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COMMISSION ON JUDICIAL CONDUCT

BEFORE THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In re the matter of:

The Honorable Michael Morgan, Judge of
the Federal Way Municipal Court

NO. CJC No. 5680

STIPULATION, AGREEMENT AND ORDER
OF REPRIMAND

The Commission on Judicial Conduct and Michael Morgan, Judge of the Federal Way 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 Morgan is represented by Attorneys David Allen and Todd Maybrown.

I. STIPULATED FACTS

1. Judge Michael Morgan (Respondent) is now, and was at all times referred to in this document, a judge of the Federal Way Municipal Court. He has served in that position since January 1, 2006. All of the conduct described herein occurred in Respondent's official capacity.

1 2. Following a confidential investigation, the Commission on Judicial Conduct
2 (Commission) commenced initial disciplinary proceedings in this matter by serving
3 Respondent with a Statement of Allegations on April 29, 2008. The Statement of
4 Allegations alleged Respondent violated the Code of Judicial Conduct by engaging in
5 impatient, undignified and discourteous behavior towards court personnel, former court
6 personnel and employees of the City of Federal Way, and by making comments that were,
7 or reasonably could be perceived as, disparaging, threatening or otherwise unbecoming a
8 judicial officer.

9 3. Respondent submitted a written response to the Statement of Allegations dated June
10 11, 2008. In his response, Respondent acknowledged that "on a few occasions he has
11 raised his voice and uttered profanities" during meetings with court staff and employees of
12 the City of Federal Way. Respondent further acknowledged that "on a few occasions he
13 has discussed matters of a personal and sexual nature with court staff," but that "[m]any of
14 these types of conversations occurred in the context of [his] investigation of matters
15 relating to a staff office party that was hosted by former Federal Way Municipal Court
16 Judge Colleen Hartl." Respondent denied violating the Code of Judicial Conduct in all
17 other respects.

18 4. Respondent stipulates to the following:

- 19 a) Respondent yelled a profanity at the acting Federal Way Chief of Police and yelled
20 in anger at the court administrator and a court employee. In each of these separate
21 instances, Respondent indicated that he engaged in such behavior to convey the
22 impression that he was in charge and to assert the independence of the court.

1 b) Respondent took action to enforce a policy that restricted the courthouse activities of
2 a city employee, the timing of which gave the impression that Respondent was
3 retaliating against him for complaining about a comment made by the Respondent
4 that the employee had found objectionable.

5 c) Respondent made comments to court staff that could reasonably be perceived as
6 intimidating, including engaging in conduct that communicated to court staff that
7 he would terminate them and have them replaced with clerks from the superior
8 court system; questioning why a clerk would challenge his authority, noting "all
9 the dead bodies" in his court; and at times raising his voice and slamming his
10 office door.

11 d) Respondent made jokes and comments to court staff that were, or that could
12 reasonably be perceived to be inappropriate including, among others, commenting
13 in detail to court staff about another judge's alleged personal issues; referring to a
14 former judge as a "moron," and criticizing other judges, attorneys and staff in
15 similar derogatory terms. Although Respondent has explanations for why he
16 discussed personal matters with court staff, he now acknowledges that such
17 discussions were not appropriate in that subordinate staff could not readily chose
18 to avoid such discussions due to the Respondent's position of authority.

19 5. Respondent maintains that some of his alleged misbehavior was taken out of context,
20 mitigated by the circumstances or even justified by his supervisory obligations as the
21 court's presiding judge. Respondent's statements and actions, taken singly and out
22 of the courthouse context, might be dismissed as isolated incidents of indiscretion the

1 likes of which Respondent would acknowledge he ought not make again. But these
2 are not isolated events and they do have a courthouse context, which raises the bar for
3 decorum and propriety. Because of the position that judges hold in society, they are
4 held to a high standard of conduct. Respondent recognizes that his lack of dignity and
5 temperance in dealing with others undermined public trust in his integrity and the
6 integrity of the judiciary.

- 7 6. The Commission's investigation indicates that there have been problems with the
8 administration of this court that predate Respondent's judgeship and that not all of the
9 court's problems are attributable to Respondent; wherefore the parties agree to address
10 the issues of concern to the Commission in the manner described herein.

