

FILED  
JUN 2 2006  
COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON

In re: THE HONORABLE  
JONATHAN MARTIN  
Former Judge of the Yakima  
Municipal Court

CJC NO. 4185-F-125

STIPULATION, AGREEMENT  
AND ORDER OF CENSURE

The Commission on Judicial Conduct and Jonathan Martin, former Judge of the Yakima Municipal Court, stipulate and agree as provided herein. This stipulation is submitted pursuant to Article IV, Section 31 of the Washington Constitution and Rule 23 of the Commission's Rules of Procedure and shall not become effective until approved by the Washington Commission on Judicial Conduct. The Commission on Judicial Conduct is represented in these proceedings by Disciplinary Counsel Steven A. Reisler. Judge Martin is represented by Attorney Kurt M. Bulmer.

I. STIPULATED FACTS, POSITIONS,  
AND UNDERSTANDING OF THE PARTIES

1. Judge Jonathan Martin (Respondent) served as a judge of the Yakima Municipal Court from January 1, 1997 to December 31, 2005. He was not reelected in the November 2005 elections and is not presently sitting as a judge.
2. If this matter were to proceed to hearing the Commission would allege that during the time he served as a judge, Judge Martin:
  - a. On several occasions failed to reconcile information received by him while on the bench with the file materials before him.
  - b. Failed to maintain courtroom decorum, appeared at time to be confused, fell from his seat at the bench, returned documents unsigned and unread

- 1 and failed to keep accurate records as to what was told him in court.
- 2 c. Failed to follow local courthouse protocols and failed to follow legal
- 3 procedures in pro se criminal matters, improperly disposed of evidence
- 4 and improperly conducted a contested infraction hearing outside the
- 5 presence of the prosecutor.
- 6 d. Failed to timely attend to important paperwork.
- 7 e. Used the prestige of his office by writing to the Yakima Police Department
- 8 on behalf of the Burlington Northern and Santa Fe Railway and signing his
- 9 name as "Judge Martin."
- 10 f. Made statements and engaged in conduct that manifests either bias or
- 11 insensitivity including the use of the words "south of the border;"
- 12 "Chihuahuas" and "Chinaman;" referring to a domestic violence victim as
- 13 a "heifer" and preparing an internal document that mocked the sexual
- 14 orientation of certain parties who had appeared before Respondent in a
- 15 domestic violence case.
- 16 3. The Commission would assert that the above described actions and statements
- 17 constitute violations of Canons 1, 2(A), 2(B), 3(A)(2, 3, 4, 5 and 6), and 3(B)(1) of
- 18 the Code of Judicial Conduct.
- 19 4. At a hearing Judge Martin would:
- 20 a. Acknowledge that he may have made some errors regarding processing
- 21 information in the thousands of cases which he handled but would assert
- 22 that such errors were infrequent, unintentional and not unusual in a high
- 23 volume municipal court and that there is no rule which requires perfection
- 24 by a judge in the processing of information.
- 25 b. Deny that he did not maintain decorum in his courtroom, that he appeared
- 26 confused by proceedings or that he returned documents unread or
- 27 unsigned other than perhaps by mistake. Admit that because of a design
- 28

1 defect in the courtroom, on one occasion the wheels of his chair rolled off  
2 the platform and he fell, but deny that this is a violation of the Canons.  
3 Admit that he may have made some errors regarding written orders and  
4 information in court files in the thousands of cases which he handled but  
5 would assert that such errors were infrequent, unintentional and not  
6 unusual in a high volume municipal court.  
7 c. Admit that at times he may have not followed local courthouse protocols  
8 but would assert that any such failures were infrequent and occurred  
9 because either the protocol had recently changed or the exigencies of the  
10 circumstances dictated that the protocol not be followed in the specific  
11 circumstance at hand. Deny that he failed to follow legal procedures in  
12 pro se criminal matters. Admit that one time some improper evidence was  
13 apparently ordered returned to a defendant but deny that this was an error  
14 of the Respondent, as the order was approved by the prosecuting  
15 attorney. Deny that an improper contested infraction hearing was held.  
16 d. Admit that there may have been times when paperwork was not handled  
17 in a timely manner but would assert that on the thousands of cases which  
18 he handled any such lack of timeliness was infrequent, unintentional, and  
19 not unusual in a high volume municipal court.  
20 e. Deny that he used the prestige of his office to advance the interests of  
21 Burlington Northern and Santa Fe Railway and would assert that his  
22 intention was an attempt to call to the attention of the police a dangerous  
23 situation which he learned about when serving as a community service on  
24 a public safety committee for the railroad.  
25 f. Admit that he was insensitive when, after a proceeding was concluded,  
26 and not in the presence of any party, he referred to a victim in a criminal  
27 case as a "heifer;" when early in his judicial career he prepared a fake  
28

1 internal "playbill" which mocked some of the parties in a proceeding; and  
2 when he described as a "Chinaman" a county employee when asked by  
3 someone who was looking for that employee what the employee looked  
4 like. Deny that these show bias but would admit that they were rooted in  
5 an ill- founded attempt at humor or in a lack of understanding that the  
6 term "Chinaman" may be offensive. Admit that on one occasion when  
7 told that a defendant could not be located, he used the term "south of the  
8 border." Deny that this was a specific reference to any racial identity of  
9 any specific defendant and assert that this was simply a common term  
10 used to describe a situation where someone could not be found. Deny  
11 that he ever referred to any person as a "Chihuahua."

- 12 5. Judge Martin would agree that his poor attempts at humor showed a lack of  
13 sensitivity and that his failure to understand the potentially offensive nature of his  
14 use of the word "Chinaman" constitute violations of Canons 1 and 2(A).

