

1
2 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

3 **February 8, 2012**

4 **NO. 32,933**

5 **INQUIRY CONCERNING A JUDGE**
6 **NO. 2011-069**

7 **IN THE MATTER OF MICHAEL T. MURPHY,**
8 **Third Judicial District Court Judge,**
9 **Dona Ana County, New Mexico**

10 **ORDER**

11 WHEREAS, this matter came on for consideration by the Court upon
12 motion of the Judicial Standards Commission to accept stipulation to
13 respondent's permanent resignation from judicial office effective February 24,
14 2012, in lieu of further disciplinary proceedings, the Court having considered
15 said motion, the responses of the parties and having determined that acceptance
16 of the stipulation is in the best interests of the judiciary and the public, and the
17 Court being otherwise sufficiently advised, Chief Justice Charles W. Daniels,
18 Justice Patricio M. Serna, Justice Richard C. Bosson, and Justice Edward L.
19 Chávez concurring, Justice Petra Jimenez Maes recusing;
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21

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23 NOW, THEREFORE, IT IS ORDERED that the motion is GRANTED
24 and respondent, the Honorable Michael T. Murphy, shall permanently resign
25 from judicial office effective February 24, 2012;
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2 IT IS FURTHER ORDERED that respondent shall submit duplicate
3 original letters of resignation to the Chief Justice of the Supreme Court of New
4 Mexico and the Governor of New Mexico, with a copy to the Commission;
5

6 IT IS FURTHER ORDERED that upon resignation, respondent shall
7 never again hold, become a candidate for, run for, or stand for election to any
8 New Mexico judicial office in the future;
9

10 IT IS FURTHER ORDERED that all documents filed in this Court in
11 Inquiry No. 2011-069 are UNSEALED pursuant to Rule 27-104(B) NMRA.
12

13 IT IS SO ORDERED.

14 WITNESS, Honorable Charles W. Daniels, Chief Justice
15 of the Supreme Court of the State of New Mexico, and
16 the seal of said Court this 8th day of February, 2012.

17 (SEAL)

18 
19 _____
20 Joey D. Moya, Chief Clerk of the Supreme Court
21 of the State of New Mexico
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IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

FAXED
ORIGINAL

No. 32,933

IN THE MATTER OF HON. MICHAEL MURPHY
Third Judicial District Court, New Mexico

SUPREME COURT OF NEW MEXICO
FILED

INQUIRY CONCERNING HON. MICHAEL MURPHY
Inquiry No. 2011-069

FEB - 2 2012

FILED UNDER SEAL
PURSUANT TO 27-104(B) NMRA

**MOTION TO ACCEPT STIPULATION TO
PERMANENT RESIGNATION FROM JUDICIAL OFFICE
EFFECTIVE FEBRUARY 24, 2012 IN LIEU
OF FURTHER DISCIPLINARY PROCEEDINGS**

JUDICIAL STANDARDS COMMISSION
Post Office Box 27248
Albuquerque, New Mexico 87125-7248
TEL (505) 222-9353
FAX (505) 222-9358

HON. MICHAEL MURPHY
c/o Michael Stout, Esq.
910 Lake Tahoe St.
Las Cruces, NM 88007-4103
TEL (575) 524-1471
FAX (575) 647-0408

RANDALL D. ROYBAL
Executive Director & General Counsel

Counsel for Respondent

ROBIN S. HAMMER
Senior Investigative Trial Counsel

Counsel for Petitioner

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

No. 32,933

IN THE MATTER OF HON. MICHAEL MURPHY
Third Judicial District Court, New Mexico

INQUIRY CONCERNING HON. MICHAEL MURPHY
Inquiry No. 2011-069

FILED UNDER SEAL
PURSUANT TO 27-104(B) NMRA

**MOTION TO ACCEPT STIPULATION TO
PERMANENT RESIGNATION FROM JUDICIAL OFFICE
EFFECTIVE FEBRUARY 24, 2012 IN LIEU
OF FURTHER DISCIPLINARY PROCEEDINGS**

