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

**FILED**  
**DEC 10 2010**  
COMMISSION ON JUDICIAL CONDUCT

4 In Re the Matter of )

5 The Honorable Stephen R. Shelton, )  
6 Judge of the Puyallup Municipal Court )

CJC No. 6284-F-148

7 **STATEMENT OF CHARGES**  
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10 Pursuant to authority granted in article IV, section 31 of the Washington State  
11 Constitution, the Revised Code of Washington, chapter 2.64, and the Commission on  
12 Judicial Conduct Rules of Procedure ("CJCRP"), 17(d)(4)(C), the Commission on  
13 Judicial Conduct orders this Statement of Charges filed alleging violations of the Code  
14 of Judicial Conduct by Judge Stephen R. Shelton.

15 **I. BACKGROUND**  
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17 1. Judge Stephen R. Shelton ("Respondent") is now, and was at all times  
18 referred to in this document, a judge of the Puyallup Municipal Court.

19 2. On January 27, 2010, the Commission on Judicial Conduct received a  
20 complaint that Respondent, without legal authority, summarily incarcerated an alleged  
21 crime victim who was present at an arraignment hearing on September 11, 2009.  
22 Following an independent investigation of the matter, the Commission initiated  
23 disciplinary proceedings against Respondent pursuant to CJCRP 17(c)(3) by serving  
24 him with a Statement of Allegations on May 20, 2010. The Statement of Allegations  
25 alleged that Respondent may have violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and  
26 3(A)(4) of the Code of Judicial Conduct by summarily holding a purported victim of  
27 domestic violence, whose initials are C.A., in contempt and imposing a day in jail  
28 without lawful authority and contrary to RCW 7.21 et. seq. It was alleged this conduct

1 occurred during an arraignment proceeding on September 11, 2009, in case  
2 C0066961.

3 3. Respondent filed a written response to the Statement of Allegations on  
4 June 23, 2010.

5 4. On November 12, 2010, attorneys Anne Bremner and Peter Altman of  
6 Stafford Frey Cooper filed a Notice of Appearance with the Commission's office.  
7 Respondent, through counsel, filed a supplemental written response on November 23,  
8 2010.

9 5. At its executive session on December 3, 2010, the Commission on  
10 Judicial Conduct made a finding that probable cause exists to believe that the  
11 Respondent violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and 3(A)(4) of the Code of  
12 Judicial Conduct.

## 13 14 **II. CONDUCT GIVING RISE TO CHARGES**

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16 On September 11, 2009, Respondent presided over an arraignment proceeding  
17 in a case charging a defendant with domestic violence harassment. The charge was  
18 based upon a claim that the defendant verbally threatened to harm his girlfriend, C.A.  
19 After the defendant's arrest, but prior the arraignment proceeding, C.A. made a written  
20 statement at the Puyallup Police Department expressing her desire to recant an earlier  
21 statement she made to the police shortly after the incident. In this subsequent  
22 statement, C.A. claimed that she instigated the altercation that led to her boyfriend's  
23 arrest and lied to the police about what occurred.

24 At the arraignment proceeding, Respondent reviewed the police reports, including  
25 C.A.'s subsequent, recanting statement. C.A. was present at the proceeding and asked  
26 if she could address the court. Respondent replied, "No, ma'am. You can have a  
27 moment in a minute, trust me." Without further discussion, Respondent then summoned  
28 his bailiff and directed C.A. to "please stand up, please put your hands behind your

1 back," at which point C.A. was handcuffed. Respondent then asked her to sit down and,  
2 after verifying there was no one else living in her home (other than the defendant),  
3 Respondent explained:

4 Okay, I'm going to go ahead and give [the defendant] an opportunity to  
5 maintain all of his rights, that's why I've not accepted his plea. I'm going  
6 to, at this point in time, find you [C.A.] in contempt of court because you  
7 have written a second statement stated, ah, stating you "called the police,  
8 they came and I lied and said he had threatened me which is untrue. I  
9 want to recant my statement. I was frightened and afraid I would be  
10 arrested." I'm gonna find you in contempt of court. I'm gonna impose a  
11 day in jail. So you'll be released in the morning. Ah, this gives the City an  
12 opportunity to further review the case and if [the defendant] is still in  
13 custody on Monday, then I'll certainly be reviewing his case at pretrial. If  
14 he's able to post bail, then he will still be scheduled to come to court on  
15 Monday afternoon. It's the order of the court. Thank you gentlemen.

16 C.A. was thereafter taken from the courthouse and booked into the Puyallup jail,  
17 where she spent the remainder of the day and night, and was released from custody the  
18 following morning.

19 Respondent had no lawful basis to hold C.A. in summary contempt on these  
20 facts. Further, he did not comply with the procedural requirements for holding someone  
21 in summary contempt. He failed to issue an order identifying the facts to support  
22 summary imposition of contempt and the sanction imposed, he failed to certify that he  
23 personally observed any alleged contempt, and he did not allow C.A. an opportunity to  
24 speak in mitigation of the contempt. Respondent's conduct contravened well-settled  
25 law and infringed deeply upon an individual's fundamental right to due process and  
26 liberty.

### 27 **III. BASIS FOR COMMISSION ACTION**

28 On December 3, 2010, the Commission determined that probable cause  
exists to believe that Respondent has violated Canons 1, 2(A), 3(A)(1), 3(A)(3) and  
3(A)(4) of the Code of Judicial Conduct. These sections of the Code state:

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**CANON 1**

**Judges shall uphold the integrity and  
independence of the judiciary.**

An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining 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.

*Comment*

*Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.*

**CANON 2**

**Judges should avoid impropriety and the appearance of impropriety  
in all their activities.**

(A) 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.

*Comment*

*Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities.*

**CANON 3**

**Judges shall perform the duties of their office  
impartially and diligently.**

(A) Adjudicative Responsibilities.

(1) Judges should be faithful to the law and maintain professional competence in it . . . .

(3) Judges should be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom judges deal in their official capacity . . . .

Comment

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

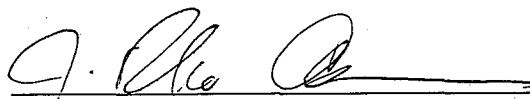
(4) Judges should accord to every person who is legally interested in the proceeding, or that person's lawyer, full right to be heard according to law . . . .

**IV. RIGHT TO FILE A WRITTEN ANSWER**

In accordance with CJCRP 20, Respondent may file a written answer to this Statement of Charges with the Commission within twenty-one (21) days after the date of service of the Statement of Charges.

DATED this 7<sup>th</sup> day of December, 2010.

COMMISSION ON JUDICIAL CONDUCT  
OF THE STATE OF WASHINGTON



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