

STATE OF NEW YORK
JOINT COMMISSION ON PUBLIC ETHICS
IN THE MATTER OF JUAN ALVARENGA,

Respondent.

540 Broadway
Albany, New York 12207

Alleged Violations of Public Officers Law §§73(5)(a),
74(3)(d),(f), and (h)

RECEIVED 11 18 13

SETTLEMENT AGREEMENT

Case No. 14-129

WHEREAS, the Joint Commission on Public Ethics ("Commission") is authorized by Executive Law §94 to conduct an investigation to determine whether a substantial basis exists to conclude that any violations of the Public Officers Law have occurred, to issue a report of its findings of fact and conclusions of law, and to impose penalties for any violation;

WHEREAS, Juan Alvarenga ("Respondent") has been employed by the New York State Office of General Services ("OGS") from 1993 through the present;

WHEREAS, in and about 2012 and 2013, Respondent was assigned as OGS's Project Manager for a construction project at the State Police Barracks in Middletown, New York ("the Project");

WHEREAS, Respondent, as Project Manager, was responsible for overseeing and evaluating the conduct and quality of the work of contractors on the Project.

WHEREAS, on November 19, 2014, a letter was sent to Respondent alleging violations of Public Officers Law §§73(5)(a) and 74(3)(d), (f), and (h);

WHEREAS, Respondent and the Commission, the parties to this Settlement Agreement ("Agreement"), have agreed to resolve this matter in a manner that avoids additional administrative and/or adjudicatory proceedings;

NOW THEREFORE, in consideration of the mutual covenants made herein, as the final settlement of this matter, the parties stipulate and agree that:

1. Respondent admits that in the Fall of 2013, he solicited, from a contractor on the Project, a price quote for a water filtration system ("system") which Respondent intended to have installed in his own home. The contractor obtained from a third-party vendor a quoted price for a system which included a "contractor's discount" that was not available to Respondent or to the general public. Respondent purchased the system through the contractor and received the discounted price.
2. Respondent acknowledges that by his actions described above, he violated Public Officers Law §74(3)(d) which provides, in relevant part, that no state employee may use his official position to secure unwarranted privileges or exemptions for himself.
3. Respondent agrees to pay the Commission the amount of two thousand dollars (\$2,000.00) in settlement of said violation within thirty (30) days of the execution of this Agreement. In addition, Respondent shall take the online Ethics

Orientation course available via the Statewide Learning Management System within thirty (30) days of the execution of this Agreement.

4. The Commission has agreed to the terms of this Agreement based on, among other things, the representations made by Respondent to the Commission and the OIG. To the extent that representations made by Respondent are later found by the Commission to be materially incomplete or inaccurate, Respondent shall be in breach of this Agreement.
5. If Respondent fails to timely perform any conditions set forth in this Agreement, Respondent shall be in breach of the Agreement.
6. Respondent agrees not to take any action or to make, permit to be made, authorize, or agree to any public statement denying, directly or indirectly, any finding in this Agreement or creating the impression that this Agreement is without factual basis. Nothing in this paragraph affects Respondent's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Commission is not a party. A violation of this Paragraph constitutes a breach of this Agreement by Respondent.
7. Upon a breach of this Agreement, the Commission shall have sole discretion to deem the Agreement null and void in its entirety, issue a new 15-day letter which may include additional charges against Respondent, initiate a Substantial Basis Investigation and proceed with an enforcement action. As to any new Substantial Basis Investigation Report or enforcement action by the Commission pursuant to this paragraph: (1) Respondent waives any claim that such action is time-barred by a statute of limitations or any other time-related defenses; and (2) Respondent expressly acknowledges and agrees that the Commission may use any statements herein, or any other statements, documents or materials produced or provided by Respondent prior to or after the date of this Agreement, including, but not limited to, any statements, documents, or materials, if any, provided for the purposes of settlement negotiations or in submissions by Respondent or by counsel on behalf of Respondent, in any proceeding against Respondent relating to the allegations herein.
8. Respondent shall, upon request by the Commission, provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.
9. Respondent understands and acknowledges that the Commission may investigate any other conduct by Respondent that is not covered by this Agreement, and take any appropriate action.
10. Respondent waives the right to assert any defenses or any challenges to this Agreement, as well as any right to appeal or challenge the determination or conduct of the Commission relating to this matter in any forum.
11. This Agreement and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

12. Respondent consents to the jurisdiction of the Commission in any proceeding to enforce this Agreement.
13. It is understood that this Agreement is not confidential and will be made public within 45 days of its execution in accordance with Executive Law §§94(14) & (19).
14. This Agreement constitutes the entire agreement between the parties and supersedes any prior communication, understanding, or agreement, whether oral or written, concerning the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth in this Agreement has been relied upon by any party to this Agreement.
15. Any amendment or modification to this Agreement shall be in writing and signed by both parties.
16. This Agreement shall become effective upon execution by the Commission or its designee.
17. In the event that one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
18. By signing below, Respondent acknowledges reading this Agreement in its entirety, understanding all terms and conditions of this Agreement, and, having done so, Respondent knowingly, voluntarily, and freely enters into this Agreement.

Dated: March 16, 2015

Letizia Tagliaferro

Letizia Tagliaferro
Executive Director
New York State Joint Commission on Public Ethics

ACCEPTED AND AGREED TO
THIS 5 DAY OF March, 2015

Respondent

Juan C. Alvarenga

Juan Alvarenga

Approved: Daniel J. Horwitz
Chair

David Arroyo
Paul Casteleiro
Marvin E. Jacob
Seymour Knox, IV
Gary J. Lavine
Hon. Mary Lou Rath
David A. Renzi
Michael A. Romeo, Sr.
Hon. Renee R. Roth
George H. Weissman

Absent: Hon. Joseph Covello
Members