11 II. AGREEMENT

12 A. Respondent's Conduct Violated the Code of Judicial Conduct.

- 13 1. Based upon the foregoing stipulated facts, Respondent agrees he violated Canons 1, 2(A)
14 and 3(A)(3) of the Code of Judicial Conduct.
- 15 2. Canons 1 and 2(A) require judges to uphold the integrity of the judiciary by avoiding
16 impropriety and the appearance of impropriety and by acting at all times in a manner that
17 promotes public confidence in the integrity and impartiality of the judiciary. Canon 3(A)
18 (3) requires judges to be patient, dignified and courteous to all persons with whom judges
19 deal in their official capacity.¹ Respondent stipulates to the matters described in

1 Canon 1 of the Code of Judicial Conduct provides, "Judges shall uphold the integrity and independence of the judiciary." Canon 2 provides, "Judges should avoid impropriety and the appearance of impropriety in all their activities," and Canon 2(A) specifies, "Judges should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 3 provides, "Judges shall perform the duties of their office impartially and diligently;" and Canon 3(A)(3) specifies, "Judges should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom judges deal in their

1 paragraph 1.4, above. Respondent maintains he meant no harm by his words and actions
2 and that his actions were intended to improve the operating culture of the court and/or to
3 reinforce Respondent's authority and the court's independence. Respondent,
4 nevertheless, recognizes the ineffective and inappropriate nature of his actions. Hostile
5 and intolerant behavior by a judge in the judge's official capacity, regardless of the
6 judge's intent, erodes public confidence in the integrity of the judicial system.

- 7 3. Although Respondent, as the court's presiding judge, had certain administrative
8 responsibilities, Canon 3(A)(3) imposes a duty on Respondent as a judicial officer to
9 exercise this responsibility with restraint and dignity. Respondent's behavior as described
10 above tended to undermine, rather than enhance, the dignity of the judiciary.

11 **B. Imposition of Sanction**

- 12 1. The sanction imposed by the Commission must be commensurate to the level of Respondent's
13 culpability, sufficient to restore and maintain public confidence in the integrity of the judiciary,
14 and sufficient to deter similar acts of misconduct in the future. In determining the appropriate
15 level of discipline to impose, the Commission must consider the non-exclusive factors set out
16 in Rule 6(c) of its Rules of Procedure.
- 17 2. In mitigation, Respondent has been a judicial officer for a relatively brief period of time,
18 assuming office in January 2006. Some of the behavior described above occurred shortly after
19 Respondent took office. Respondent assumed the bench without any formal administrative
20 training. Respondent has demonstrated a measure of insight into the problematic nature of his
21 behavior when, after the commencement of the Commission investigation, he self-reported

official capacity, and should require similar conduct of lawyers, and of the staff, court officials and others subject to their direction and control."

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Steven A. Reisler, PLLC
Springbrook Professional Center
4500 Sand Point Way N.E., Ste. 250
Seattle, WA 98105-3941
206.522.7081

1 some of his actions, acknowledging those acts occurred and that they may have violated the
2 Code of Judicial Conduct. He has expressed regret that his words and actions have caused
3 stress or offense. He has cooperated with this proceeding. Respondent's actions did not
4 prejudice the actual administration of justice in the courtroom. During the course of the
5 Commission's investigation, but before the filing of a Statement of Allegations, Respondent
6 initiated, at his own expense, training pertinent to better management of his administrative
7 duties as a judge.

8 3. In aggravation, Respondent's misconduct was not an isolated event. Although three specific
9 instances involving Respondent's confrontations with the acting Chief of Police, court
10 administrator and court clerk occurred shortly after Respondent first assumed office, he
11 continued to engage in an on-going pattern of intemperate and injudicious behavior as
12 described herein. According to Respondent, some of his actions were done deliberately, in the
13 belief that shouting and using profanity reinforced his independence and authority.