The Judicial Standards Commission of the State of New Mexico (“Petitioner” or “Commission”), through the undersigned counsel, hereby moves the Supreme Court for an order approving the attached *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* in which Respondent, Hon. Michael Murphy, agrees to permanently resign effective at 5:00 p.m. on February 24, 2012. The Respondent further agrees to never again serve in judicial office in New

Mexico in the future. The Commission believes this stipulation agreement best serves the interests of justice and the integrity of the New Mexico Judiciary.

1. Petitioner invokes its jurisdiction pursuant to Petitioner's power to recommend the discipline of judges, and the Supreme Court's power to discipline judges under N.M. Const. Art. VI, §32; the Court's power of superintending control under N.M. Const. Art. VI §3; and JSC Rule 38, NMRA.

2. In Inquiry 2011-069, on December 27, 2012, the Commission filed and issued a *Notice of Formal Proceedings (NFP)* to Respondent (attached hereto as **Exhibit 1**). Respondent has not filed a verified response to the NFP, but rather he has chosen to resign in lieu of further proceedings in this matter.

3. Upon an unanimous vote, the Commission entered into a *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* with the Respondent on February 2, 2012 (attached hereto as **Exhibit 2**), which provides in pertinent part the following:

A. Respondent agrees to permanently resign as judge of the Third Judicial District Court effective at 5 p.m. on February 24, 2012. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of Resignation to the Chief

Justice of the New Mexico Supreme Court and to the Governor of New Mexico. Respondent shall concurrently provide a copy of the Resignation letter to the Commission. Upon resignation, respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

B. The Commission will file under seal with the New Mexico Supreme Court pursuant to Rule 27-104(B) NMRA a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, attaching a copy of the *Stipulation*.

C. The Respondent requests that the Supreme Court file remain sealed until February 24, 2012. The Commission stipulates to this request, but recognizes that the Commission may not bind the Court to any action. The Commission requests that the Supreme Court file be unsealed on the next business day, February 27, 2012.

D. Upon granting the *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, the Supreme Court may unseal the entire Supreme Court file in this matter pursuant to Rule 27-104(B) NMRA.

E. Upon execution of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and acceptance by the Supreme Court, the Commission will abate and close all pending matters before the Commission, Inquiry Nos. 2011-069, 2011-038, 2011-048, 2011-050.

4. Upon Order from this Court, the attached *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* is enforceable by the Commission before the Supreme Court.

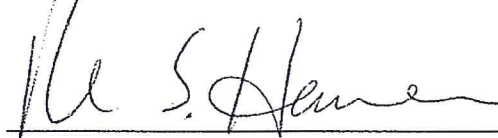
5. It is in the best interest of justice and integrity of the New Mexico Judiciary that the Supreme Court issue an order accepting Respondent Hon. Michael Murphy's permanent resignation from judicial office.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's Motion, enter an order approving the *Stipulation to*

Permanent Resignation from Judicial Office Effective February 24, 2012 in Lieu of Further Disciplinary Proceedings, accepting Respondent Hon. Michael Murphy's permanent resignation from judicial office. The Petitioner further requests that this Court enter an order unsealing all documents filed in the Supreme Court in this case at a time determined by the Court.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION

A handwritten signature in dark ink, appearing to read "R. D. Roybal", is written over a horizontal line.

