

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ELISSA Y. KILLIAN,

STIPULATION

an Acting Justice of the Liberty Village Court,
Sullivan County.
-----X

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 Elissa Y. Killian ("respondent"), as follows:

1. This Stipulation is presented to the Commission in connection with Formal Written Complaints pending against respondent.
2. Respondent was admitted to the practice of law in New York in 1988. She served as a Justice of the Liberty Village Court from April 1999 to April 2003. Since April 1, 2003, respondent has been appointed to five successive one-year terms as Acting Justice of the Liberty Village Court. Her current term expires on April 1, 2008.
3. Respondent was served with a Formal Written Complaint dated January 12, 2007, containing two charges. Charge I alleged that respondent failed to report and remit fines and fees to the State Comptroller as required by the Uniform

Justice Court Act § 2021(1), Village Law § 4-410, and Vehicle and Traffic Law § 1803. There was no allegation that respondent misappropriated court funds. Charge II alleged that respondent failed to timely cooperate with the Commission's investigation of the allegations in Charge I. The Formal Written Complaint is annexed hereto as Exhibit A.

4. Respondent submitted a Verified Answer dated March 12, 2007, in which she admitted certain facts, denied certain other facts, denied that her conduct violated the Rules Governing Judicial Conduct, and asserted as a defense that her failure to report and remit court funds was due to an antiquated computer system and insufficient bookkeeping procedures that were in place when she assumed office. The Answer is annexed hereto as Exhibit B.

5. On March 26, 2007, the Commission designated Steven E. North, Esq. as Referee to hear and report proposed findings of fact and conclusions of law with respect to the Formal Written Complaint. A hearing before the Referee was scheduled for November 15 and 16, 2007.

6. On November 8, 2007, the Commission advised respondent that it was investigating a new complaint alleging that she received a six-month stayed suspension from the practice of law by the Appellate Division, Third Department. The November 15-16 hearing was postponed, pending investigation of the new matter.

7. Respondent was served with a Second Formal Written Complaint dated January 2, 2008, which alleged *inter alia* that respondent failed to timely cooperate with investigations by the Committee on Professional Standards into her alleged professional misconduct, that she was suspended from the practice of law in March 2007

for professional misconduct and, notwithstanding that the suspension was stayed contingent on respondent's satisfaction of certain conditions, such suspension reflected adversely on her fitness to serve as a judge. The Second Formal Written Complaint is annexed hereto as Exhibit C. Respondent has not answered the Second Complaint.

8. Respondent acknowledges by this Stipulation that she will not defend against the two pending Complaints.

9. Respondent hereby affirms that she will neither seek nor accept reappointment as an Acting Justice of the Liberty Village Court, Sullivan County, upon the expiration of her current term on April 1, 2008.

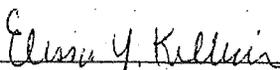
10. Respondent hereby affirms that she will neither seek nor accept judicial office or a position as a Judicial Hearing Officer at any time in the future.

11. In view of the foregoing, all parties to this Stipulation respectfully request that the Commission close the pending matter based on this Stipulation.

12. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law to the limited extent that this Stipulation will be made public if accepted by the Commission.

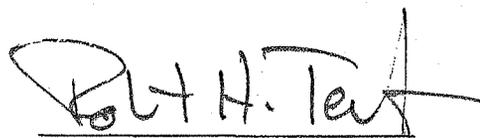
Dated:

1/22/08


Honorable Elissa Y. Killian
Respondent

Dated:

1/23/08


Robert H. Tembeckjian, Esq.
Administrator & Counsel to the Commission
(Melissa DiPalo, Of Counsel)

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

ELISSA Y. KILLIAN,

an Acting Justice of the Liberty Village Court,
Sullivan County.

**FORMAL
WRITTEN COMPLAINT**

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct ("Commission"), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.

2. The Commission has directed that a Formal Written Complaint be drawn and served upon Elissa Y. Killian ("respondent"), an Acting Justice of the Liberty Village Court, Sullivan County.

3. The factual allegations set forth in Charges I and II state acts of judicial misconduct by respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct ("Rules").

4. Respondent was admitted to the practice of law in New York in 1988. She was a justice of the Liberty Village Court from April 1999 to April 2003, and has been an acting justice since April 2003.

CHARGE I

5. From in or about April 1999 to in or about May 2003, as set forth on the attached Schedule A, respondent failed to report and remit to the State Comptroller fines and fees totaling \$3,858.11 received in connection with 69 cases, as required by Section 2021(1) of the Uniform Justice Court Act, Section 4-410 of the Village Law and Section 1803 of the Vehicle and Traffic Law.

6. 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 uphold the integrity and independence of the judiciary by failing 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 she failed to respect and comply with the law, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently in that she failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, and failed to diligently discharge her administrative responsibilities, in violation of Section 100.3(C)(1) of the Rules.

CHARGE II

7. Respondent failed to cooperate with the Commission's investigation of her conduct with respect to the matters set forth in Charge I above, as set forth in the specifications below.

Specifications to Charge II

8. The Commission sent respondent a letter dated June 22, 2005, a copy of which is attached as Exhibit 1, *inter alia* requesting respondent's response by July 19, 2005, to allegations that she failed to report cases and remit court funds to the State Comptroller, and that she had a deficiency of \$6,328 in her official court accounts (due in part to her failure to remit). Although respondent requested two extensions of time to answer the letter of June 22nd and was granted extensions to August 15, 2005, she did not respond to the June 22nd letter.

9. The Commission sent respondent a follow-up letter dated August 17, 2005, a copy of which is attached as Exhibit 2, *inter alia* enclosing a copy of Exhibit 1 and requesting respondent's response to the allegations. Although respondent requested and received an extension of time to August 31, 2005, to answer the Commission's letter, she did not respond to the August 17th letter.

10. By letter dated September 8, 2005, a copy of which is attached as Exhibit 3, the Commission gave notice to respondent to appear on September 26, 2005, at 10:30 AM, to give testimony at the Commission with respect to the matters herein. On or about September 16, 2005, respondent faxed an undated letter to the Commission confirming her appearance, a copy of which is attached as Exhibit 4. At 9:18 AM on September 26, 2005, the morning of respondent's scheduled appearance, respondent faxed a letter to Commission Counsel stating that she would be unable to appear due to an illness. A copy of respondent's letter of September 26 is attached as Exhibit 5. Notwithstanding her illness, respondent also faxed a letter to the Commission dated

September 26, 2005, which was ostensibly in reply to the Commission's letter of June 22, 2005.

11. Respondent gave testimony at the Commission on October 11, 2005, at which time she testified *inter alia* that within seven days of receipt of the transcript of her testimony, she would submit documents to the Commission showing that that she had (a) replenished the deficiency in her court accounts and (b) reported and remitted court funds to the State Comptroller. The transcript was sent to the judge by certified mail, return receipt requested, on December 1, 2005. The return receipt indicates that respondent received the transcript on December 8, 2005. Respondent submitted her documents to the Commission with a letter dated December 25, 2005, a copy of which is attached as Exhibit 6.

12. The Commission sent respondent a letter dated January 12, 2006, a copy of which is attached as Exhibit 7, *inter alia* including a list of monies that had not been reported or remitted to the State Comptroller, and asking respondent to reply by January 31, 2006, and identify when the monies were reported and remitted. Respondent did not respond to the January 12th letter.

13. The Commission sent respondent a follow-up letter dated February 7, 2006, a copy of which is attached as Exhibit 8, *inter alia* enclosing a copy of Exhibit 7 and requesting respondent's response to the inquiry by February 17, 2006.

14. By letter dated February 27, 2006, a copy of which is attached as Exhibit 9, the Commission again provided respondent with a copy of Exhibit 7 and requested respondent's response by March 13, 2006. Respondent did not respond.

15. By letter dated March 16, 2006, a copy of which is attached as Exhibit 10, the Commission gave notice to respondent to appear on April 6, 2006, to give testimony at the Commission with respect to the matters herein. Respondent did not confirm her appearance, and on the afternoon of April 5, 2006, called Commission Counsel to request an adjournment. Respondent's appearance was adjourned to April 25, 2006.

