

IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO

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FAXED
ORIGINAL

SUPREME COURT OF NEW MEXICO

FILED

NOV - 7 2011

Kathleen G. Williams

No. _____

IN THE MATTER OF HON. OLIVIA N. GARCIA,
Dona Ana County Magistrate Court, Las Cruces, New Mexico

INQUIRY CONCERNING HON. OLIVIA N. GARCIA
Dona Ana County Magistrate Court, Las Cruces, New Mexico
JSC Inquiry Nos. 2010-102, 2011-026, and 2011-085

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

PETITION TO ACCEPT STIPULATION TO
PERMANENT RETIREMENT FROM JUDICIAL OFFICE
EFFECTIVE DECEMBER 31, 2011 IN LIEU
OF FURTHER DISCIPLINARY PROCEEDINGS

JUDICIAL STANDARDS COMMISSION

HON. OLIVIA N. GARCIA

RANDALL D. ROYBAL
Executive Director & General Counsel

PATRICIA G. WILLIAMS, ESQ.

ROBIN S. HAMMER
Senior Investigative Trial Counsel

Wiggins, Williams & Wiggins
P.O. Box 1308
Albuquerque, NM 87103-1308
Phone: (505) 764-8400
Facsimile: (505) 764-8585

Post Office Box 27248
Albuquerque, NM 87125-7248
TEL (505) 222-9353
Facsimile (505) 222-9358

Counsel for the Respondent

Counsel for the Petitioner

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

No. _____

IN THE MATTER OF HON. OLIVIA N. GARCIA,
Dona Ana County Magistrate Court, Las Cruces, New Mexico

INQUIRY CONCERNING HON. OLIVIA N. GARCIA
Dona Ana County Magistrate Court, Las Cruces, New Mexico
JSC Inquiry Nos. 2010-102, 2011-026, and 2011-085

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

**PETITION TO ACCEPT STIPULATION TO
PERMANENT RETIREMENT FROM JUDICIAL OFFICE
EFFECTIVE DECEMBER 31, 2011 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 Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* ("*Stipulation*") in which Respondent, Hon. Olivia N. Garcia agrees to permanently retire effective at 5:00 p.m. on December 31, 2011. The Respondent further agrees to never again hold 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 1993 and NMRA 2010.

2. In Inquiry No. 2010-102, on September 3, 2010, the Commission filed and issued a *Notice of Preliminary Investigation* ("NPI") to Respondent, to which she responded on September 20, 2010. On December 21, 2010, the Commission filed and issued a *Notice of Formal Proceedings* ("NFP") in Inquiry No. 2010-102 to Respondent, to which she responded on January 7, 2011. (A copy of the NFP in Inquiry No. 2010-102 is attached to the Stipulation as **Exhibit A**). In Inquiry No. 2011-026, on April 22, 2011, the Commission filed and issued a *Notice of Preliminary Investigation* ("NPI") to Respondent, to which she responded on May 4, 2011. On July 28, 2011, the Commission filed and issued a *Notice of Formal Proceedings* ("NFP") in Inquiry No. 2011-026 to Respondent, to which she responded on August 19, 2011. (A copy of the NFP in Inquiry No. 2011-026 is attached to the Stipulation as **Exhibit B**). In Inquiry No. 2011-085, on November 3, 2011, the Commission filed and issued a *Notice of Preliminary Investigation*

("NPI") to Respondent, to which she has not yet responded. (A copy of the NPI in Inquiry No. 2011-085 is attached to the Stipulation as **Exhibit C**). The Commission's inquiries and proceedings concerning Respondent in these matters have been ongoing.