RANDALL D. ROYBAL

Executive Director & General Counsel

ROBIN S. HAMMER

Senior Investigative Trial Counsel

Post Office Box 27248

Albuquerque, NM 87125-7248

TEL (505) 222-9353

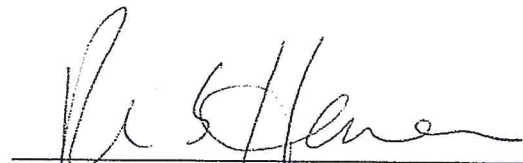
Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent by facsimile
and by first class mail on this 2nd day of February, 2012, to the Respondent:

Michael L. Stout, Esq.
910 Lake Tahoe St.
Las Cruces, NM 88007-4103
FAX (575) 647-0408

Counsel for Respondent



ROBIN S. HAMMER
Senior Investigative Trial Counsel

**BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO**

FILED
DEC 27 2011
NM JUDICIAL
STANDARDS COMMISSION

INQUIRY CONCERNING HON. MICHAEL MURPHY
Third Judicial District Court, Las Cruces

Inquiry No. 2011-069

NOTICE OF FORMAL PROCEEDINGS

TO: Hon. Michael Murphy
c/o Michael Stout, Esq.
910 Lake Tahoe Street
Las Cruces, NM 88007-4103

YOU ARE HEREBY NOTIFIED that the Judicial Standards Commission, pursuant to Rule 15 NMRA (2010), of the Judicial Standards Commission Rules, has instituted formal proceedings on the allegations set forth below.

COUNT I

It is alleged that on or about December 10, 2010, while engaging in a conversation with Hon. Lisa Schultz, during business hours, you made offensive and/or derogatory and/or inappropriate statements regarding a person or groups of persons. It is alleged that your conduct indicated bias and/or prejudice. It is alleged that your conduct failed to establish, and/or maintain and/or enforce high standards of conduct. It is alleged that your conduct failed to preserve the integrity and/or independence of the judiciary. It is alleged that your conduct failed to respect and comply with the law. It is alleged that your conduct failed to promote public confidence in the integrity and impartiality of the judiciary. It is alleged that your conduct allowed family, social or other relationships to influence your judicial conduct or judgment. It is alleged that you failed to be patient, dignified and courteous to others with whom you dealt with in your official capacity.

**PETITIONER'S
EXHIBIT**

**Inquiry Concerning Hon. Michael Murphy
NOTICE OF FORMAL PROCEEDINGS**

**Inquiry No. 2011-069
Page 2**

If proven, such conduct violates Canons 21-100 NMRA (2004); 21-200(A) and (B) NMRA(2004); 21-300(A) NMRA(2009); 21-300(B)(2),(B)(4), (B)(5), B)(8) NMRA(2009); 21-300(C) (2009); 21-500(A)1-4 NMRA(1995) of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT II

It is alleged that on or about or between January 1, 2008 and February 4, 2010, you made offensive and/or derogatory and/or inappropriate statements regarding a person or groups of persons to Third Judicial Court staff members and others while in your capacity as a judge. It is alleged that your conduct indicated bias and/or prejudice. It is alleged that your conduct failed to establish, and/or maintain and/or enforce high standards of conduct. It is alleged that your conduct failed to preserve the integrity and/or independence of the judiciary. It is alleged that your conduct failed to respect and comply with the law. It is alleged that your conduct failed to promote public confidence in the integrity and impartiality of the judiciary. It is alleged that your conduct allowed family, social or other relationships to influence your judicial conduct or judgment. It is alleged that you failed to be patient, dignified and courteous to others with whom you dealt with in your official capacity.

If proven, such conduct violates Canons 21-100 NMRA (2004); 21-200(A) and (B) NMRA(2004); 21-300(A) NMRA(2009); 21-300(B)(2),(B)(4), (B)(5), B)(8) NMRA(2009); 21-300(C) (2009); 21-500(A)1-4 NMRA(1995) of the Code of Judicial Conduct and constitutes willful misconduct in office.

PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, **you shall file a written answer to this notice within twenty-one (21) days of its service upon you.** Your answer shall be filed with:

Inquiry Concerning Hon. Michael Murphy
NOTICE OF FORMAL PROCEEDINGS

Inquiry No. 2011-069
Page 3

*Judicial Standards Commission
Post Office Box 27248
Albuquerque, New Mexico 87125-7248*

Your answer should be legible and **your signature must be verified.**

Article VI, § 32 of the New Mexico Constitution provides that all papers filed with and proceedings before the Judicial Standards Commission are confidential, except that any record filed by the Commission in the New Mexico Supreme Court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to filing with the Commission or its masters does not lose its privilege by the filing.

