violation of R.I. Gen. Laws § 36-14-16.

B. Clarke School Limited Partnership

1. As the Newport City Solicitor, a municipal appointed official, the Respondent was at all relevant times subject to the Rhode Island Code of Ethics in Government pursuant to R.I. Gen. Laws § 36-14-4(2).

2. As a fifty percent (50%) partner in the law firm of Nicholson & Sampson, LLP, the Respondent had a business associate relationship with Clarke School during the time that his law partner represented Clarke School and continuing until all bills for legal services rendered were paid in full.

3. By acting as the Newport City Solicitor in matters involving the City's loan to Clarke School during the period of September 2013 through May 2014, the Respondent had a substantial conflict of interest in violation of R.I. Gen. Laws § 36-14-5(a).

III. SETTLEMENT

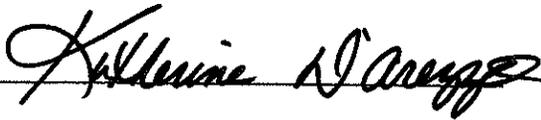
Pursuant to the above Findings of Fact and Conclusions of Law, the parties hereby agree, pursuant to R.I. Gen. Laws § 36-14-13(d) and Commission Regulation 1011, to the following:

1. The Commission shall enter an Order and Judgment that the Respondent violated R.I. Gen. Laws § 36-14-16 by his failure to make timely disclosure of his provision of legal services in excess of \$250 to the Newport Housing Authority on his Financial Disclosure Statements filed with the Commission for calendar years 2008 through 2013.

2. Said Order and Judgment shall further provide that the Respondent violated R.I. Gen. Laws § 36-14-5(a) by acting as the Newport City Solicitor in matters involving the City of Newport's loan to Clarke School Limited Partnership during the period from September 2013 through May 2014.

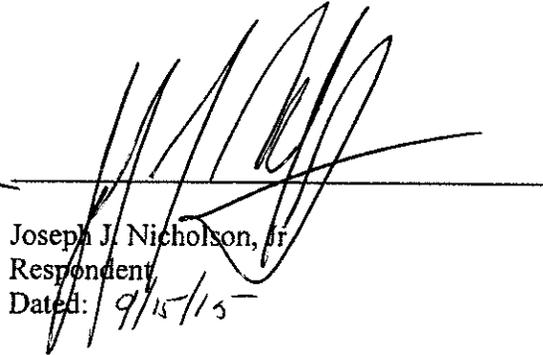
3. The Respondent agrees that, pursuant to the above Findings of Fact and Conclusions of Law, the Prosecution will recommend, pursuant to R.I. Gen. Laws § 36-14-13(d), the imposition of a civil penalty in the amount of One Thousand Dollars (\$1,000). The Respondent agrees to the payment of said civil penalty.

4. The above terms represent the full and complete Informal Resolution and Settlement for Complaint Nos. 2015-1 and 2015-2.



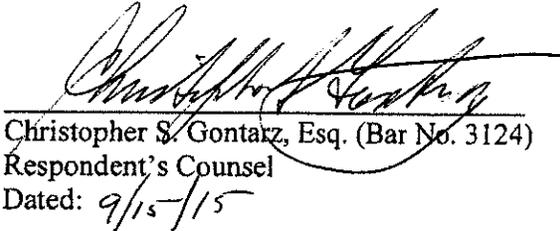
Katherine D'Arezzo, Esq. (Bar No. 5710)
Commission Prosecutor

Dated: 9/22/15



Joseph J. Nicholson, Jr.
Respondent

Dated: 9/15/15



Christopher S. Gontarz, Esq. (Bar No. 3124)
Respondent's Counsel

Dated: 9/15/15