

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

AGREED
STATEMENT OF FACTS

ROBERT P. APPLE,

A Justice of the Pawling Village Court,
Dutchess County.

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 Honorable Robert P. Apple ("respondent"), who is not represented by counsel in this matter, that further proceedings are waived, and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent was admitted to the practice of law in New York in 1984, and has been self-employed in the private practice of law for approximately 20 years. He became a part-time Justice of the Pawling Village Court in Dutchess County in 1991. Respondent's current term expires on December 6, 2013.

2. Respondent was served with a Formal Written Complaint dated October 25, 2011, and filed an Answer dated December 13, 2011.

As to Charge I of the Formal Written Complaint

3. On November 26, 2009, respondent consumed a number of alcoholic “cocktails” at his home. Sometime after consuming these cocktails, respondent drove his automobile, a Ford Focus, to a supermarket in Patterson, New York.

4. At approximately 1:57 PM, at the intersection of East Main Street and State Route 22 in the Village of Pawling, respondent drove his vehicle into the rear end of an automobile being operated by Ms. Oddny P. Olson, who resides in Stormville, New York. At the time of the accident, Ms. Olson’s vehicle was stopped at a traffic light. Respondent’s vehicle struck Ms. Olson’s vehicle with sufficient force to cause her eyeglasses to fly off her face, and for the bolts securing respondent’s license plate to become embedded in Ms. Olson’s vehicle’s bumper.

5. A Sheriff’s Deputy dispatched to the scene observed that respondent’s eyes were glassy, that he staggered while walking and swayed while standing. The Deputy also detected the odor of alcohol on respondent’s breath.

6. Respondent failed a field sobriety test administered at the scene.

7. Respondent was arrested and taken to the Pawling substation of the Dutchess County Sheriff’s Department. At approximately 3:35 PM, nearly two hours after the accident, respondent was given a breathalyzer test, which indicated a Blood Alcohol Content of .21%, more than two and a half times the legal limit of .08%.

8. Respondent was charged with Aggravated Driving While Intoxicated in violation of VTL Section 1192(2-a), Driving While Intoxicated, in violation of VTL Section 1192(2) and (3), and Following Too Closely, in violation of VTL 1129(a).

9. On or about February 22, 2010, respondent appeared before Justice John D. Crodelle in the North East Town Court, and pleaded guilty to Driving While Intoxicated, a class “A” misdemeanor, in full satisfaction of all the charges.

10. On or about February 22, 2010, respondent was sentenced to a Conditional Discharge and directed to pay a \$500 fine and participate in a “Drunk Driver Program.” Judge Crodelle also revoked respondent’s license to operate a motor vehicle for a period of six months.

11. By reason of the foregoing, respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision (1), of the Judiciary Law, in that respondent failed to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to conduct his extra-judicial activities so as not to detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules, and so as not to interfere with the proper performance of judicial duties and not to be incompatible with judicial office, in violation of Section 100.4(A)(3) of the Rules.

Mitigating Factors

12. Respondent has expressed contrition for his actions. He also retained Martin D. Lynch, MS, a Licensed Professional Counselor specializing in

alcohol and substance abuse, to evaluate respondent's consumption of alcohol before driving on November 26, 2009. Mr. Lynch concluded it was an "isolated event" and that further counseling was not needed. Notwithstanding this opinion, respondent enrolled in, and regularly attends Alcoholics Anonymous meetings, and is receiving "preventative counseling."

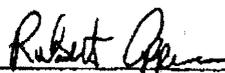
13. There is no indication that respondent invoked his judicial office to secure favorable treatment at any time during his encounters with law enforcement authorities or others in connection with this incident.

IT IS FURTHER STIPULATED AND AGREED that respondent withdraws from his Answer any denials or defenses inconsistent with this Agreed Statements of Facts.

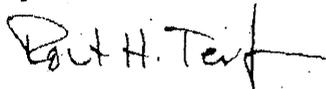
IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that based, upon the judicial misconduct detailed above, the appropriate sanction is a public Censure.

IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commissions as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Censure without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing, and the statements made herein shall not be used by the Commission, the respondent, or the Administrator and Counsel to the Commission.

Dated: New York, New York
January 17, 2012



Honorable Robert P. Apple
Respondent



ROBERT H. TEMBECKJIAN
Administrator and Counsel to the Commission
(Roger J. Schwarz, of Counsel)