JUDICIAL STANDARDS COMMISSION

BY: 

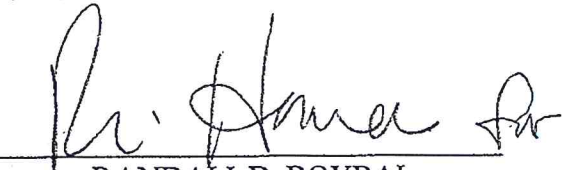
Larry Tackman, Chairman
Post Office Box 27248
Albuquerque, NM 87125-7248
(505) 222-9353

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent via facsimile and U.S. mail,

Certified Mail/Return Receipt Requested, on this 27th day of December 2011, to the following:

*Hon. Michael Murphy
c/o Michael Stout, Esq.
910 Lake Tahoe Street
Las Cruces, NM 88007-4103
FAX: 575-647-0408*


RANDALL D. ROYBAL
EXECUTIVE DIRECTOR

FILED

FEB 02 2012

NM JUDICIAL
STANDARDS COMMISSION

Inquiry No. 2011-069

**BEFORE THE JUDICIAL STANDARDS COMMISSION
STATE OF NEW MEXICO**INQUIRY CONCERNING HON. MICHAEL MURPHY
Third Judicial District Court, Las Cruces, New Mexico**STIPULATION TO PERMANENT RESIGNATION FROM JUDICIAL OFFICE IN
LIEU OF FURTHER DISCIPLINARY PROCEEDINGS**

THIS MATTER is currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notice of Formal Proceedings* issued on December 27, 2011.

This *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* is entered into by and between the Judicial Standards Commission and the Hon. Michael Murphy ("Respondent"). Respondent is represented in this matter by the Law Office of Michael Stout. The parties hereby agree and stipulate as follows:

1. Respondent agrees to permanently resign as Judge of the Third Judicial District Court, Division III, Las Cruces, New Mexico effective 5 p.m. on February 24, 2012. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court, the Administrative Office of the Court and to the Governor. Respondent shall concurrently provide a copy of the resignation letter to the Commission. Upon resignation, respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

**PETITIONER'S
EXHIBIT**

2

2. The Commission will file with the New Mexico Supreme Court a *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* attaching a copy of this Stipulation as an exhibit. The Commission will file the Motion under seal pursuant to Rule 27-104(B) NMRA 2010.

3. The Respondent requests that the entire Supreme Court file in this Inquiry number remain sealed until February 24, 2012. The Commission stipulates to this request, but recognizes that the Commission may not bind the Court to any action.

4. Upon granting the *Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, the Supreme Court may unseal the entire Supreme Court file in this matter pursuant to Rule 27-104(B) at a time determined by the Court.

5. Upon execution of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and acceptance by the Supreme Court, the Commission will abate and close this all other matters pending against the Respondent before the Commission (Inquiry Nos. 2011-069, 2011-038, 2011-048, 2011-050).

6. This *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* is specifically enforceable by the Commission before the Supreme Court.

7. Respondent acknowledges that upon execution of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, Respondent gives up any and all motions, defenses, objections or requests that the Respondent has made or raised, or could assert hereafter in or concerning the Judicial Standards Commission proceedings.

8. This document is not enforceable unless fully executed by all parties.

9. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.

10. If Respondent violates any terms or provisions of this executed *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, Respondent agrees that all facts and charges alleged in the *Notice of Formal Proceedings* issued on December 27, 2011, shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court, and shall constitute obstruction of Commission business and contempt.