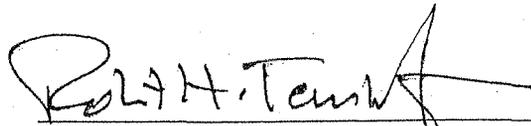
16. Respondent testified on April 25, 2006 and May 18, 2006. At the May 18th appearance, respondent testified that with regard to the monies addressed by the Commission's letters of June 22, 2005 (Exhibit 1) and January 12, 2006 (Exhibit 7), she had reported the items and sent a "lump sum" check of "unidentified funds" to the State Comptroller in May or June 2003. Respondent testified that within seven days of receipt of the transcript of her testimony, she would provide documents to the Commission establishing that she had indeed reported and remitted the funds in question to the State Comptroller. Respondent failed to provide the requested documents.

17. 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 uphold the integrity and independence of the judiciary by failing 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; and failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and to act in a manner

that promotes public confidence in the integrity of the judiciary, in violation of Section 100.2(A) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: January 12, 2007
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
212-809-0566

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ELISSA Y. KILLIAN,

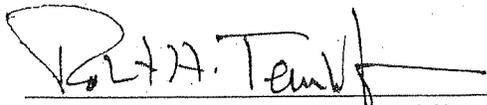
VERIFICATION

an Acting Justice of the Liberty Village Court,
Sullivan County.
-----X

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

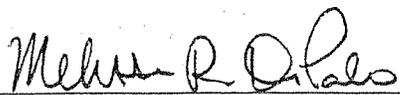
ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
12th day of January 2007



Notary Public

Melissa R. DiPalo
Notary Public, State of New York
No. 02DI6065643
Qualified in Kings County
Commission Expires 10/22/09

Schedule A

	Receipt Number	Defendant's Name/Case Title	Date of Receipt	Amount Collected By Respondent
1	21160	Jeremy Lester	6/27/00	100.00
2	21166	Ryan Lagattuta	6/28/00	200.00
3	21437	Herman Drayton	8/25/00	50.00
4	21462	Thomas Carmody	9/7/00	50.00
5	21537	Dennis Anastasis	9/29/00	50.00
6	21569	Michael Banks, Jr.	10/4/00	250.00
7	21619	Jason Houghtaling	10/19/00	150.00
8	21762	Sergio T. Ocasio	11/17/00	200.00
9	21834	Robert B. Peachy	12/14/00	100.00
10	22399	Royal Porter	4/6/01	100.00
11	22434	Saheim Brown	4/16/01	20.00
12	22615	Mircea Stancer	6/7/01	20.00
13	22687	Kimberly Pesci	6/29/01	10.00
14	22704	Matthias B. Koch	7/3/01	85.00
15	22706	Douglas Edwards, Jr.	7/3/01	45.00
16	22709	Cynthia Hendrix	7/5/01	55.00
17	22710	Samantha Daurio	7/5/01	160.00
18	22712	Carole Sousa	7/5/01	85.00
19	22720	Walter Meyer	7/6/01	150.00
20	22724	Bernard Pollard	7/9/01	100.00
21	22752	A. Phelan	7/16/01	40.00
22	22861	Michael Fedderman	8/13/01	155.00
23	23036	Jennifer Colton	10/5/01	50.00
24	23047	Jennifer Colton	10/10/01	45.00
25	23053	Jennifer Colton	10/11/01	20.00
26	23170	Jennifer Colton	11/5/01	135.00
27	23259	Faye Davis	11/9/01	5.00

Schedule A

	Receipt Number	Defendant's Name/Case Title	Date of Receipt	Amount Collected By Respondent
28	23277	DRC Sports Care v. Robert Lepelch	11/13/01	2.00
29	23281	Hafemann v. Coleman	11/14/01	2.00
30	23324	MTGLQ v. Mirra	11/21/01	2.00
31	23350	Lance Bibbo	11/28/01	5.00
32	23567	DRC v. Leila Howell	1/4/02	2.00
33	23568	DRC v. Joseph Chapman	1/4/02	2.00
34	23569	DRC v. Edwin Martinez	1/4/02	2.00
35	23721	Luiz Soto	1/29/02	20.00
36	23782	Erin Bannon	2/7/02	200.00
37	23816	Veronica Planer	2/12/02	9.11
38	23823	Hafemann v. Conklin	2/13/02	2.00
39	23895	Keenan v. Rupert	2/27/02	2.00
40	23896	Olsen v. Fox/McBride	2/27/02	2.00
41	23937	Village Properties	3/4/02	2.00
42	24029	Carmine Quagliariello	3/22/02	35.00
43	24031	Teresa Sanders	3/22/02	30.00
44	24035	Jose Valentin	3/22/02	190.00
45	24037	Thomas Wilson	3/22/02	160.00
46	24038	Nathan LeGrand	3/22/02	240.00
47	24281	Rodoncic	5/8/02	20.00
48	24282	Rodoncic v. Harvey	5/8/02	2.00
49	24287	Raymond Kelly v. Martina Edwards	5/9/02	20.00
50	24452	Rodoncic v. Harvey	6/6/02	2.00
51	24627	Harry Fontaine v. Belmont Management	7/11/02	5.00

Schedule A

	Receipt Number	Defendant's Name/Case Title	Date of Receipt	Amount Collected By Respondent
52	24747	Karen VanCraenenbroeck v. Michael Comfort	7/31/02	10.00
53	25152	Valley View Assn. v. Robert Porteous	10/2/02	4.00
54	25153	Dawn Eggelton v. Robert Comfort	10/2/02	2.00
55	25298	Leonil Egasan	10/30/02	2.00
56	25372	Main Street Liberty LLC v. Perez/Montalvo	11/19/02	40.00
57	25563	Susan Taylor	1/9/03	40.00
58	25795	Video Mania v. Joe Mazzucca	2/24/03	10.00
59	25799	Lisa Bonnefin v. Kim Doster	2/25/03	20.00
60	25801	Elizabeth Tucker	2/25/03	145.00
61	25838	Angel Pagan v. Tim Fiore	3/3/03	20.00
62	25867	Main Street Liberty LLC v. William Beckman	3/6/03	20.00
63	25896	Joseph Abreu	3/11/03	60.00
64	25905	BRD Printing v. DJM Dealers et. al.	3/11/03	30.00
65	25909	Joseph Abreu	3/12/03	40.00
66	25930	Olga Horvat v. Della Folsom	3/17/03	20.00
67	25992	Mann v. Hrechnin	3/27/03	2.00
68	26011	Medurd v. Hosch	3/28/03	2.00
69	26278	Melissa Corigliano v. BRD Printing	5/14/03	3.00



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT
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June 22, 2005

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STAFF ATTORNEYS

Hon. Elissa Y. Killian
Acting Village Justice
Liberty Village Justice Court
167 North Main Street
Liberty, New York 12754-1831

Dear Judge Killian:

The Commission on Judicial Conduct is investigating a complaint alleging that you failed to perform numerous administrative and recordkeeping duties in the manner prescribed by law.

An audit conducted by the Office of the State Comptroller for the period of June 1, 2001 through June 30, 2003, found significant deficiencies in the court's record-keeping, financial reporting and cash management functions. A copy of the Report of Examination is enclosed.

In connection with this matter, the Commission requests that you respond, in writing, to the following questions:

1. Is the State Comptroller's Report of Examination concerning the Village of Liberty Justice Court accurate? If you do not believe it is accurate, please state which findings you believe are inaccurate.

2. As indicated on page 9 of the Report, the audit found a deficiency of \$6,328.00 in your fine and bail accounts. Please indicate whether this finding is accurate.

3. Please indicate what steps, if any, you have taken to implement the recommendations made on page 10 of the Report:

Hon. Elissa Y. Killian

June 22, 2005

Page 2

a. Have you identified the causes of the discrepancies between the cash balances in your books and your bank accounts? If so, please indicate what steps, if any, you have taken to reconcile the discrepancies.

b. If you could not identify the causes for any or all of the discrepancies, did you replenish the shortages in your account? If so, please state how and when you did so, and provide supporting documentation with your reply to this letter.

c. Have you instituted internal control structures to ensure that the court's liabilities are periodically reconciled with its assets? If so, please specifically state what action you have taken.

d. If you have not taken action with respect to any of the recommendations made on page 10 of the Report, please state why.

4. During the period of the audit, was assistant court clerk Donna Lewis terminated, effective April 15, 2003? If so:

a. What was the reason for Ms. Lewis' termination?

b. Please indicate what, if any, knowledge or suspicion you had of any impropriety by Ms. Lewis prior to her termination, and whether you took any action. Please also provide details of any communications you had with court staff, law enforcement or other authorities concerning Ms. Lewis.

c. Has Ms. Lewis been charged with or convicted of any crimes relative to the theft of money? If so, please state what, if any, knowledge you have regarding the status of charges against her.

