

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

a committee of the attorney discipline system

David M. Rothstein, Chair
Heather E. Krans, Vice Chair
Elaine Holden,* Vice Chair
* *non attorney member*
Barbara J. Guay, Legal Assistant

In the Matter of Paul P. Nicolai, Esquire– LD-2021-007

PUBLIC CENSURE WITH CONDITIONS

In accordance with Supreme Court Rule 37(12), on October 20, 2021, the New Hampshire Supreme Court ruled that the above captioned reciprocal discipline matter from Connecticut Superior Court, Judicial District of Hartford, a public censure subject to confirmation by the Connecticut disciplinary office that Mr. Nicolai complied with the terms of the Order. The Court remanded the matter to the Professional Conduct Committee (“the Committee”) for the issuance of a public censure.

On March 7, 2020, Connecticut Disciplinary Counsel filed a Presentment of Attorney for Misconduct against Mr. Nicolai alleging that he violated Connecticut Practice Book §2-27(e) (Clients’ Funds; Lawyer Registration) and Connecticut Rule of Professional Conduct 8.1(2) (Bar Admission and Disciplinary Matters). Mr. Nicolai entered a Stipulation (attached) of the Parties, admitting to violations of the above cited rules. A copy of the foregoing Connecticut Rules is attached. The Connecticut Superior Court accepted the Stipulation and entered an order publicly reprimanding Mr. Nicolai and imposing a requirement that he submit records of his IOLTA account for quarterly audit by the disciplinary authorities in Connecticut until the end of 2021. The results of the audit of Mr. Nicolai’s IOLTA account were deemed satisfactory by the Connecticut disciplinary authorities and discipline was imposed solely based upon Mr. Nicolai’s failure to cooperate with the initial efforts to audit the account.

Accordingly, the Committee issues a public censure to Paul P. Nicolai, Esquire, as reciprocal discipline based on the Connecticut Court's Order dated April 8, 2021. The public censure is subject to confirmation by the Connecticut disciplinary office that Mr. Nicolai complied with the terms of the Order. The ADO is charged with the responsibility to ensure that those conditions are completed.

November 4, 2021

/s/ David M. Rothstein
David M. Rothstein
Chair

cc: Mark P. Cornell, Deputy General Counsel
Paul P. Nicholai, Esquire

DOCKET NO: HHDCV206126281S

SUPERIOR COURT

ORDER 431199

OFFICE OF CHIEF DISCIPLINARY
COUNSEL

JUDICIAL DISTRICT OF HARTFORD
AT HARTFORD

V.
NICOLAI, PAUL P.

4/8/2021

ORDER

ORDER REGARDING:
03/29/2021 109.00 STIPULATION

The foregoing, having been considered by the Court, is hereby:

ORDER:

The court finds that the provisions of Practice Book Sec. 2-82(d) have been satisfied and accepts the admission of misconduct and proposed disposition of this matter.

Judicial Notice (JDNO) was sent regarding this order.

431199

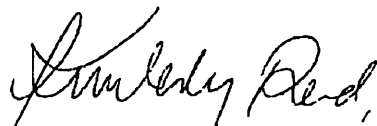
Judge: DAVID M SHERIDAN

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section I.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (<https://jud.ct.gov/external/super/E-Services/e-standards.pdf>), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.

COPY CERTIFIED

JUL -2 2021

**JUDICIAL DISTRICT OF
HARTFORD
STATE OF CONNECTICUT**



Admin. Asst. ^{Page 1 of 1}
Aunt

DOCKET NO. HHD-CV-20- : SUPERIOR COURT
OFFICE OF CHIEF DISCIPLINARY : JUDICIAL DISTRICT
COUNSEL : OF HARTFORD
VS. : AT HARTFORD
PAUL P. NICOLAI : MARCH 27, 2020