14 4. Based upon the stipulated facts, upon consideration and balancing of the above factors,
15 Respondent and the Commission agree that Respondent's stipulated misconduct shall be
16 sanctioned by the imposition of a reprimand. A "reprimand" is a written action of the
17 Commission that requires a respondent to appear personally before the Commission and that
18 finds that the conduct of the respondent is a violation of the Code of Judicial Conduct, but does
19 not require censure or a recommendation to the supreme court that the respondent be suspended
20 or removed. A reprimand shall include a requirement that the respondent follow a specified
21 corrective course of action. Reprimand is the intermediate level of disciplinary action available
22 to the Commission.

- 1 5. Respondent agrees that he will not repeat such conduct in the future, mindful of the potential
2 threat any repetition of his conduct poses to public confidence in the integrity and impartiality
3 of the judiciary and to the administration of justice.
- 4 6. Respondent agrees he will promptly read and familiarize himself with the Code of Judicial
5 Conduct in its entirety.
- 6 7. Respondent agrees he will complete a course on judicial ethics approved by the Commission's
7 Chair or her/his designee and provide proof of completion of the course within one year of the
8 date this stipulation is entered. The Commission will not pay the costs of this training.
- 9 8. Respondent agrees he shall satisfactorily complete the administrative training referenced in
10 Item 2, above, and show proof of satisfactory completion within one year of entry of this order.
11 The Commission will not pay the costs of this training.
- 12 9. Within 30 days of entry of this order, Respondent shall obtain an evaluation by a Commission-
13 preapproved counselor who has access to information from the Commission. Within 30 days of
14 the receipt of the evaluation, Respondent shall begin compliance with that counselor's
15 recommendations, and show proof to the Commission that work has begun, and shall provide
16 proof of completion of all recommendations upon their conclusion. The Commission will not
17 pay the costs of this evaluation or follow-up.

18 **Standard Additional Terms and Conditions**

- 19 10. Respondent is represented by counsel in these proceedings, and enters into this stipulation and
20 agreement after consultation with his counsel. Respondent agrees that by entering into this
21 stipulation and agreement, he waives his procedural rights and appeal rights in this proceeding
22 pursuant to the Commission on Judicial Conduct Rules of Procedure and Article IV, Section 31

1 of the Washington State Constitution.

2 11. Respondent further agrees that he will not retaliate against any person known or suspected to
3 have cooperated with the Commission, or otherwise associated with this matter.
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7 Michael F. Morgan
8 Hon. Michael Morgan

1214/2008
Date

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10 _____
11 David Allen/Todd Maybrow
12 Attorneys for Judge Morgan


Date

13 _____
14 Steven A. Reisler
15 Disciplinary Counsel for
16 Commission on Judicial Conduct

Date

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8 Hon. Michael Morgan

12/15/08

Date

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10 _____
11 David Allen/Todd Maybrow
12 Attorneys for Judge Morgan

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14 Steven A. Reisler
15 Disciplinary Counsel for
16 Commission on Judicial Conduct

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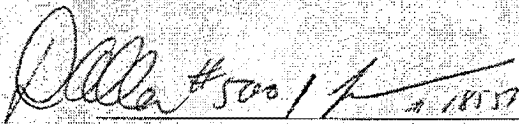
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11. Respondent further agrees that he will not retaliate against any person known or suspected to have cooperated with the Commission, or otherwise associated with this matter.

Hon. Michael Morgan

Date



12/4/08

David Allen/Todd Maybrow
Attorneys for Judge Morgan

Date



12-4-08

Steven A. Reisler WBA 49384
Disciplinary Counsel for
Commission on Judicial Conduct

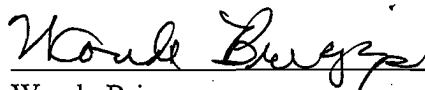
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ORDER OF REPRIMAND

Based on the above Stipulation and Agreement, the Commission on Judicial Conduct hereby orders Respondent, Judge Michael Morgan, reprimanded for the above set forth violations of the Code of Judicial Conduct. Respondent shall not engage in such conduct in the future and shall fulfill all of the terms of the Stipulation and Agreement as set forth therein.

DATED this 31st day of December 2008



Wanda Briggs
Chair, Commission on Judicial Conduct