5. During the period of the audit, as noted on page 11 of the Report, were senior court clerk Lillian Rubio and former assistant court clerk Donna Lewis responsible for virtually all of the recordkeeping, depositing, and reporting, with no segregation of duties?

Hon. Elissa Y. Killian

June 22, 2005

Page 3

a. Did you have any involvement in the financial activities of your court? If so, please state specifically what you did. If you were not involved, please state why.

b. Did you conduct any administrative oversight of the clerks' work during the audit period? If so, please state specifically what you did, and the frequency of your oversight. If you did not conduct any oversight of the clerks' work, please state why.

6. Please indicate what steps, if any, you have taken to implement the recommendations made on page 12 of the Report:

a. Have you implemented a system to segregate the financial duties of the clerks?

b. Are you reviewing monthly reconciliations prepared by the court clerk?

c. Are you reviewing other banking documents to ensure that deposits are timely made and payments are authorized and accounted for?

d. Are you reviewing the court's financial records to determine if receipt, disbursement and pending bail records are being properly maintained and current?

7. As indicated on pages 12 through 13 of the Report, did you fail to annually submit records and dockets to the Board of Trustees for audit, as required by the Uniform Justice Court Act Section 2019-a? If so, please state why, and indicate whether you are presently submitting records and dockets for audit.

8. Please comment on the accuracy of each of the findings, detailed in bullet points on pages 13 through 16 of the Report, which discuss various recordkeeping deficiencies in your court.

9. Please indicate what action you have taken to address the problems on pages 13 through 16 of the Report, including:

a. Have you implemented a more complete summary record of pending bail? If so, please provide a copy of the record currently being maintained. If not, please state why.

b. Have you established a record of the fines and fees being paid in installments? If so, please provide a copy of the record currently being maintained. If not, please state why.

10. As indicated on page 16 of the Report, did you fail to report and remit 93 fines and fees collected during the audit period totaling \$5,313.11? If so, please indicate the reason, whether these items have since been reported and remitted, and provide a copy of the monthly reports and remittances. If the items have not yet been reported or remitted, please state why.

11. Were you aware that Section 214.9 of the Uniform Civil Rules for Justice Courts requires that all court funds be deposited intact into your official account within 72 hours of receipt? If so, please indicate why, as set forth more fully on page 17 of the Report:

a. In nearly half of the deposits tested by the auditors, less cash and more checks were deposited than were collected as indicated by court records;

b. Senior court clerk Lillian Rubio cashed her payroll check out of court moneys;

c. Moneys were not deposited into the official court account within 72 hours of receipt as required;

d. Seven duplicate receipts were issued for a total \$1,015, but that money had not been deposited; and

e. A duplicate receipt was issued for a bail item of \$100, but that money was never deposited, and \$100 was later returned to the defendant by a court check.

12. Have you taken any action with respect to the recommendations made on pages 18 through 19 of the Report, items 3-13? If so, please state specifically and fully what action you have taken with respect to each

Hon. Elissa Y. Killian

June 22, 2005

Page 5

recommendation. If no action has been taken with respect to certain recommendations, please indicate the reason.

13. As indicated on page 21 of the Report, the audit found that as of May 2003, there were 1,900 traffic tickets pending in your court for more than 18 months that had not been scofflawed or otherwise disposed of. Please indicate whether this finding is accurate. If so, please explain why the tickets were not processed in a timely and accurate manner, and please state what oversight you conducted in this regard.

14. What steps, if any, have you taken to implement the recommendations made on pages 24 through 25 of the Report, which include establishing procedures to ensure that traffic tickets are properly accounted for and timely and accurately processed, scofflawed where appropriate, and properly reported to DMV following disposition?

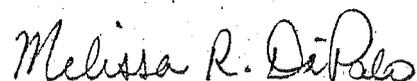
Please number your responses to correspond to the numbered questions above. Please feel free to include any information or material you wish the Commission to consider in connection with this matter.

Enclosed for your information is a copy of the Commission's Operating Procedures and Rules.

Please respond to this inquiry by letter on or before July 19, 2005.

Thank you for your prompt attention to this matter.

Very truly yours,



Melissa R. DiPalo
Staff Attorney

Enclosures



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August 17, 2005

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MELISSA R. DIPALO
STAFF ATTORNEYS

Hon. Elissa Y. Killian
Acting Village Justice
Liberty Village Justice Court
167 North Main Street
Liberty, New York 12754-1831

Dear Judge Killian:

On June 22, 2005, the Commission on Judicial Conduct sent you a letter requesting your response to certain matters by July 19, 2005. Before the due date, I granted your request for an adjournment to respond by August 9, 2005. On August 9, 2005, I granted you a second adjournment to respond by August 15, 2005. The Commission has not yet received your response.

Enclosed is a copy of the Commission's letter. Please respond to this inquiry on or before August 24, 2005.

Thank you for your anticipated cooperation.

Very truly yours,

Melissa R. DiPalo
Staff Attorney

Enclosure
Certified Mail;
Return Receipt Requested
Certified #: 7002 0860 0001 2113 3060



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September 8, 2005

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CHIEF ATTORNEY, ROCHESTER

VICKIE MA
KATHRYN J. BLAKE
JENNIFER TSAI
MELISSA R. DIPALO
STAFF ATTORNEYS

Hon. Elissa Y. Killian
Acting Village Justice
Liberty Village Justice Court
167 North Main Street
Liberty, New York 12754-1831

Dear Judge Killian:

Pursuant to Article 2-A of the Judiciary Law, the Commission on Judicial Conduct is investigating a complaint concerning allegations that you did not dispose of cases promptly, mismanaged court records and funds, and did not adequately supervise court staff.

In connection with this investigation, the Commission requests that you appear to give testimony on Monday, September 26, 2005, at 10:30 A.M., at the Commission's office at 61 Broadway in Manhattan, on the 12th floor.

At your appearance, you will also be asked about your failure to respond to the Commission's letters dated June 22, 2005 and August 17, 2005.

Your appearance is requested in accordance with Section 44, subdivision 3, of the Judiciary Law. This is not a hearing as provided by Section 44, subdivision 4, of the Judiciary Law. Your testimony will be sworn and tape-recorded, and a copy of the transcription thereof will be provided to you at no cost. You have the right to be represented by counsel and to present material relevant to the complaint.

Please provide confirmation of your scheduled appearance by September 16, 2005, either by letter or phone call to Staff Attorney Melissa R. DiPalo at (212) 809-0566 ext. 354. Please feel free to have your attorney call her with any questions.

Hon. Elissa Y. Killian

September 8, 2005

Page 2

Enclosed are copies of the Commission's Operating Procedures and Rules and the complaint.

Thank you for your prompt attention to this matter.

Very truly yours,



Alan W. Friedberg

Chief Attorney

Enclosures

Certified Mail;

Return Receipt Requested

Certified #: 7002 0860 0001 2113 2926

ELISSA Y. KILLIAN

— Attorney at Law —

59 North Main Street • Suite 220
Liberty, New York 12754

Admitted in New York
United States Supreme Court
Federal District Courts of New York

(845) 292-4440

Facsimile (845) 292-4972

Susie Wallgren
Office Manager

Rosalie A. Wallis
of Counsel

Admitted in New York & New Mexico
Federal District Courts of New York
Federal District Court of New Mexico

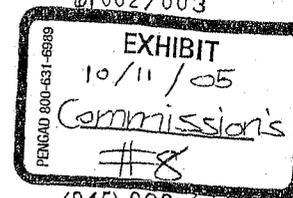
FACSIMILE TRANSMITTAL

TO: Melissa R. DiPalo, Esq.
FACSIMILE: (212) 809-3664
FROM: Elissa Y. Killian
FACSIMILE: (845) 292-4972
TELEPHONE: (845) 292-4440
DATE: September 16, 2005
RE: Confirmation of Notice to Appear

Number of pages including cover sheet: 3

Message: Please see attached letter.