3. Upon a unanimous vote the Commission entered into a *Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* with the Respondent on November 4, 2011 (attached hereto as Petitioner's **Exhibit 1**), which provides in pertinent part the following:

A. Respondent agrees to permanently retire as judge of the Dona Ana County Magistrate Court, effective at 5:00 p.m. on December 31, 2011. Contemporaneous with signing this *Stipulation Agreement*, Respondent shall submit duplicate original letters of retirement addressed to the Chief Justice of the New Mexico Supreme Court and to the Governor, which the Commission shall hold until the New Mexico Supreme Court accepts this *Stipulation Agreement*. Upon the Supreme Court's acceptance, the Commission will deliver the resignation letters to the Governor and the Chief Justice. Upon retirement, 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 2011 a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings*, attaching a copy of the Stipulation.

C. Upon granting the *Petition to Accept Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings*, the parties defer to the Supreme Court's discretion as to whether or not, the Court will unseal the Supreme Court file in this matter pursuant to Rule 27-104(B) NMRA 2011. The Respondent wishes the matter to remain sealed. The Commission requests that in keeping with the Court's prior decisions, the file in this matter should be unsealed, permitting the citizens and the Judiciary of New Mexico to be informed of the actions concerning Respondent, who is an elected official.

D. Upon execution of this *Stipulation to Permanent Retirement 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. 2010-102, 2011-026 and 2011-085.

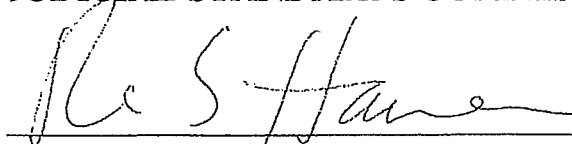
4. Upon Order from this Court, the attached *Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* is enforceable by the Commission before the Supreme Court.

5. It is in the best interests of justice and integrity of the New Mexico Judiciary that the Supreme Court issue an order accepting Respondent Hon. Olivia N. Garcia's permanent retirement from judicial office.

WHEREFORE, Petitioner respectfully requests this Court issue an order granting the Commission's petition, enter an order approving the *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings*, accepting Respondent Hon. Olivia N. Garcia's permanent retirement from judicial office, and further determine if all documents filed in the Supreme Court in this case should be unsealed as provided by to 27-104(B) NMRA 2011 and in the interests of justice.

Respectfully submitted,

JUDICIAL STANDARDS COMMISSION



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 7th day of November 2011, to Counsel for the Respondent:

Patricia G. Williams, Esq.

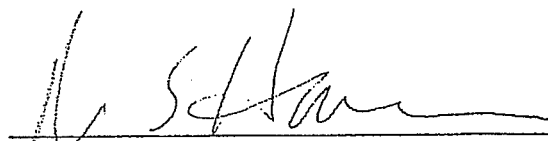
Wiggins, Williams & Wiggins

P.O. Box 1308

Albuquerque, NM 87103-1308

Phone: (505) 764-8400

Facsimile: (505) 764-8585



ROBIN S. HAMMER

Senior Investigative Trial Counsel

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NM JUDICIAL

STANDARDS COMMISSION

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

INQUIRY CONCERNING HON. OLIVIA N. GARCIA
Dona Ana County Magistrate Court, Las Cruces

Inquiry Nos. 2010-102
2011-026; 2011-085

STIPULATION TO PERMANENT RETIREMENT FROM JUDICIAL OFFICE
EFFECTIVE DECEMBER 31, 2011
IN LIEU OF FURTHER DISCIPLINARY PROCEEDINGS

THESE MATTERS are currently pending before the Judicial Standards Commission ("the Commission") pursuant to the *Notice of Formal Proceedings* issued in Inquiry No. 2010-102 on December 21, 2010 (see attached **Exhibit A**, Notice of Formal Proceedings, Inq. No. 2010-102); pursuant to the *Notice of Formal Proceedings* issued in Inquiry No. 2011-026 on July 28, 2011 (see attached **Exhibit B**, Notice of Formal Proceedings in Inquiry No. 2011-026); pursuant to the *Notice of Preliminary Investigation* issued in Inquiry No. 2011-085 on November 3, 2011 (see attached **Exhibit C**, Notice of Preliminary Investigation in Inquiry No. 2011-085).