15 The parties recognize that this is an unusual situation in which the  
16 respondent judge is no longer sitting as a judge. The parties have substantial  
17 disagreement as to the facts and the law. A hearing to litigate these issues  
18 would take several days, cost thousands of dollars for both sides and would be  
19 disruptive to other judges and court personal who would be called as witnesses.  
20 Judge Martin wishes to stipulate to the sanction and corrective action identified in  
21 this stipulation and set forth herein, without affirmatively admitting most of the  
22 facts and misconduct alleged, rather than proceed to a public hearing. Judge  
23 Martin, however, agrees that if this matter were to proceed to a public hearing,  
24 due to the expected conflicting testimony there is a substantial likelihood that the  
25 Commission would be able to prove, by a clear preponderance of the evidence,  
26 some or all of the facts and misconduct alleged. Judge Martin also believes that  
27 there is little or no benefit to be had by either the people of the State of  
28

1 Washington or himself by taking this matter to trial. Judge Martin believes that  
2 the costs, monetary and otherwise, of such a trial far outweigh any benefit to  
3 himself or the people of the State of Washington. Accordingly, Judge Martin has  
4 agreed to this stipulation. The parties have agreed to the below resolution by  
5 balancing these interests.

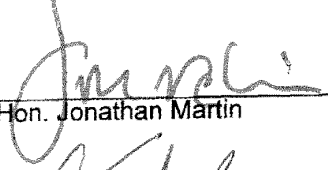
## 6 7 II. IMPOSITION OF SANCTION

- 8
- 9 6. The sanction imposed by the Commission must be commensurate to the level of  
10 Respondent's culpability, sufficient to restore and maintain public confidence in  
11 the integrity of the judiciary, and sufficient to deter similar acts of misconduct in  
12 the future. In determining the appropriate level of discipline to impose, the  
13 Commission must consider the non-exclusive factors set out in Rule 6(c) of its  
14 Rules of Procedure.
- 15 7. In mitigation, Respondent had been a judicial officer for nine years and had had  
16 no prior disciplinary actions. He has acknowledged that the insensitive remarks  
17 made by him should not have been made.
- 18 8. In aggravation, Respondent denies much of the alleged misconduct against him.  
19 If proved, the misconduct occurred for a lengthy period of time, in his official  
20 capacity, wasted court time and expenses, increased administrative friction and  
21 disrupted local courthouse procedures.
- 22 9. In addition to the non-exclusive factors set out in Rule 6(c), the Commission has  
23 also considered that Judge Martin is no longer sitting as a judge and that in view  
24 of the agreed resolution of this matter, that it is neither necessary nor appropriate  
25 to expend the substantial financial resources necessary to prosecute the case  
26 nor to expend the significant time by the Commission and witness which would  
27 be required.
- 28

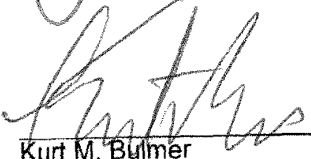
- 1 10. In addition, the Commission has considered that in the event the matter should  
2 proceed to hearing, and if the Commission should prevail on all or substantially  
3 all of its allegations, that based on the case law and other factors the  
4 Commission must consider, it is possible that any sanction would not be greater  
5 than the agreed sanction contained in this stipulation.
- 6 11. Based upon the stipulated facts, upon consideration and balancing of the above  
7 factors, Respondent and the Commission agree that Respondent's sanction shall  
8 be a censure. A censure is a written action of the Commission that requires the  
9 respondent to appear personally before the Commission. A censure is the  
10 highest level of disciplinary action available to the Commission. A censure can  
11 include a requirement that the respondent follow a specified corrective course of  
12 action.
- 13 12. Respondent agrees if he ever returns to the bench in any capacity that he will not  
14 repeat the conduct in the future and in those areas which he disagrees with the  
15 assertions will nonetheless be mindful of the assertions made and will be careful  
16 to avoid conduct which could result in violations of the type asserted herein.
- 17 13. Respondent agrees that he will promptly read and familiarize himself with the  
18 Code of Judicial Conduct and if he ever returns to the bench in any capacity, that  
19 he will once again read and familiarize himself with the Code of Judicial Conduct  
20 before performing any judicial duties.
- 21 14. Respondent agrees that, prior to further service on the bench, he will complete a  
22 course in judicial ethics, a course in basic criminal procedure and a course in  
23 court management at his expense, approved in advance by the Commission's  
24 Chair or her/his designee and provide proof of completion of the course within  
25 one year of the date this stipulation is entered  
26  
27  
28

III. STANDARD ADDITIONAL TERMS  
OF STIPULATION AND AGREEMENT


15. Respondent agrees that by entering into this stipulation and agreement, he waives his procedural rights and appeal rights in this proceeding pursuant to Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31 of the Washington State Constitution.
16. Respondent further agrees that he will not retaliate against any person know or suspected to have cooperated with the Commission or otherwise associated with this matter.

  
Hon. Jonathan Martin

02-17-06  
Date

  
Kurt M. Bulmer  
Attorney for Judge Martin

2/14/06  
Date

  
Steven A. Reisler  
Disciplinary Counsel for  
Commission on Judicial Conduct

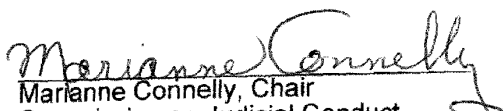
2-16-06  
Date

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER OF CENSURE

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct finds that the Respondent, Judge Jonathon Martin, violated Canons 1, 2(A), 2(B), 3(A)(2, 3, 4, 5, and 6), and 3(B), and is hereby censured. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement set forth therein.

Dated this 2nd day of June, 2006

  
Marianne Connelly, Chair  
Commission on Judicial Conduct