THIS IS INTENDED FOR THE USE OF THE INDIVIDUAL(S) OR ENTITY TO WHICH IT IS
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ELISSA Y. KILLIAN

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Federal District Courts of New York

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Federal District Court of New Mexico

(845) 292-4440
Facsimile (845) 292-4972

Susie Wallgren
Office Manager

Melissa R. DiPalo, Esq.
New York State
Commission on Judicial Conduct
61 Broadway
New York, NY 10006

Re: Confirmation of Notice to Appear

Dear Ms. DiPalo:

Please accept this letter as confirmation of my receipt of the certified Notice of Appearance. I will appear as directed and it is not my intent to bring an attorney with me on the grounds that, although I am fully cognizant of the severity of this matter, I know unequivocally that I have done nothing improper other than fail to provide a timely response to the Commission.

It was my intent, as it has been pursuant to each of the response dates granted by you and, subsequently, by Alan W. Friedberg, Chief Attorney, to provide to you, with this correspondence, my full response. In fact, with each conversation, I fully believed that I would submit my response by those respective dates. Circumstances, however, made doing so physically impossible.

I failed to disclose the all of bases for these delays on the grounds that the reasons are personal in nature and, I felt, there was no excuse not to timely respond. In fact, I feel this way to date. Moreover, I compounded the matter by failing to contact either you or Mr. Friedberg when it became apparent to me that I simply could not get my response to the Commission on the last date granted by Mr. Friedberg.

Several months ago, my husband, a firefighter, was thrown from a ladder three stories off of the ground as the result of an equipment malfunction. He was seriously injured as a result and it has been a long and emotionally and physically painful recovery process for him, our four young children and me.

I am the Acting Justice of the Village of Liberty, the second busiest Justice Court in Sullivan County. Upon becoming Acting Justice, I was asked by the incoming Judge if I would be willing to sit one week per month in addition to the dates and times he is unavailable. As is contained in my response, I perform this job because of my interest in and devotion to my community and the law. In addition, I have my own law practice and am an Adjunct Professor at the local community college. My most recent job there was to conduct a review of the entire

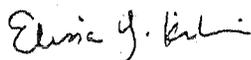
Legal Studies program with the Chair of a similar department from Hudson Valley Community College.

I am keenly aware of my obligation to timely respond to the Commission above and beyond any other entity. However, I have a duty to act and meet deadlines on behalf of my clients, the College, the community as Justice and, personally, to provide for my family. I had no choice but to put these obligations before my own. With each communication to the Commission, I believed that I had set aside the time to review my response with Judge Bauman, as I felt I should, and submit the response. It would take another page for me to list the obligations that then presented themselves preventing me from doing so. The most recent bar to meeting the submission deadline was the arrival of a family, lifetime friends, who fled Hurricane Katrina in New Orleans, where their home and business were.

I ensure the Commission that this will never occur again. I now realize that, should my personal and professional obligations rise to the level that they would impact on my ability to submit a timely response to this Commission in the future, I would first step down. There is no excuse for not having communicated this with the Commission. I have been treated fairly, professionally and with kindness, which makes my failure to timely respond all the worse. I mean no disrespect to the Commission and will appear as directed.

If the Commission needs to contact me prior to the Monday, September 19, 2005, appearance, I respectfully request that I be contacted on my cellular phone at (845) 866-8144 to ensure that I receive the communication. My apology for any inconvenience caused and appreciation for all consideration shown.

Sincerely,



Elissa Y. Killian

Law Office of Elissa Y. Killian
59 North Main Street, Suite 220
Liberty, New York 12754

office email - liberty1111@earthlink.net
cell phone no. 845 966 9144

urgent

f a c s i m i l e

To: Melissa DiPalo, Esq.

Fax Number: 1-212-809-3664

From: Elissa Y. Killian

Fax Number: 845-292-4972

Business Phone: 845-292-4440

Home Phone: 845-292-4369

Pages: 2

Date/Time: 9/26/2005 9:18:47 AM

Subject: Scheduled Appearance of Elissa Y. Killian, Acting Justice Village of Liberty
Justice Court

Please See Attached.

September 26, 2005

Melissa R. DiPalo, Staff Attorney
New York State Commission On Judicial Conduct
61 Broadway
New York, New York 10006

Re: Scheduled appearance regarding Inquiry by Commission

Dear Ms. DiPalo:

I am faxing this letter from my home computer. I regret to advise that I am home ill with some form of stomach bug. I was up most of the night and planned to drive to the city regardless of that fact but cannot do so, nor do I want to share this bug with anyone else. I had my 4 kids home with it last week, my 9 year old being the last of them to get it on Friday. He remains home with me today. My husband would have stayed with him, but then I got it.

I could not be more embarrassed at the history of delay in my response to this inquiry. The ironic part is that I truly believe, without question, that I have not done wrong nor committed any ethical breach of my obligations as justice, other than now to have failed to respond in a timely manner. I do not, in any way, believe that this failure is one to take lightly, or that it is acceptable. I can only state that it was not willful as explained in my letter to you last week.

I will ensure that the Response is finally overnight mailed today. I respectfully ask that the Committee reschedule my appearance for any day other than tomorrow as I am scheduled to conduct the Village criminal calendar. I sit one week per month for the Village Judge, who is out of town one week per month regularly. He has further asked that I conduct his Vehicle and Traffic Calendar this month as well, scheduled for this Thursday, but I will adjourn that if necessary.

I find no excuse, including illness to be acceptable nor can I apologize enough to the Committee for the inconvenience I have caused. Yet these are my circumstances. After 16 years as attorney, which has included 8 years as Assistant District Attorney, several years as Village Attorney, 4 years as Justice and almost 3 as Acting Justice, and also Adjunct law Professor at Sullivan County Community College, I am mortified to write this letter. I ask the Committee to recognize my past in granting this request to reschedule my appearance and further to accept my untimely response, to finally be overnight mailed today.

Respectfully submitted,

Elissa Y. Killian



ELISSA Y. KILLIAN
VILLAGE JUSTICE, ACTING

*Chambers of the
Village of Liberty Justice Court*

MUNICIPAL BUILDING
167 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

PHONE (845) 292-0290
FAX (845) 295-9216

December 25, 2005

FAX and OVERNIGHT MAIL

Melissa R. DiPalo, Staff Attorney
New York Commission on Judicial conduct
61 Broadway
New York, New York 10006

Re: Response to Inquiry by Commission dated June 22, 2005

Dear Ms. DiPalo:

Provided herewith please find copies of the Village of Liberty Court's bank records, with annotations by Clerk Rubio made with the assistance of Kellie Renwick, Senior Examiner of Municipal Affairs, who conducted the audit of the Village of Liberty Court. These records document the bank transactions made by the Court once the funds that had been deemed "deficient", "unreported" or "unidentified" in the Comptroller's Report had been located and identified. As stated in my response dated September 26, 2005, Ms. Renwick assisted the Court in finding the errors in the Court's record keeping system and antiquated computer program that resulted in the finding of a "deficiency", "unreported funds" and "unidentified funds". Ms. Renwick then assisted in making the necessary changes in the record keeping of the Court, including the upgrade of our computer system, locating and identifying the funds that had caused the alleged "deficiency", and in the distribution of those funds. Please note that all monies in the Comptroller's Report were found and distributed by the Court pursuant to Ms. Renwick's direction.

Prior to the Comptroller's Review, the restitution and fine accounts were held in the same account. The accounts had remained as they had been upon my taking office, as the Court Clerk had been handling those accounts for approximately ten years and the accounts had been reviewed annually by the Village audit, and monthly reports submitted to the Comptroller's with the submission of funds to the State as required, and no problem ever cited other than being reminded to make timely deposits. These facts and the history of the Court and handling of the Court's records and accounts is set forth in detail in my response by letter dated September 26, 2005. As part of the audit, Ms. Renwick instructed the Court on how to properly set up and maintain the accounts and records. Once the accounts were separated in conformity with the suggestions made, and the computer system changed and upgraded, the "unreported" and "unidentified" funds were found, the accounts were balanced to zero and the funds then

Page Two
December 29, 2005
Response by Elissa Y. Killian

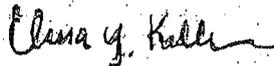
distributed to the Clerk/Treasurer of the Village of Liberty, to the Comptroller's Office and to the Restitution Accounts for payment to the appropriate parties. The same was done with the bail account.