PRESENTMENT OF ATTORNEY FOR MISCONDUCT

To the Superior Court within and for the Judicial District of Hartford, now in session, comes now the Office of Chief Disciplinary Counsel, duly authorized and appointed pursuant to Practice Book § 2-34A, and makes presentment to the Court that Paul P. Nicolai of Springfield, Massachusetts, has been guilty of misconduct involving his character, integrity, and professional standing and conduct, and complains and says:

1. Paul P. Nicolai, Juris # 421193 (hereinafter "the Respondent") is an attorney duly admitted to the bar of the State of Connecticut on January 6, 2003.
2. The Statewide Grievance Committee referred this matter to the Office of Chief Disciplinary Counsel pursuant to Practice Book § 2-27(e) and Rule 13 of the Statewide Grievance Committee's Rules of Procedure.
3. On or about June 6, 2019, the Respondent's IOLTA account was selected for random audit.

Office of Chief Disciplinary Counsel
100 Washington Street, Hartford, CT 06106
Tel (860) 706-5055 * Fax (860) 706-5063
Juris no. 422382

4. The Statewide Grievance Committee provided written notice to the Respondent that the audit would take place on June 17, 2019.

5. On or about June 18, 2019, the Statewide Grievance Committee received bank statements, some client ledgers, and a general ledger without a running balance.

6. On July 18, 2019, after multiple failed attempts to contact the Respondent via telephone, the Statewide Grievance Committee emailed the Respondent to advise him that additional information was needed in order to perform the audit; specifically, a reconciliation report including an outstanding check list, a trial balance; and a running balance on the general ledger. The Respondent did not respond to this email.

7. On July 29, 2019, the Statewide Grievance Committee again emailed the Respondent.

8. On or about September 6, 2019, the Statewide Grievance Committee received a fax from Elizabeth Nicolai (not the Respondent) with information regarding the random audit. Elizabeth Nicolai provided the requested reconciliations and the trial balance; however, these did not address the correct timeframe. In addition, although Elizabeth Nicolai provided a general ledger, she did not include a running balance as requested.

9. On September 26, 2019, the Statewide Grievance Committee emailed Elizabeth Nicolai and requested the reconciliation reports for the correct timeframe as well as the general ledger with a running balance.

10. On September 26, 2019, Elizabeth Nicolai responded to the Statewide Grievance Committee via email and advised that she had been in an accident and that she would provide the corrected reports as soon as possible.

11. On October 18, 2019, the Statewide Grievance Committee emailed Elizabeth Nicolai and again requested the corrected reports since she had failed to submit them as promised.

12. Also on October 18, 2019, Elizabeth Nicolai emailed the bank statements, client ledgers, the trial balance, and the reconciliations to the Statewide Grievance Committee.

13. Also on October 18, 2019, the Statewide Grievance Committee responded to Elizabeth Nicolai's email and advised her of the following issues:

- a. that they still needed the trial balance for the correct audit period;
- b. that the general ledger still did not show a running balance; and
- c. that the bank reconciliation report showed numerous mistakes.

14. On October 21, 2019, Elizabeth Nicolai emailed the Statewide Grievance Committee a corrected general ledger with a running balance.

15. On October 24, 2019, the Statewide Grievance Committee emailed Elizabeth Nicolai and set forth in detail the numerous mistakes found on the general ledger. Notably, the trial balance report still had not been provided.

16. On October 24, 2019, Elizabeth Nicolai emailed the Statewide Grievance Committee a corrected trial balance as well as explanations for the errors found on the general ledger.

17. On October 24, 2019, the Statewide Grievance Committee performed a complete audit and found the following issues:

- a. the general ledger was inaccurate;
- b. the reconciliation was inaccurate in that it showed a significant negative balance of \$-26,934.67 and it contained over \$7,000,000 in erroneous outstanding deposits; and
- c. the reconciliation revealed multiple stale client ledgers and outstanding checks.

18. On November 21, 2019, the Statewide Grievance Committee sent a report card to the Respondent which set forth a list of directives. The Respondent failed to respond.

19. On January 7, 2020, the Statewide Grievance Committee sent a certified letter to the Respondent which stated that the Respondent must comply with the required directives. The Respondent failed to respond to the letter.

