

1 **BEFORE THE COMMISSION ON JUDICIAL CONDUCT**  
2 **OF THE STATE OF WASHINGTON**

**FILED**

OCT - 4 2002

3  
4 In Re the Matter of: )  
5 The Honorable Michael S. Hurtado, )  
6 Judge )  
7 Seattle Municipal Court )  
8 610 3<sup>rd</sup> Avenue, Ste 1100 )  
9 Seattle, Washington 98104 )

No. 3790-F-100

COMMISSION ON JUDICIAL CONDUCT

**STIPULATION, AGREEMENT  
AND  
ORDER OF ADMONISHMENT**

10 The Commission on Judicial Conduct and the Honorable Michael S. Hurtado, a judge of  
11 the Seattle Municipal Court, stipulate and agree as follows:

12 This stipulation is submitted pursuant to CJCRP 23 and shall not become effective until  
13 approved by the Washington Commission on Judicial Conduct.

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15 **STIPULATED FACTS**

16 1. The Honorable Michael S. Hurtado, Respondent herein, was at all times herein a judge  
17 of the Seattle Municipal Court, Seattle, Washington. At the times referred to herein, Respondent  
18 was serving as a judge pro tempore in Des Moines Municipal Court, Des Moines, Washington.

19 2. On February 13, 2002, while presiding as a judge pro tempore in the court for the City  
20 of Des Moines, Respondent heard a petitioner's challenge to a vehicle impound in Cause No.  
21 2001-1017. Respondent ruled that the City failed to produce evidence that the ticket was  
22 properly issued and signed an order finding that the vehicle was improperly impounded. The  
23 petitioner departed with a copy of the signed order.

24 Later that same afternoon, after Respondent had heard and ruled on Cause No. 2001-1017,  
25 City Prosecutor Heidi Brosius requested Respondent to hear from the towing company witness in  
26 the same Cause No. 2001-1017. Respondent heard from Ms. Brosius and her witness without the  
27 presence of the petitioner, who had already departed the premises, having received a written order

1 after the contested hearing. On hearing from the towing company's witness, Respondent vacated  
2 the order entered earlier that day.

3 3. Under the Code of Judicial Conduct, a judge must not initiate or consider unauthorized  
4 ex parte or other communications concerning a pending or impending proceeding. Failing to  
5 observe this standard is a violation of Canons 1, 2(A) and 3(A)(4) of the Code of Judicial  
6 Conduct.<sup>1</sup>

7 4. Upon being contacted by the Commission, Respondent promptly replied to its  
8 inquiries. Respondent explained that the prosecutor and her witness had informed the court that  
9 the person who answered for the petitioner was not the petitioner and registered owner of the  
10 vehicle. Respondent believed that a fraud had been perpetrated on the court, set aside the  
11 dismissal, and ordered a new hearing. (Upon learning of the ex parte dismissal at the next  
12 hearing before the regular judge, petitioner stated both he and the other registered owner had, in  
13 fact, been present on February 13, 2002.)

14 5. Respondent was cooperative with the Commission. Respondent has no history of  
15 prior disciplinary action.

16 6. Respondent agreed to avoid initiating or considering ex parte communications in the  
17 future.

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20 <sup>1</sup> CANON 1 - JUDGES SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

21 An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining,  
22 and enforcing high standards of judicial conduct and shall personally observe those standards so that the integrity and independence of  
the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

23 CANON 2 - JUDGES SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES

24 (A) Judges should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and  
impartiality of the judiciary.

25 CANON 3 - JUDGES SHALL PERFORM THE DUTIES OF THEIR OFFICE IMPARTIALLY AND DILIGENTLY.

26 The judicial duties of judges should take precedence over all other activities. Their judicial duties include all the duties of office  
prescribed by law. In the performance of these duties, the following standards apply:

27 (A) Adjudicative Responsibilities.

28 . . . (4) Judges should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard  
according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending  
or impending proceeding. . . .

**STIPULATION, AGREEMENT AND  
ORDER OF ADMONISHMENT - 2**

1 **AGREEMENT**

2 1. Based upon the stipulated facts, Respondent agrees that while a judge pro tempore of  
3 the Des Moines Municipal Court he violated Canons 1, 2(A) and 3(A)(4) of the Code of Judicial  
4 Conduct by receiving and acting upon improper ex parte communications.

5 2. Respondent agrees to accept a written admonishment *of* as described in RCW  
6 2.64.010(1) and CJCRP *Terminology* and Rule 6.

*DA  
inst per  
telephonic  
approval  
9/4/02*

7 3. Respondent agrees that he will exercise caution to avoid repeating the violation.

8 4. In accepting this stipulation, the Commission takes into account Respondent's  
9 cooperation with the Commission's investigation and his acknowledgment of the violation. The  
10 Commission also takes into account the lack of prior disciplinary action involving Respondent  
11 and the fact that this appears to be an isolated incident.

12 Standard Additional Terms of Commission Stipulation

13 5. Respondent agrees further that he shall not engage in any retaliatory conduct with  
14 regard to any person known or suspected to have cooperated with the Commission, named as a  
15 potential witness in this matter, or otherwise associated with this proceeding.

16 6. Respondent represents that he has either consulted or had an opportunity to consult  
17 with counsel of his choosing regarding this stipulation and proceeding. Respondent voluntarily  
18 enters into this stipulation.

19 7. Respondent agrees that by entering into this Stipulation and Agreement he hereby  
20 waives his procedural rights and appeal rights pursuant to the Commission on Judicial Conduct  
21 Rules of Procedure and Article IV, Section 31 of the Washington State Constitution in this  
22 proceeding.

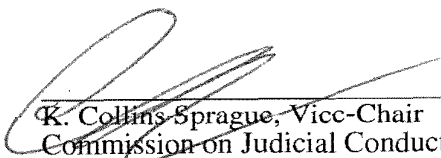
23   
24 \_\_\_\_\_ Date Aug 21, 02

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26 \_\_\_\_\_ Date 8/26/02  
27 David Akana, Counsel WSA 5523  
Commission on Judicial Conduct

1 **ORDER OF ADMONISHMENT**

2 Based upon the above stipulation and agreement, the Commission on Judicial Conduct  
3 hereby ORDERS, and Judge Michael S. Hurtado, Respondent, is hereby ADMONISHED for  
4 violating Canons 1, 2(A) and 3(A)(4) of the Code of Judicial Conduct. Respondent shall exercise  
5 caution to avoid repeating the violation in the future.

6 DATED this 4<sup>TH</sup> day of OCTOBER, 2002.

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10 K. Collins Sprague, Vice-Chair  
11 Commission on Judicial Conduct  
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