The copies of the Court's record provided herewith document the transactions made. My accounts were all balanced, with all funds accounted for at the conclusion of this process. Please note, the distributions of the funds, once located and identified, were done under the direction of Ms. Renwick and the Comptroller's Office. It was for this reason that I was so taken aback at the Committee's subsequent inquiry, as noted in detail in my response.

In regard to the transcript of my testimony, I found the document replete with errors in grammar. This is not a criticism of the investigator taking the testimony. I was attempting to impart a tremendous amount of information and the history of the Court and my testimony could certainly have been more organized and concise. I went through each page of the transcript and, if allowed, would change the sentence and paragraph breaks throughout the document, in addition to correcting some words. However, the facts testified to under oath are accurate, to the best of my recollection. I thus opted not to request alterations to the transcript. I do respectfully request that the Committee consider my written response, made by letter dated September 26, 2005, as it contains the same facts and information as those given under oath at the hearing but in a more coherent and concise form.

I thank you and the Committee for your respective professionalism and courtesy in granting me the time necessary to respond in this matter. Please advise if you require anything further or have any questions regarding the documents submitted.

Respectfully submitted,



Elissa Y. Killian

encc.



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NEW YORK, NEW YORK 10006

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January 12, 2006

Hon. Elissa Y. Killian
59 North Main Street
Suite 220
Liberty, New York 12754-1828

Re: *Matter of Hon. Elissa Y. Killian*

Dear Judge Killian:

The Commission has received your letter of December 25, 2005, in reply to mine of December 19, 2005. It was unclear from your reply and the bank records that you submitted if you reported and remitted the 93 fines and fees to the State Comptroller.

Please provide a written response to the following question on or before January 31, 2006.

1. Attached to this letter is a partial list of fines and fees that the audit found were not reported or remitted to the Office of the State Comptroller. Please indicate on which monthly report each item appears. Please also provide a copy of the monthly report on which each item appears and a copy of the check that you submitted to the State Comptroller with the monthly report.

Thank you for your prompt attention to this matter.

Very truly yours,

Melissa R. DiPalo
Staff Attorney

Certified Mail; Return Receipt Requested
Certified #: 7002 0860 0001 2113 3442

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. Elissa Y. Killian**January 12, 2006**Page 2*

Receipt No.	Date Issued	Name of Defendant	Amount	Date of Monthly Report
23164	11/5/01	Toni Williams	\$100.00	
23170	11/5/01	Jennifer Colton	135.00	
23259	11/9/01	Faye Davis	5.00	
23277	11/14/01	Robert Lenelch	2.00	
23281	11/14/01	Raymond Hafeman	2.00	
23324	11/21/01	Pasquale Mirra	2.00	
23350	11/28/01	Lance Bibb	5.00	
23545	1/3/02	Mary Rodriguez	45.00	
23567	1/4/02	Leila Howell	2.00	
23568	1/4/02	Joseph Chapman	2.00	
23569	1/4/02	Shawn Law Offices	2.00	
23651	1/17/02	Mary Rodriguez	20.00	
23707	1/28/02	Mary Rodriguez	20.00	
23721	1/29/02	Soto	20.00	
23782	2/7/02	Erin Bannon	200.00	
23816	2/12/02	Veronica Planner	9.11	
23823	2/13/02	Raymond Hafeman	2.00	
23895	2/27/02	Ray Keenen	2.00	
23896	2/27/02	Helen Olsen	2.00	
23937	3/4/02	Properties International	2.00	
24029	3/12/02	Carmine Quagliarello	35.00	
24031	3/21/02	Teresa Sanders	30.00	
24032	3/21/02	Edward Burke	100.00	
24035	3/22/02	Jose Valentin	190.00	
24036	3/22/02	Linda Bernstein	10.00	
24037	3/22/02	Thomas Wilson	160.00	
24038	3/22/02	Nathan LeGrand	140.00	
24627	7/22/02	Harry Fontaine	5.00	
24747	7/31/02	Karen Van Craenenbroeck	10.00	
25152	10/2/02	Robert Porteous	4.00	
25153	10/2/02	Eggleton	2.00	
25298	11/1/02	Leonil Egasan	2.00	

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. Elissa Y. Killian**January 12, 2006**Page 3*

25795	2/24/03	Video Rental Mania	10.00	
25799	2/25/03	Lisa Bonnefin	20.00	
25801	2/25/03	Elizabeth Tucker	145.00	
25867	3/6/03	Main Street Liberty	20.00	
25896	3/11/03	Joseph Abreu	60.00	
25905	3/12/03	Rays Electronics	30.00	
25909	3/12/03	Joseph Abreu	40.00	
25930	3/17/03	Olga Horvat	20.00	
25992	3/27/03	Henry Mann	2.00	
26011	3/28/03	Diane Medwig	2.00	
		Parking Ticket	20.00	
		Parking Ticket	20.00	
26278	5/14/03	Melissa Corigliano	3.00	



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February 7, 2006

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 STAFF ATTORNEYS

Hon. Elissa Y. Killian
 59 North Main Street
 Suite 220
 Liberty, New York 12754-1828

Re: *Matter of Hon. Elissa Y. Killian*

Dear Judge Killian:

On January 12, 2006, the Commission on Judicial Conduct wrote requesting your reply to certain matters by January 31, 2006. Enclosed is a copy of the Commission's letter.

We would appreciate a reply to the letter by February 17, 2006.

Very truly yours,

Melissa R. DiPalo

Melissa R. DiPalo
 Staff Attorney

Certified Mail; Return Receipt Requested
 Certified #: 7002 0860 0001 2113 3459



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Hon. Elissa Y. Killian
59 North Main Street
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Liberty, New York 12754-1828

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Thank you for your prompt attention to this matter.

Very truly yours,

Melissa R. DiPalo
Staff Attorney

Certified Mail; Return Receipt Requested
Certified #: 7002 0860 0001 2113 3442

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. Elissa Y. Killian**January 12, 2006**Page 2*

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NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. Elissa Y. Killian**January 12, 2006**Page 3*

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February 27, 2006

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HON. TERRY JANE RUDERMAN

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CLERK

Hon. Elissa Y. Killian
Acting Liberty Village Court Justice
59 North Main Street
Suite 220
Liberty, New York 12754-1828

Re: *Matter of Hon. Elissa Y. Killian*

Dear Judge Killian:

On January 12, 2006, the Commission on Judicial Conduct wrote requesting your reply to certain matters by January 31, 2006. When you did not respond, the Commission sent you a second letter dated February 7, 2006, and asked you to reply by February 17, 2006. To date, the Commission has not received your response.

Enclosed is a copy of the Commission's letter. Please respond on or before March 13, 2006.

Very truly yours,

Melissa R. DiPalo
Staff Attorney

Certified Mail;

Return Receipt Requested

Certified #: 7002 0860 0001 2113 3480

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

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MELISSA R. DIPALO

STEPHANIE A. MCNINCH
STAFF ATTORNEYS



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT
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NEW YORK, NEW YORK 10006

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CONFIDENTIAL

January 12, 2006

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

ALAN W. FRIEDBERG
CHIEF ATTORNEY, NEW YORK

CATHLEEN S. CENCI
CHIEF ATTORNEY, ALBANY

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MELISSA R. DIPALO
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STAFF ATTORNEYS

Hon. Elissa Y. Killian
59 North Main Street
Suite 220
Liberty, New York 12754-1828

Re: *Matter of Hon. Elissa Y. Killian*

Dear Judge Killian:

The Commission has received your letter of December 25, 2005, in reply to mine of December 19, 2005. It was unclear from your reply and the bank records that you submitted if you reported and remitted the 93 fines and fees to the State Comptroller.

Please provide a written response to the following question on or before January 31, 2006.

1. Attached to this letter is a partial list of fines and fees that the audit found were not reported or remitted to the Office of the State Comptroller. Please indicate on which monthly report each item appears. Please also provide a copy of the monthly report on which each item appears and a copy of the check that you submitted to the State Comptroller with the monthly report.

Thank you for your prompt attention to this matter.