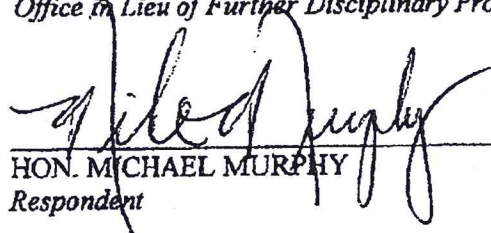
11. The terms and conditions contained in this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* are mutually acceptable to and agreed upon by all parties.

12. Through his agreement to permanent resignation, the Respondent does not make any admissions regarding any of the factual or legal allegations contained in Commission Inquiry Nos. 2011-069, 2011-038, 2011-048, 2011-050.

13. All parties have read and understand this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* have had the opportunity to discuss it with and be advised by legal counsel, and hereby freely and voluntarily enter into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* free of any threats, and free of any promises not contained herein.

RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*. I have had the opportunity to discuss this matter and my rights with a lawyer. I understand that by entering into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses. I know, understand and agree that the provisions of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, I am agreeing to never again hold judicial office as defined in this agreement under any circumstances, and that if I do hold any judicial office at any point in the future, I will be in violation of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, and could be held in contempt of the Judicial Standards Commission and the New Mexico Supreme Court. I further understand that if I violate any provision of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* in any other manner, I agree, acknowledge, and accept that all allegations lodged against me in this matter are admitted by me as fact, and that the Commission shall re-initiate all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* was executed.



HON. MICHAEL MURPHY
Respondent

Dated: 1 Feb 2012

LAW OFFICE OF MICHAEL STOUT

By 

MICHAEL STOUT, ESQ.
Counsel for Respondent

Dated: 2-1-12

RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*. I have had the opportunity to discuss this matter and my rights with a lawyer. I understand that by entering into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, I will be giving up my rights to a formal hearing on the merits and to confront, cross-examine and compel the attendance of witnesses. I know, understand and agree that the provisions of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* are material to the Commission's deliberations and ultimate acceptance of it. I also understand and agree that by entering into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, I am agreeing to never again hold judicial office as defined in this agreement under any circumstances, and that if I do hold any judicial office at any point in the future, I will be in violation of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*, and could be held in contempt of the Judicial Standards Commission and the New Mexico Supreme Court. I further understand that if I violate any provision of this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* in any other manner, I agree, acknowledge, and accept that all allegations lodged against me in this matter are admitted by me as fact, and that the Commission shall re-initiate all matters pending before the Supreme Court and/or the Commission at the time this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* was executed.

Dated: _____

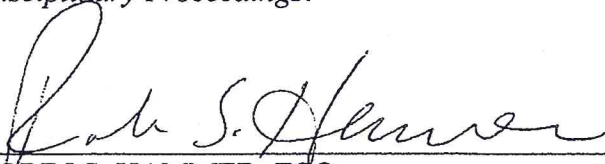
HON. MICHAEL MURPHY
Respondent

LAW OFFICE OF MICHAEL STOUT

By _____ Dated: _____
MICHAEL STOUT, ESQ.
Counsel for Respondent

EXAMINER'S REVIEW & APPROVAL

I have reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings* and find that it is appropriate and consistent with the best interests of justice. I hereby recommend that the Judicial Standards Commission accept and approve this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.



ROBIN S. HAMMER, ESQ.
Examiner

Dated: 2-2-12

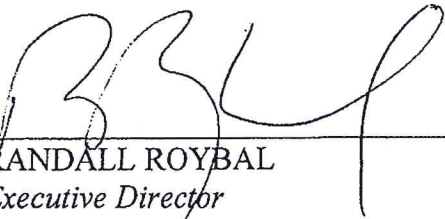
JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

The Commission has reviewed this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*. Upon a majority vote of its members, the Commission hereby accepts, approves, and enters into this *Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings*.



LARRY TACKMAN
Chairman

Dated: 2-2-2012



RANDALL ROYBAL
Executive Director

Dated: 2/2/12