This *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings (Stipulation Agreement)* is entered into by and between the Judicial Standards Commission and Hon. Olivia N. Garcia ("Respondent"). Respondent is represented in this matter by Patricia Williams, Esq. The parties hereby agree and stipulate as follows:

1. Respondent agrees to permanently retire as judge of the Dona Ana County Magistrate Court, effective at 5:00 p.m. on December 31, 2011. Contemporaneous with signing this *Stipulation Agreement*, Respondent shall submit duplicate original letters of retirement addressed

PETITIONER'S
EXHIBIT

INQUIRY CONCERNING HON. OLIVIA GARCIA
Stipulation to Permanent Retirement from Judicial Office
Page 2

Inquiry Nos. 2010-102
2011-026; 2011-085

to the Chief Justice of the New Mexico Supreme Court and to the Governor, which the Commission shall hold until the New Mexico Supreme Court accepts this *Stipulation Agreement*. Upon the Supreme Court's acceptance, the Commission will deliver the resignation letters to the Governor and the Chief Justice. Upon retirement, 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.

2. The parties recognize that the three matters pending before the Commission have not been adjudicated, and that the Respondent denies the allegations contained therein.

3. Respondent agrees to pay for the cost of her deposition in Inquiry No. 2010-102, in the amount of \$718.65. The Commission agrees to waive the remainder of the costs of investigation of these matters. Respondent shall pay the costs by 4 p.m. on December 30, 2011.

4. The Commission will file under seal with the New Mexico Supreme Court pursuant to Rule 27-104(B) NMRA 2011 a *Petition to Accept Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings*, attaching a copy of the Stipulation.

5. Upon granting the *Petition to Accept Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings*, the parties defer to the Supreme Court's discretion as to whether or not, the Court will unseal the Supreme Court file in this matter pursuant to Rule 27-104(B) NMRA 2011. The Respondent requests that the matter

INQUIRY CONCERNING HON. OLIVIA GARCIA
Stipulation to Permanent Retirement from Judicial Office
Page 3

Inquiry Nos. 2010-102
2011-026; 2011-085

remain sealed. The Commission requests that, in keeping with the Court's prior decisions in other matters, the file in this matter should be unsealed, permitting the citizens and the Judiciary of New Mexico to be informed of the actions concerning Respondent, who is an elected official.

6. Upon execution of this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 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. 2010-102, 2011-026, and 2011-085).

7. This *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings* is specifically enforceable by the Commission before the Supreme Court.

8. Respondent acknowledges that upon execution of this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 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.

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

10. The Commission and Respondent shall take all actions necessary to carry out and fulfill the terms and conditions of this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings*.

11. If Respondent violates any terms or provisions of this executed *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings*, Respondent agrees that all facts and charges alleged in the *Notices of*

INQUIRY CONCERNING HON. OLIVIA GARCIA
Stipulation to Permanent Retirement from Judicial Office
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Inquiry Nos. 2010-102
2011-026; 2011-085

Formal Proceedings and the *Notice of Preliminary Investigation* issued in Inquiry Nos. 2010-102, 2011-026, and 2011-085 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.

12. The terms and conditions contained in this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings* are mutually acceptable to and agreed upon by all parties.

13. All parties have read and understand this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 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 Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* free of any threats, and free of any promises not contained herein.

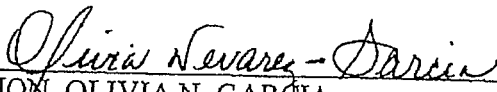
RESPONDENT'S REVIEW & APPROVAL

I have read and understand this *Stipulation to Permanent Retirement Effective December 31, 2011 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 Retirement 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 Retirement 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 Retirement 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 Retirement 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

INQUIRY CONCERNING HON. OLIVIA GARCIA
Stipulation to Permanent Retirement from Judicial Office
Page 5

Inquiry Nos. 2010-102
2011-026; 2011-085

Court. I further understand that if I violate any provision of this *Stipulation to Permanent Retirement 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 Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings* was executed.