Very truly yours,

Melissa R. DiPalo
Staff Attorney

Certified Mail; Return Receipt Requested
Certified #: 7002 0860 0001 2113 3442

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. Elissa Y. Killian**January 12, 2006**Page 2*

Receipt No.	Date Issued	Name of Defendant	Amount	Date of Monthly Report
23164	11/5/01	Toni Williams	\$100.00	
23170	11/5/01	Jennifer Colton	135.00	
23259	11/9/01	Faye Davis	5.00	
23277	11/14/01	Robert Lenelch	2.00	
23281	11/14/01	Raymond Hafeman	2.00	
23324	11/21/01	Pasquale Mirra	2.00	
23350	11/28/01	Lance Bibb	5.00	
23545	1/3/02	Mary Rodriguez	45.00	
23567	1/4/02	Leila Howell	2.00	
23568	1/4/02	Joseph Chapman	2.00	
23569	1/4/02	Shawn Law Offices	2.00	
23651	1/17/02	Mary Rodriguez	20.00	
23707	1/28/02	Mary Rodriguez	20.00	
23721	1/29/02	Soto	20.00	
23782	2/7/02	Erin Bannon	200.00	
23816	2/12/02	Veronica Planner	9.11	
23823	2/13/02	Raymond Hafeman	2.00	
23895	2/27/02	Ray Keenen	2.00	
23896	2/27/02	Helen Olsen	2.00	
23937	3/4/02	Properties International	2.00	
24029	3/12/02	Carmine Quagliarello	35.00	
24031	3/21/02	Teresa Sanders	30.00	
24032	3/21/02	Edward Burke	100.00	
24035	3/22/02	Jose Valentin	190.00	
24036	3/22/02	Linda Bernstein	10.00	
24037	3/22/02	Thomas Wilson	160.00	
24038	3/22/02	Nathan LeGrand	140.00	
24627	7/22/02	Harry Fountaine	5.00	
24747	7/31/02	Karen Van Craenenbroeck	10.00	
25152	10/2/02	Robert Porteous	4.00	
25153	10/2/02	Eggleton	2.00	
25298	11/1/02	Leonil Egasan	2.00	

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

*Hon. Elissa Y. Killian**January 12, 2006**Page 3*

25795	2/24/03	Video Rental Mania	10.00	
25799	2/25/03	Lisa Bonnéfin	20.00	
25801	2/25/03	Elizabeth Tucker	145.00	
25867	3/6/03	Main Street Liberty	20.00	
25896	3/11/03	Joseph Abreu	60.00	
25905	3/12/03	Rays Electronics	30.00	
25909	3/12/03	Joseph Abreu	40.00	
25930	3/17/03	Olga Horvat	20.00	
25992	3/27/03	Henry Mann	2.00	
26011	3/28/03	Diane Medwig	2.00	
		Parking Ticket	20.00	
		Parking Ticket	20.00	
26278	5/14/03	Melissa Corigliano	3.00	



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March 16, 2006

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STEPHANIE A. MCNINCH
STAFF ATTORNEYS

Hon. Elissa Y. Killian
Acting Liberty Village Court Justice
59 North Main Street
Suite 220
Liberty, New York 12754-1828

Dear Judge Killian:

Pursuant to Article 2-A of the Judiciary Law, the Commission on Judicial Conduct is investigating a complaint concerning an allegation that you failed to report and remit court funds to the Office of the State Comptroller and otherwise mismanaged court records and funds.

In connection with this investigation, the Commission requests that you appear to give testimony on Thursday, April 6, 2006, at 11:00 A.M., at the Commission's office at 61 Broadway in Manhattan, on the 12th floor.

At the appearance, you will be asked about the allegations in the complainant, as well as about your failure to respond to the Commission's letters dated January 12, 2006, February 7, 2006, and February 27, 2006.

Your appearance is requested in accordance with Section 44, subdivision 3, of the Judiciary Law. This is not a hearing as provided by Section 44, subdivision 4, of the Judiciary Law. Your testimony will be sworn and tape-recorded, and a copy of the transcription thereof will be provided to you at no cost. You have the right to be represented by counsel and to present material relevant to the complaint.

Hon. Elissa Y. Killian

March 16, 2006

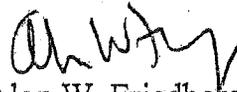
Page 2

Please provide confirmation of your scheduled appearance by March 29, 2006, either by letter or phone call to Staff Attorney Melissa R. DiPalo at (212) 809-0566 ext. 354. Please feel free to have your attorney call her with any questions.

Enclosed are copies of the Commission's Operating Procedures and Rules and the complaint.

Thank you for your prompt attention to this matter.

Very truly yours,



Alan W. Friedberg
Chief Attorney

Enclosures

Certified Mail;

Return Receipt Requested

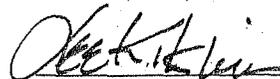
Certified #: 7002 0860 0001 2113 3503

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

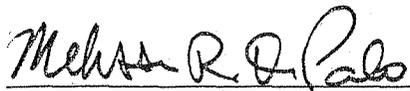
Lee Kiklier, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at 170 W. 81st Street, New York, New York 10024.

On January 12, 2007, deponent served the within Notice and Formal Written Complaint upon Hon. Elissa Y. Killian, respondent in this action, at 59 North Main Street, Suite 220, Liberty, New York 12754-1828, for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, certified mail, return receipt requested, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.



Lee Kiklier

Sworn to before me this
12th day of January, 2007.



Notary Public

Melissa R. DiPalo
Notary Public, State of New York
No. 02DI6065643
Qualified in Kings County
Commission Expires 10/22/09

EXHIBIT B

**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

**VERIFIED ANSWER
TO FORMAL
WRITTEN COMPLAINT**

ELISSA Y. KILLIAN,

An Acting Justice in the Liberty Village Court,
Sullivan County.

TO THE COMMISSION ON JUDICIAL CONDUCT:

ELISSA Y. KILLIAN, as and for an Answer to the Formal Written Complaint in the above captioned matter, respectfully responds as follows:

1. Admits the allegations as set forth in paragraph 1.
2. Admits the allegations as set forth in paragraph 2.
3. Denies the allegations as set forth in paragraph 3. It is respectfully submitted that the allegations of misconduct are without merit, and that a thorough review of all facts in this matter shall prove the conduct in this case does not rise to the level of misconduct, particularly given all circumstances that resulted in the formal written complaint being filed.
4. Admits the allegations as set forth in paragraph 4.
5. Denies the allegations as set forth in paragraph 5.

An audit was done by the New York State Comptroller's Office of the Village of Liberty Justice Court which included my four year term as Justice, to wit: 1999-2003. At the time I was elected, there was only one Clerk for the Court, who had been in that position for ten years. From the day I took office I began petitioning the Board of Trustees and Mayor (Mullen) to update the Court's antiquated computer system, obtain a copier with a collator, a court guard, additional clerical assistance and a salary increase for the grossly underpaid clerk.

Having been advised by the Village Board that there was simply no funding available for the Court's requests, the Court called the Office of Court Administration seeking assistance. OCA representative Kevin Riley came to the Court and conducted a review of the Court. OCA determined that the Court ran smoothly despite the numbers of cases and individuals being

handled each day, advised that the Clerk was doing the work of two or three clerks at approximately half the pay and that our computer system and equipment was grossly antiquated. Mr. Riley advised the Mayor (Mullen) and Board of this by letter with suggestions to remedy the problems. A few months prior to election the Mayor and Board approved the hiring of a part-time Clerk, to initially handle traffic cases, a backload that existed when I took office. There was no additional budget available to update any equipment.

Two years into my term as Justice, approximately six months after the part-time Clerk was hired, a new Mayor (Pankonin) was elected. Upon taking office he conducted a reorganization meeting and fired the Court Clerk without notice. The firing took place at the meeting without me or the Clerk present, the night before our weekly calendar day, which generally consists of at least 50 criminal cases, many of which involve jailed defendants, in addition to the afternoon calendar for hearings and trials.

Upon the firing of the Court Clerk by the Mayor, I immediately called and wrote to the Office of Court Administration asking for assistance. I also called the Comptroller's Office to advise that the monthly report would be late and that I was in the position of having to run the second largest criminal calendar at the justice court level in Sullivan County with one, newly hired, untrained, part-time clerk. I was given no offer of assistance to train the new Clerk.

Upon information and belief, the outgoing Mayor (Mullen) wrote a letter to the new Mayor (Pankonin) upon his leaving office, advising him of the Court's status and OCA's review and suggestions. Upon taking office the new Mayor (Pankonin) responded by firing the Court Clerk and advised the Court (me) that there was simply no budget for any improvements. He named the untrained part-time clerk as his appointment for the new Court Clerk, a position she could not accept until six months later as she had another job. The Court thus had no full time clerk for those summer months, when the County population swells and the Court is the most congested with cases. The Clerk who was fired sued the Mayor in Federal District Court for wrongful termination and won that law suit. I opted not to become involved, though I was subpoenaed to testify and, without a full-time, trained clerk, my ability to run the Court properly was severely negatively impacted, in an already difficult situation. Getting the monthly reports to reconcile with the computer and the Court's books was ridiculously time consuming and difficult, with computer software that changed the numbers each time we hit print.

