

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

MARIAN R. SHELTON,

STIPULATION

a Judge of the New York City Family Court,
Bronx County.
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Subject to the approval of the Commission on Judicial Conduct (“Commission”),

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and the Honorable Marian R. Shelton (“Respondent”), who is represented in this proceeding by Ingram Yuzek Gainen Carroll & Bertolotti, LLP (Dean G. Yuzek, Of Counsel), as follows:

1. This Stipulation is presented to the Commission in connection with a Formal Written Complaint pending against Respondent.
2. Respondent was admitted to the practice of law in New York in 1985. She was appointed a Judge of the New York City Family Court, Bronx County, in July 1998, for a term that expires on December 31, 2007.
3. Respondent was served with a Formal Written Complaint dated June 1, 2007, containing 13 charges. The Formal Written Complaint is annexed hereto as Exhibit 1.
4. Respondent submitted a Verified Answer dated June 25, 2007, in which she denied the material allegations of the Formal Written Complaint and asserted nine affirmative defenses. The Answer is annexed hereto as Exhibit 2.

5. On July 5, 2007, Respondent moved to dismiss certain charges in the Formal Written Complaint. The Administrator opposed the motion. On July 16, 2007, the Commission denied the motion without prejudice.

6. On July 18, 2007, the Commission designated Robert H. Straus, Esq. as Referee to hear and report proposed findings of fact and conclusions of law with regard to the Formal Written Complaint.

7. On August 9, 2007, Respondent waived confidentiality with respect to this proceeding. A copy of the waiver is annexed hereto as Exhibit 3.

8. On July 26, 2007, Respondent moved for the Referee to disqualify himself from this proceeding. The Administrator opposed the motion. On August 13, 2007, the Referee denied the motion.

9. On August 23, 2007, Respondent appealed the Referee's decision and moved for the Commission to disqualify the Referee. The Administrator opposed the motion. On September 12, 2007, the Commission denied the motion.

10. Respondent admits the following facts regarding Charge I of the Formal Written Complaint:

- A. Michelle Nusser is the wife of Ben Nusser, who is the Intake Clerk in Respondent's court.
- B. On or about December 10, 2004, Ms. Nusser entered the spectator section of Respondent's courtroom at approximately 6:30 PM.
- C. At approximately 6:45 PM, after the last litigant had left and Respondent was at the bench signing various papers, Ms. Nusser stood up and motioned to her husband, whereupon Respondent directed her to leave the courtroom.
- D. Ms. Nusser turned to leave, and while departing said the word "asshole," referencing the Judge.

- E. Respondent thereafter ordered a court officer to return Ms. Nusser to the courtroom. When Ms. Nusser was brought back into the courtroom, Respondent stated that Ms. Nusser was in summary contempt, as a result of which she was handcuffed, told her to “shut up,” “shut your mouth” and “be quiet” and directed that she be placed in a holding cell and returned to court on Monday morning.
- F. After spending several minutes in a holding cell and indicating she would apologize if given the opportunity, Ms. Nusser was brought back to court, where Respondent told her “You will never enter my courtroom again for any reason.” Ms. Nusser apologized and Respondent purged the contempt.

11. Subject to the acceptance by the Commission of this Stipulation, Respondent does not contest the Commission’s position that her foregoing conduct in connection with Charge I violated Section 100.3(B)(3) of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”) and Section 604.2 of the Rules of the Appellate Division, First Department, and acknowledges the Commission’s position that violations of Sections 100.1, 100.2(A) and 100.3(B)(1) of the Rules and Section 604.1(e)(1) and (e)(5) of the Rules of the Appellate Division, First Department, and Section 755 of the Judiciary Law flow therefrom.

12. Respondent hereby affirms that she will neither seek nor accept reappointment as a Judge of the New York City Family Court, Bronx County, upon the expiration of her current term on December 31, 2007.

13. Respondent hereby affirms that she does not intend to seek or accept judicial office or a position as a Judicial Hearing Officer in the Courts of the State of New York at any time in the future.

14. In view of the foregoing, Respondent and the Administrator respectfully request that the Commission discontinue this proceeding subject to Respondent’s understanding that if she returns to judicial office in the Courts of the State of New York or violates paragraph 17


hereof prior to December 31, 2007, the Formal Written Complaint, and the hearing and other judicial disciplinary proceedings related thereto, can be activated and proceed, and her admission as set forth in paragraph 10 regarding Charge I will remain in effect.

15. Respondent understands that this Stipulation, and the Commission's decision accepting or rejecting it, are public documents, in view of her aforementioned waiver of confidentiality.

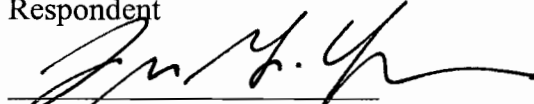
16. Respondent affirms that she enters into this Stipulation voluntarily, without coercion, and without any claim that the Commission or its representatives have violated, abridged or prejudiced her rights regarding her entry into this Stipulation.

17. Respondent and the Commission agree that, subsequent to this Stipulation, neither she, the members of the Commission, nor their respective attorneys or other agents will make any statements that dispute or appear to dispute any of the terms of this Stipulation, including her admission as set forth in paragraph 10 regarding Charge I. Respondent understands that, should she, her attorneys or other agents make any such statements, the Administrator may summarily request and the Commission may direct this Stipulation be vacated and an immediate hearing be held before the Referee as to the Formal Written Complaint.

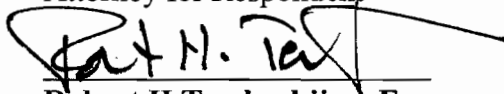
Dated: September 26, 2007


Honorable Marian R. Shelton
Respondent

Dated: September 26, 2007


Ingram Yuzek Gainen Carroll & Bertolotti, LLP
By **Dean G. Yuzek, Esq.**
Attorney for Respondent

Dated: September 26, 2007


Robert H Tembeckjian, Esq.
Administrator & Counsel to the Commission