20. On January 14, 2020, the Statewide Grievance Committee sent a second certified letter to the Respondent which stated that the Respondent must comply with the required directives. The Respondent failed to respond to the letter.

21. The Respondent has failed to provide all of the requested information and/or documentation in order to resolve the outstanding issues, thereby preventing the Statewide Grievance Committee from closing this audit.

22. Accordingly, the Respondent has failed and/or refused to cooperate with the audit in violation of Practice Book § 2-27(e).

23. Violations of any section under Practice Book § 2-27 constitute misconduct pursuant to Practice Book § 2-27(f).

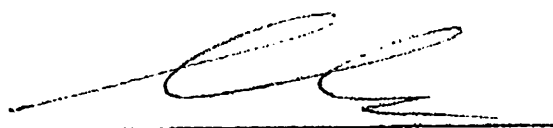
24. The Respondent failed to provide the requested documentation to a disciplinary authority in violation of Rule 8.1(2) of the Rules of Professional Conduct.

WHEREFORE, the Petitioner, Office of Chief Disciplinary Counsel, prays that such proceedings may be had on this complaint as is provided by law and the rules of the Court, that an appropriate order of discipline be issued against the Respondent, and that costs and expenses be taxed against the Respondent.

Dated at Hartford, Connecticut, this 27th day of March, 2020.

**THE PETITIONER
OFFICE OF CHIEF DISCIPLINARY COUNSEL**

By: _____


Michele D. Sensale
Assistant Chief Disciplinary Counsel
Office of Chief Disciplinary Counsel
100 Washington Street
Hartford, CT 06106
Phone (860) 706-5054
Fax (860) 706-7063
Juris No. 422382

Office of Chief Disciplinary Counsel
100 Washington Street, Hartford, CT 06106
Tel (860) 706-5055 * Fax (860) 706-5063
Juris no. 422382

DOCKET NO. HHD-CV-20- : SUPERIOR COURT
OFFICE OF CHIEF DISCIPLINARY : JUDICIAL DISTRICT
COUNSEL : OF HARTFORD
VS. : AT HARTFORD
PAUL P. NICOLAI : MARCH 27, 2020

SUMMONS

To Any Proper Officer:

By the authority of the State of Connecticut, you are hereby commanded to summon Paul P. Nicolai to appear before the Superior Court in and for the Judicial District of Hartford, 95 Washington Street, Hartford, CT 06106, Courtroom _____ on the _____ day of _____, 2020 at _____ o'clock AM/PM, then and there to answer unto the foregoing Presentment of Attorney for Misconduct, by serving the Respondent, Paul P. Nicolai, a true and attested copy of the Presentment of Attorney for Misconduct, Summons, and of the Order for Hearing and Notice to be served upon him at his office at Nicolai Law Group, PC, 1500 Main St., Suite 1914, Springfield, MA 01144-4006, or at his usual place of abode at 24 Venture Dr, Springfield, MA 01119, on or before the _____ day of _____, 2020.

Hereof fail not, but due service and return make.

Office of Chief Disciplinary Counsel
100 Washington Street, Hartford, CT 06106
Tel (860) 706-5055 * Fax (860) 706-5063
Juris no. 422382

Dated at Hartford, Connecticut, this _____ day of _____, 2020.

Michele D. Sensale
Commissioner of the Superior Court

Office of Chief Disciplinary Counsel
100 Washington Street, Hartford, CT 06106
Tel (860) 706-5055 * Fax (860) 706-5063
Juris no. 422382

DOCKET NO. HHD-CV-20-6126281S : SUPERIOR COURT
OFFICE OF CHIEF DISCIPLINARY : JUDICIAL DISTRICT
COUNSEL : OF HARTFORD
VS. : AT HARTFORD
PAUL P. NICOLAI : MARCH 26, 2021

STIPULATION OF THE PARTIES

The Office of Chief Disciplinary Counsel and the Respondent Paul P. Nicolai hereby stipulate and agree as follows:

1. Paul P. Nicolai, Juris # 421193 (hereinafter "the Respondent") is an attorney duly admitted to the bar of the State of Connecticut on January 6, 2003.
2. The Statewide Grievance Committee referred this matter to the Office of Chief Disciplinary Counsel pursuant to Practice Book § 2-27(e) and Rule 13 of the Statewide Grievance Committee's Rules of Procedure.
3. On or about June 6, 2019, the Respondent's Community Bank, NA, IOLTA account *3961 was selected for random audit.
4. While the Respondent does not agree with all of the allegations of the presentment complaint, he admits that the initial response to the audit was not in compliance with the audit request, he did not initially take sufficient action to assure compliance with the audit, and that there is sufficient evidence by which the Court could find a violation of Practice Book § 2-27(e).

5. Violations of any section under Practice Book § 2-27 constitute misconduct pursuant to Practice Book § 2-27(f).

6. While the Respondent does not agree with all of the allegations of the presentment complaint, the Respondent admits that he did not initially provide the requested documentation to a disciplinary authority in a timely fashion, and there is sufficient evidence by which the Court could find a violation of Rule 8.1(2) of the Rules of Professional Conduct.

7. The Respondent has since provided all requisite documentation and the audit of the Respondent's IOLTA account has been completed and is satisfactory.

8. The Respondent and Disciplinary Counsel agree that the Respondent will be reprimanded

9. The Respondent agrees to submit to an audit of his Community Bank, NA, IOLTA account *3961 on a quarterly basis, which will start from January 1, 2021, through and including December 31, 2021. For the quarter which runs from January 1, 2021, through March 31, 2021, the Respondent agrees to submit all audit documents by no later than April 20, 2021. For the quarter which runs from April 1, 2021, through June 30, 2021, the Respondent agrees to submit all audit documents by no later than July 20, 2021. For the quarter which runs from July 1, 2021, through September 30, 2021, the Respondent agrees to submit all audit documents by no later than October 20, 2021. For the quarter which runs from


October 1, 2021 through December 31, 2021, the Respondent agrees to submit all audit documents by no later than January 20, 2022. All documents will be sent to Attorney Frances Mickelson-Dera, Statewide Grievance Committee.

10. The Respondent agrees that he will continue to retain the services of a bookkeeper for the period set forth in paragraph 9.

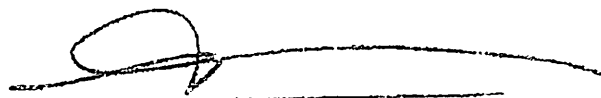
11. The Respondent understands that his failure to comply with all the terms of this agreement will result in further court proceedings.

Office of Chief Disciplinary Counsel

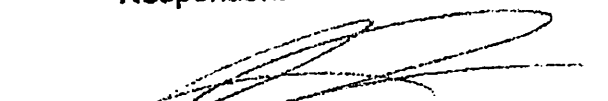
3/26/21
Date

By: 
Michele D. Sensale
Assistant Chief Disciplinary Counsel

3/29/21
Date


Paul P. Nicolai
Respondent

3/29/2021
Date


~~Bruce Stanger~~ Jonathan Bechtel
Counsel for the Respondent

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

a committee of the attorney discipline system

Stephanie C. Hausman, Chair
Caroline K. Leonard, Vice Chair
Kathleen M. Ames, * Vice Chair
 **non-attorney member*
Barbara J. Guay, Legal Assistant

In the Matter of Paul P. Nicolai – LD-2021-0007

ORDER

On November 4, 2021, the Committee issued as reciprocal discipline a Public Censure With Conditions. Deputy General Counsel has indicated that Attorney Nicolai has satisfied the terms and conditions set forth in the Connecticut decision.

Based on these representations, the matter is closed.

March 1, 2022

/s/ Caroline K. Leonard
Caroline K. Leonard
Vice Chair

Distribution:

Mark P. Cornell, Deputy General Counsel
Paul P. Nicolai, Esquire