I spent two years trying to convince the new Mayor (Pankonin) to upgrade the Court's computer, copy equipment, et al, including presentations at Board meetings with a representative from the Village Police Department and County District Attorney's Office, regarding the safety issues of a 50 person capacity courtroom with over one hundred people in attendance in court each week and no court guard. We were told there was no budget for any improvements, despite the Court's revenue for the Village, taking in and sending to the Comptroller an average of ten to fifteen thousand dollars per month.

After the conclusion of my four year term as Justice for the Village of Liberty, there was an audit done by the New York State Comptroller's Office. I did not run again due to a residency issue but was appointed Acting Justice by the newly elected Mayor (Smith). The Comptroller's

audit included the years of my four-year term. The deficiencies stated in the instant complaint were found during that audit. Initially, a preliminary report was issued and a meeting was then conducted by the Comptroller's auditors, attended by the new Judge, myself as Acting and prior Judge, the Village Clerk, Court Clerk, Chief of Police, a Village Trustee and the Mayor. At the conclusion of the meeting and question and answer process conducted by the auditors, the Comptroller's representatives stated that the errors in the reporting and deficiencies were caused by and the result of the computer software problems and that in no way could I be held accountable for the deficiencies found. There were many improvements in the book keeping methods that the Court was directed to make. The methods used had been those of the Court for the ten years prior to my taking office and it was not until the audit that the methods themselves were noted for change. The Comptroller's office assisted the Clerk in finding the computer errors, locating missing funds, and, upon information and belief, directed where and how to disburse the funds.

The new Mayor (Smith) and Board provided for the updates to the computer and equipment, a guard was placed in the Court, and, with the assistance of the Comptroller's Office, the now full-time Clerk for the Court was trained properly, and, upon information and belief, all the money accounted for and disbursed pursuant to the Comptroller's Office's direction. But no update was sent to the Commission on Judicial Conduct stating that this had been done. I was sent an inquiry by the Commission on Judicial Conduct. After appearing and testifying before the Commission, the Court Clerk requested on my behalf, and upon my request, a letter from the Comptroller's Office to advise the Committee on Judicial Conduct of the findings and statements made by the Comptroller's auditors at the meeting and to state that the books were corrected and funds were found with their assistance and disbursed, all with their assistance and pursuant to their direction. The Court Clerk was advised that they are not allowed to issue the Court or me personally a letter to state in writing that which is set forth above and the Comptroller's representative who stated that I could not be held accountable had retired. They did do a new audit, which was, upon information and belief, just completed. Further, upon information and belief, all accounts, including my Acting Justice accounts, were found to be handled properly and balanced correctly.

My testimony to the Committee and the responses I provided were given to the best of my knowledge, and during a time of tremendous personal upheaval in my family's life. I did not intend to disregard or answer in an untimely manner. Originally, I was advised by my Clerk, who worked with the Comptroller in finding any money for which there had been a discrepancy found, that all the funds were located and sent to the Comptroller's Office in a lump sum. I now understand that because of the problems with the system and the changing accounts from Justice to Acting on my behalf, and Acting to Justice on Judge Bauman's accounts, there were lump sums sent, but not all those for which the Court was asked to provide receipts and deposit records. The Clerk has since assisted me in going back through to find each file and each receipt in question. The Clerk's husband was critically injured twice in the last 24 months causing her to be on leave, and I had my own personal matters which prohibited this being completed as directed and in timely fashion. I believe I can finally provide the information requested more thoroughly and accurately.

At the time of my testimony I testified to facts I believed to be true and accurate. I did not purposefully disregard the orders or communications of the Commission, for whom I have the utmost respect. I respect the position of Justice, the rules we must follow and the community in which I serve. I am a teacher of the law, a lawyer, Acting Judge, and mother of four young children. As a justice I have done all I could to always act diligently, with fairness and lack of bias. I ask that I be given the opportunity to prove at a hearing, that the formal complaint is, in fact, without merit.

6. Denies the allegations as set forth in paragraph 6, see paragraph 5 above.
7. Denies the allegations as set forth in paragraph 7, see paragraph 5 above.
8. Denies the allegations as set forth in paragraph 8, see paragraph 5 above.
9. Denies the allegations as set forth in paragraph 9, see paragraph 5 above.
10. Denies the allegations as set forth in paragraph 10, see paragraph 5 above.
11. Denies the allegations as set forth in paragraph 11, see paragraph 5 above.
12. Denies the allegations as set forth in paragraph 12, see paragraph 5 above.
13. Admits the allegations as set forth in paragraph 13.
14. Denies the allegations as set forth in paragraph 14, see paragraph 5 above.
15. Admits the allegations as set forth in paragraph 15.
16. Denies the allegations as set forth in paragraph 16, see paragraph 5 above.
17. Denies the allegations as set forth in paragraph 17, see paragraph 5 above.
18. Respondent Elissa Y. Killian has been financially unable to retain counsel in this matter. Given the severity of the charges now filed as a formal written complaint it is respectfully requested that Respondent be provided with ten (10) days from the submission of this Verified Answer to obtain counsel and file any motions deemed necessary and appropriate pursuant to Title 22 NYCRR, Part 7000.
19. *Assuming arguendo*, Respondent's request for an additional ten (10) days to retain counsel and file motions be denied, it is respectfully requested that prior to any final determination being made as to the validity of the allegations set forth in the formal written complaint, that a Hearing be scheduled pursuant to 22 NYCRR Section 7000(6)(g), for Respondent to appear with counsel and present evidence in her defense.

WHEREFORE, it is respectfully requested that the Commission grant Respondent ten (10) days from the filing of the instant Answer to retain counsel and submit any motions deemed necessary and appropriate, and that a hearing thereafter be scheduled, as set forth in Title 22 NYCRR, Part 7000, and for such other and further relief as is deemed just and proper.

Dated: March 12, 2007
Liberty, New York

Elissa Y. Killian
Elissa Y. Killian
Acting Justice of the Village of Liberty Court
PO Box 126
59 Benton Hollow Road
Liberty, New York 12754
(845) 866-8559

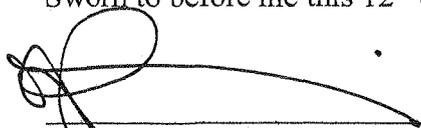
VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF SULLIVAN)

ELISSA Y. KILLIAN, being duly sworn, says that she is the respondent in the above –entitled matter and that the contents set forth in the foregoing Answer are true to her own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters she believes to be true.

Elissa Y. Killian
Elissa Y. Killian

Sworn to before me this 12th day of March, 2007



Notary Public ROSALIE A. WALLIS
 Notary Public, State of New York
 No. 02WA6051492
 Qualified in Sullivan County
 Commission Expires Dec. 4, 20 16

⊕

EXHIBIT C

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

ELISSA Y. KILLIAN,

an Acting Justice of the Liberty Village Court,
Sullivan County.

**NOTICE OF
SECOND FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, Elissa Y. Killian, an Acting Justice of the Liberty Village Court, Sullivan County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon respondent the annexed Second Formal Written Complaint; and that, in accordance with said statute, respondent is requested within twenty (20) days of the service of the annexed Second Formal Written Complaint upon her to serve the Commission at its New York City office, 61 Broadway, New York, New York 10006, with her verified Answer to the specific paragraphs of the Second Complaint.

Dated: January 2, 2008
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
(212) 809-0566

To: Elissa Y. Killian
Acting Liberty Village Court Justice
P.O. Box 126
59 Benton Hollow Road
Liberty, New York 12754

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

ELISSA Y. KILLIAN,

an Acting Justice of the Liberty Village Court,
Sullivan County.

**SECOND FORMAL
WRITTEN COMPLAINT**

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct ("Commission"), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.
2. The Commission has directed that a Second Formal Written Complaint be drawn and served upon Elissa Y. Killian ("respondent"), an Acting Justice of the Liberty Village Court, Sullivan County.
3. The factual allegations set forth in Charge III state acts of judicial misconduct by respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct ("Rules") and the Disciplinary Rules of the Code of Professional Responsibility.
4. Respondent was admitted to the practice of law in New York in 1988. She served as a Justice of the Liberty Village Court from April 1999 to April 2003, and has been an Acting Justice since April 2003.