HON. OLIVIA N. GARCIA
Respondent

Dated: November 1, 2011

DEFENSE COUNSEL REVIEW & APPROVAL

I have reviewed the *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings* with my client. I have discussed this case with my client and I have advised my client of all applicable constitutional rights and possible defenses.

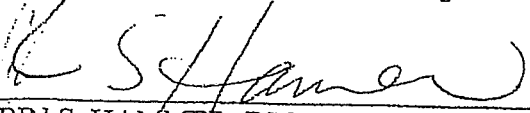


PATRICIA WILLIAMS, ESQ.
Counsel for Respondent

Dated: 11/2/11

EXAMINER'S REVIEW & APPROVAL

I have reviewed this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 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 Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings*.



ROBIN S. HAMMER, ESQ.
Examiner

Dated: 11/2/11

INQUIRY CONCERNING HON. OLIVIA GARCIA
Stipulation to Permanent Retirement from Judicial Office
Page 6

Inquiry Nos. 2010-102
2011-026; 2011-085

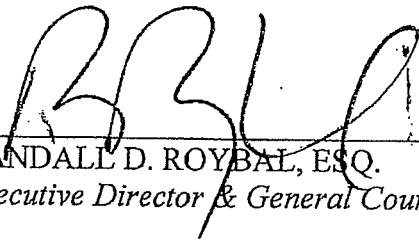
JUDICIAL STANDARDS COMMISSION REVIEW & APPROVAL

The Commission has reviewed this *Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings*. Upon a unanimous vote of its members, the Commission hereby accepts, approves, and enters into this *Stipulation to Permanent Retirement from Judicial Office in Lieu of Further Disciplinary Proceedings*.



LARRY TACKMAN
Chairman

Dated: 11/7/11



RANDALL D. ROYBAL, ESQ.
Executive Director & General Counsel

Dated: 11/7/11

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

FILED
DEC 21 2010
NM JUDICIAL
STANDARDS COMMISSION

INQUIRY CONCERNING HON. OLIVIA NEVAREZ-GARCIA

Inquiry No. 2010-102

NOTICE OF FORMAL PROCEEDINGS

TO: Hon. Olivia N. Garcia
Magistrate Judge, Div. III
Dona Ana County
110 Calle de Allegra
Las Cruces, NM 88005

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 April 21, 2010 in the case of *State v. Samuel Lara*, M-14-FR-201000304, you first conducted a hearing with Mr. Lara's attorney being present and set conditions of release in the matter. It is alleged that you then signed and directed documents to be filed reflecting your orders pertaining to the arraignment hearing. It is alleged that you subsequently engaged in an *ex parte* communication with a prosecutor regarding Mr. Lara's criminal history. It is alleged that you then conducted a second hearing in this case without Mr. Lara's attorney being present. It is alleged that during this second *ex parte* hearing you questioned Mr. Lara and made a ruling, changing Mr. Lara conditions of release. It is alleged that you deprived Mr. Lara of his right to counsel.

Commission's
Exhibit A

**Inquiry Concerning Hon. Olivia Nevarez-Garcia
NOTICE OF FORMAL PROCEEDINGS**

**Inquiry No. 2010-102
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)(5),(B)(7), (B)(8) NMRA 2009; 21-400(A)(1) NMRA 2009; and 21-500(A)(1-4) NMRA 1995 of the Code of Judicial Conduct and may constitute willful misconduct in office.

COUNT II

It is alleged that on or about April 21, 2010 in the case of *State v. Samuel Lara*, M-14-FR-201000304, you directed staff to alter and/or tamper with previously filed public documents reflecting an increase in the amount of Mr. Lara's bond from \$8,000 (Bail Bond) to \$50,000 cash only bond.