5. At all times relevant to paragraphs 7 through 24 herein, respondent maintained a private law office in the Town of Liberty, Sullivan County.

6. Respondent was served with a Formal Written Complaint dated January 12, 2007, containing two charges (I and II), which has not yet been adjudicated and which is still pending. Charges I and II are not repeated here.

CHARGE III

7. From in or about August 2005 to in or about January 2007, in connection with her private practice of law, respondent failed to cooperate with investigations by the Committee on Professional Standards ("Committee") into her alleged professional misconduct, in violation of Disciplinary Rule 1-102(A)(5) of the Code of Professional Responsibility (22 NYCRR 1200.3[A][5]).

8. On or about March 1, 2007, respondent was suspended from the practice of law for six months by the Appellate Division, Third Department, for professional misconduct. Such suspension reflected adversely on respondent's fitness to serve as a judge.

9. Notwithstanding that the Appellate Division stayed respondent's suspension, *inter alia* on condition that she avoid further professional discipline during the suspension period, respondent did not advise the Court or the Committee that she had been served with formal disciplinary charges by the Commission in January 2007.

Specification 1

10. In or about January 2006, Mare Mendez filed an inquiry with the Committee alleging that in July 2003, she and her husband retained and paid respondent

\$1,500 to represent her in a custody proceeding in the Family Court, Sullivan County. Ms. Mendez further alleged that respondent neglected her case by failing to proceed with the matter and failing to return telephone calls.

11. By letter dated February 2, 2006, the Committee requested respondent to provide information within 20 days with respect to the Mendez inquiry. She failed to do so, and by letter dated March 1, 2006, the Committee directed respondent to respond within ten days, or an application would be made for a subpoena directing her appearance to be examined under oath. Respondent failed to respond to the letters, or to return a telephone call from Staff Attorney Geoffrey A. Major on March 16, 2006, requesting her response to the inquiry.

12. The Committee served respondent with a judicial subpoena dated March 23, 2006, directing her to appear to give testimony under oath on April 14, 2006, and to produce "all books, records and files concerning the inquiry of Mare Mendez." Respondent did not appear. Thirty minutes before the start of the examination, respondent faxed a letter to the Committee stating that she would not appear and requesting an adjournment until "any day after April 21, 2006." The matter was then adjourned to April 25, 2006.

13. Respondent failed to appear for examination on April 25, 2006, or to respond to Mr. Major's telephone call inquiring as to her whereabouts. On April 26, 2006, the Committee filed a motion seeking an order indefinitely suspending respondent from the practice of law until she complied with the subpoena referred to in paragraph 12 above. On May 31, 2006, one day after the motion was returnable, respondent requested

an extension to respond to the motion. The Appellate Division granted respondent a final extension to June 19, 2006, to file her papers.

14. Respondent submitted an affidavit in opposition received by the Committee on June 20, 2006. She also submitted a response to the Committee's initial inquiry, referred to in paragraph 11 above.

15. Pursuant to a court order, respondent appeared and testified before the Committee on July 21, 2006. Respondent testified under oath that she would pay a \$227 stenographic fee incurred in connection with her testimony by no later than August 11, 2007. Respondent further testified that by August 31, 2006, she would provide information regarding her representation of Ms. Mendez and the status of her case.

16. By letter dated July 25, 2006, the Committee forwarded a copy of the stenographer's bill and a demand for payment. Respondent failed to remit payment, and by letter dated October 12, 2006, the Committee gave respondent until October 23, 2006, to submit the payment and the requested information. Respondent failed to comply.

17. The Committee filed a petition of charges and specifications dated October 31, 2006, containing four charges alleging that respondent neglected her client's case, failed to communicate with her client, failed to cooperate with the Committee's investigation, and failed to comply with a judicial subpoena. Respondent did not answer or otherwise respond to the petition.

18. The Committee filed a motion for a default judgment dated December 6, 2006. Respondent submitted an untimely answer on January 2, 2007, even though the Court had granted a final extension until December 28, 2006.

Specification 2

19. On March 1, 2007, the Appellate Division, Third Department, issued a Memorandum and Order, finding respondent guilty of professional misconduct for failing to provide the Committee with updated information concerning the Mendez matter and failing to pay the stenographic charges for the July 2006 subpoena examination. The Appellate Division suspended respondent from the practice of law for six months, with the suspension stayed on the condition that respondent: (i) remit \$227 to the Committee for the outstanding stenographer's bill within 30 days of the date of the decision; (ii) file her attorney registration statement, pay the registration fee and provide the Committee with proof of compliance within 30 days of the date of the decision; and (iii) not be the subject of further professional discipline during the period of the stayed suspension.

20. Respondent did not advise the Court or the Committee in the ensuing six months that she had been served with formal disciplinary charges by the Commission in January 2007.

Specification 3

21. On August 8, 2005, respondent received a "letter of education" from the Committee addressing her failure to cooperate with the Committee's investigation of her alleged misconduct. The letter called respondent's attention to Disciplinary Rule 1-102(A)(5) of the Code of Professional Responsibility, to bar association ethics opinions, and to case law holding that an attorney is required to cooperate with the Committee's investigation and that the failure to do so constitutes misconduct.

Specification 4

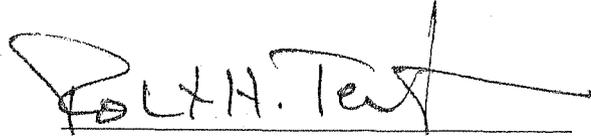
22. By letter hand-delivered to respondent on November 8, 2007, the Commission asked respondent to comment on why her suspension from the practice of law, as indicated in paragraph 19, should not serve as a basis for formal charges alleging a lack of fitness to continue serving as a judge. Respondent failed to respond by the November 16, 2007 deadline set forth in the letter.

23. By letter dated November 20, 2007, the Commission provided respondent with a copy of the November 8th letter and requested a response by November 30, 2007. Respondent submitted a response dated December 3, 2007.

24. 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, for conduct prejudicial to the administration of justice, in that respondent failed to uphold the integrity and independence of the judiciary by failing 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; and failed to avoid impropriety and the appearance of impropriety in that she failed to respect and comply with the law and act in a manner promoting public confidence in the integrity of the judiciary, in violation of Section 100.2(A) of the Rules, by engaging in conduct that is prejudicial to the administration of justice.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: January 2, 2008
New York, New York

A handwritten signature in black ink, appearing to read "R. H. Tembeckjian", written over a horizontal line.

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
212-809-0566

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ELISSA Y. KILLIAN,

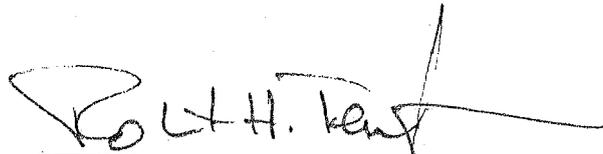
VERIFICATION

an Acting Justice of the Liberty Village Court,
Sullivan County.
-----X

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Second Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
day of January 2008



Notary Public

KAREN KOZAC
NOTARY PUBLIC, State of New York
No. 02KO8171500
Qualified in Westchester County
Commission Expires July 23, 2011

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ELISSA Y. KILLIAN,

an Acting Justice of the Liberty Village Court,
Sullivan County.
-----X

**REQUEST AND AUTHORIZATION BY JUDGE OR JUSTICE FOR
NOTIFICATION TO ATTORNEY OF COMMISSION DETERMINATION**

In the event that a determination of the Commission on Judicial Conduct is made affecting me and requiring transmittal to the Chief Judge and service upon me in accordance with Section 44, subdivision 7, of the Judiciary Law, the undersigned judge or justice:

- (1) requests and authorizes that the Commission transmit the request to the Chief Judge together with the other required papers and
- (2) requests and authorizes the Chief Judge to cause a copy of my notification letter from her and a copy of the determination to be sent to my attorney(s) by mail.

(Name, Address, Telephone Number)

This request and authorization shall remain in force unless and until a revocation in writing by the undersigned judge or justice is received by the Commission.

Dated:

Justice

Acknowledgment

Attorney for Justice