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)(5),(B)(7), (B)(8); 21-300 (C)(1), (C)(2) NMRA 2009 of the Code of Judicial Conduct and may constitute 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:

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

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

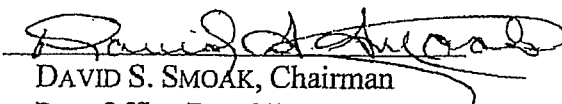
Inquiry Concerning Hon. Olivia Nevarez-Garcia
NOTICE OF FORMAL PROCEEDINGS

Inquiry No. 2010-102
Page 3

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

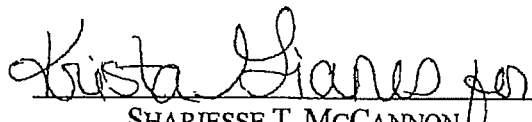
BY:


DAVID S. SMOAK, 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 mailed on this 21 day of
December 2010, to the following:

Hon. Olivia N. Garcia
Magistrate Judge, Div. III
Dona Ana County
110 Calle de Allegra
Las Cruces, NM 88005


SHARIESSE T. MCCANNON
Clerk of the Commission

BEFORE THE JUDICIAL STANDARDS COMMISSION
OF THE STATE OF NEW MEXICO

FILED
JUL 28 2011
NM JUDICIAL
STANDARDS COMMISSION

INQUIRY CONCERNING HON. OLIVIA N. GARCIA
Dona Ana County Magistrate Court, New Mexico

Inquiry No. 2011-26

NOTICE OF FORMAL PROCEEDINGS

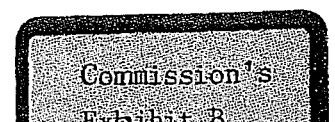
TO: Hon. Olivia N. Garcia
Magistrate Judge, Div. III
Dona Ana County
110 Calle de Allegra
Las Cruces, NM 88005

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 has been alleged that in the matter of *State v. Alexia Severson*, Cause No. M-14-DR-21000564, you failed to provide the law enforcement officers and/or the State of New Mexico an opportunity to be heard prior to ruling in the case.

If proven, such conduct violates Canons 21-100 NMRA; 21-200(A) and (B) NMRA; 21-300(A) NMRA; 21-300(B)(2), (B)(5), (B)(7), (B)(8) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.



Inquiry Concerning Hon. Olivia N. Garcia
NOTICE OF FORMAL PROCEEDINGS

Inquiry No. 2011-26
Page 2

COUNT II

It has been alleged that in the matter of *State v. Alexia Severson*, Cause No. M-14-DR-21000564, you participated in the plea negotiations, contrary to Rule 6-502 NMRA.

If proven, such conduct violates Canons 21-100 NMRA; 21-200(A) and (B) NMRA; 21-300(A) NMRA; 21-300(B)(2), (B)(5), (B)(7), (B)(8) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

COUNT III

It has been alleged that in the matter of *State v. Alexia Severson*, Cause No. M-14-DR-21000564, improperly influenced the criminal defendant not to plea guilty. It has been alleged that you improperly gave an advisory opinion in *State v. Alexia Severson*, Cause No. M-14-DR-21000564.

If proven, such conduct violates Canons 21-100 NMRA; 21-200(A) and (B) NMRA; 21-300(A) NMRA ; 21-300(B)(2), (B)(5), (B)(7), (B)(8), (B)(10), (B)(11) NMRA of the Code of Judicial Conduct and constitutes willful misconduct in office.

Inquiry Concerning Hon. Olivia N. Garcia
NOTICE OF FORMAL PROCEEDINGS

Inquiry No. 2011-26
Page 3

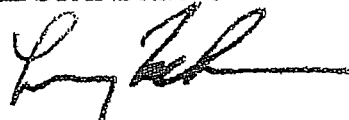
PLEASE BE ADVISED that in accordance with Rule 16 of the Judicial Standards Commission Rules, **you shall file a written answer to this notice within twenty-one (21) days of its service upon you.** Your answer shall be filed with:

*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

Inquiry Concerning Hon. Olivia N. Garcia
NOTICE OF FORMAL PROCEEDINGS

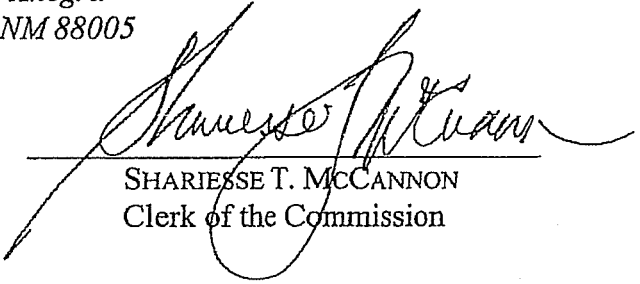
Inquiry No. 2011-26
Page 4

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was mailed on this 28th day of July

2011, to the following:

*Hon. Olivia N. Garcia
Magistrate Judge, Div. III
Dona Ana County
110 Calle de Allegra
Las Cruces, NM 88005*


SHARISSE T. MCCANNON
Clerk of the Commission



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248
ALBUQUERQUE, NEW MEXICO 87125-7248
(505) 222-9353
WWW.NMJSC.ORG

RANDALL D. ROYBAL, ESQ.
Executive Director & General Counsel

ROBIN S. HAMMER, ESQ.
Senior Investigative Trial Counsel

PATRICK C. McNERTNEY, ESQ.
Investigative Trial Counsel

FILED

NOV 03 2011

NM JUDICIAL
STANDARDS COMMISSION

A handwritten signature in black ink, appearing to be "R. Roybal", written over the stamp area.

November 1, 2011

CONFIDENTIAL
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Hon. Olivia N. Garcia
c/o Patricia Williams, Esq.
Wiggins, Williams & Wiggins
P.O. Box 1308
Albuquerque, NM 87103-1308

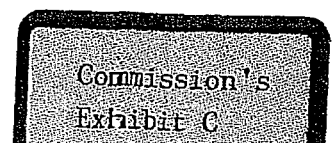
Re: *Inquiry No. 2011-085*

Dear Judge Garcia:

The above-referenced matter came before the Judicial Standards Commission on either a verified complaint or the Commission's own motion. As part of a preliminary investigation pursuant to Rule 14(F) of the Judicial Standards Commission Rules (NMRA 2010), the Commission requires that you provide a written explanation as to the matter(s) discussed below.

It has been alleged that on or about February 15, 2011 in the case of *Cole v. Rodriguez and Pantoya*, M-14-CV-201100315, you committed clear legal error when you failed to follow the law regarding the amount of time tenants are required to give landlords prior to vacating a rental property. It is alleged that this is not the first time you have committed clear legal error in misapplying this law in other landlord/tenant cases.

It has been alleged that you made disparaging remarks about litigant Patricia Cole's hearing loss and/or hearing disability from the bench. It is also alleged that your remarks indicates bias and/or gives the appearance of bias in Ms. Cole's case(s).



Hon. Olivia N. Garcia

November 1, 2011

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Please provide the Commission with an explanation of this incident and the factual and legal bases for your conduct. Your response to this letter must be submitted in writing and must include an explanation and disclosure of all pertinent facts, including any relevant documents regarding the matters outlined herein. The Commission must receive your response within twenty-one (21) days of your receipt of this letter.

Sincerely yours,

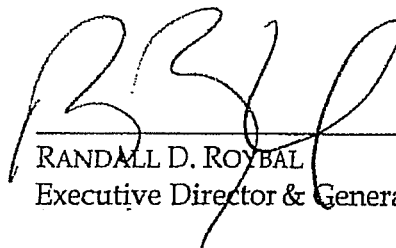


Larry Tackman
Chairman

CERTIFICATE OF MAILING

I hereby certify that a true copy of the foregoing was mailed on the 3rd day of
November 2011, by certified mail, return receipt requested to:

*Hon. Olivia N. Garcia
c/o Patricia Williams, Esq.
Wiggins, Williams & Wiggins
P.O. Box 1308
Albuquerque, NM 87103-1308*



RANDALL D. ROYBAL
Executive Director & General Counsel