

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

**ANDREW G. TARANTINO, JR.,**

a Judge of the Family Court,  
Suffolk County.

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**AGREED  
STATEMENT OF FACTS**

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 Andrew G. Tarantino, Jr. (“respondent”), who is represented in this proceeding by Ruth J. Bednarz, Esq., 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 the State of New York in 1991. He has been a Judge of the Family Court in Suffolk County since January 1, 2007. Respondent was assigned to the Suffolk County Family Treatment Court (“Treatment Court”) until June 2009, when he was transferred to the Civil Term of the County Court, Suffolk County. Respondent’s term expires on December 31, 2016.
2. Respondent’s resume is appended hereto as Exhibit 1.

3. Respondent was served with a Formal Written Complaint dated October 13, 2010.

As to Charge I

4. [REDACTED] was a participant in the Treatment Court program. Respondent presided over his participation in the Treatment Court from June 2008 to June 2009.

5. On May 24, 2007, Suffolk County Family Court Judge Ettore Simeone issued an Order of Protection against Mr. [REDACTED], who was 18 years old, directing *inter alia* that he refrain from consuming, possessing, or being under the influence of any illegal drugs or alcohol. The Order of Protection remained in effect until May 24, 2008.

6. On July 25, 2007, the Suffolk County Probation Department ("Probation Department") filed a violation petition against Mr. [REDACTED] alleging that he violated the Order of Protection by using cocaine, marijuana, oxycontin, and alcohol.

7. Mr. [REDACTED] appeared before the court on the violation petition on September 26, 2007. At that time, Judge Simeone placed him on probation, on condition that he enter and successfully complete an in-patient substance abuse rehabilitation program as directed by the Treatment Court and the Probation Department. The probation remained in effect for one year, until September 26, 2008.

8. On or about June 24, 2008, the Probation Department filed another violation petition against Mr. [REDACTED] alleging that he violated the terms of the Order of Protection by failing to return to the in-patient drug rehabilitation program. A warrant was issued for his arrest on June 25, 2008.

9. Upon his return on the warrant, Mr. [REDACTED] appeared before respondent on June 30, 2008. He was represented by J. Gary Waldvogel, Esq. Respondent released Mr. [REDACTED] on his own recognizance and adjourned the matter to July 1, 2008.

10. On July 1, 2008, Mr. [REDACTED], his father and Mr. Waldvogel appeared before respondent. An Assistant County Attorney and a member of the Treatment Court team were also present. Respondent extended Mr. [REDACTED] probation to September 1, 2009, required him to perform 160 hours of community service, and directed him to re-enter and successfully complete an in-patient substance abuse rehabilitation program as directed by the Treatment Court and the Probation Department.

11. On March 26, 2009, Mr. [REDACTED] was charged in a petition with violating the Order of Protection by overdosing on drugs. He appeared before respondent on March 31, 2009. Mr. [REDACTED]'s attorney, Stephen Hellman, his father, and an Assistant County Attorney were also present. Mr. [REDACTED] entered a denial to the violation petition and agreed to continue substance abuse counseling. Respondent met privately with Mr. Hellman in a private corridor near respondent's chambers. It was in this meeting that the respondent believed Mr. Hellman gave his consent to a meeting with Mr. [REDACTED], if Mr. [REDACTED] approached him. However, at no time did respondent and Mr. Hellman discuss the possibility that respondent would take Mr. [REDACTED] out of the courthouse. Respondent adjourned the matter to April 9, 2009.

12. Respondent acknowledges that he never asked the Assistant County Attorney, the Treatment Court team or Mr. [REDACTED] family for permission to speak with Mr. [REDACTED].

13. On April 9, 2009, Mr. [REDACTED], Mr. Hellman, an Assistant County Attorney and a Treatment Court team member appeared before respondent, at which time Mr. [REDACTED] agreed to enter an out-patient substance abuse rehabilitation program. Respondent then adjourned the matter to April 16, 2009.

14. Mr. [REDACTED] Mr. Hellman and a Treatment Court team member appeared before respondent on April 16, 2009. Treatment Court staff informed respondent that Mr. [REDACTED] had bereavement issues he did not want to discuss. Respondent indicated to Mr. [REDACTED] that he should obtain grief counseling. Respondent adjourned the matter to April 23, 2009.

15. On or about April 20, 2009, respondent learned from Treatment Court staff that Mr. [REDACTED] overdosed a second time.

16. On or about April 21, 2009, Probation filed a violation petition against Mr. [REDACTED], alleging that he violated the terms of the Order of Protection by *inter alia* testing positive for marijuana.

17. On April 23, 2009, Mr. [REDACTED] Mr. Hellman, an Assistant County Attorney, a Treatment Court team member and Mr. [REDACTED] aunt appeared before respondent, at which time Mr. Hellman entered a denial of the violation petition on Mr. [REDACTED] behalf.

18. Mr. [REDACTED] and a Treatment Court team member appeared before respondent on April 29, 2009. Mr. [REDACTED] confirmed that he entered an out-patient substance abuse rehabilitation program, and respondent adjourned the violation until August 6, 2009.

19. Mr. [REDACTED] appeared before respondent on May 6, 2009 and May 14, 2009. A Treatment Court team member was present at each appearance. At the May 14, 2009, appearance, Mr. [REDACTED] stated he was "miserable," "a little depressed" and "not happy."

20. On May 27, 2009, Mr. [REDACTED] came to the courthouse for a meeting with a Treatment Court Case Manager. He did not have a case on respondent's calendar that day.

21. During the meeting, Mr. [REDACTED] asked to speak to respondent. The Case Manager accompanied him to respondent's courtroom and asked respondent if he would be willing to speak with Mr. [REDACTED].

22. Respondent met briefly with Mr. [REDACTED] in his court before the lunch recess. The Case Manager was not present for the meeting. Respondent asked if Mr. [REDACTED] would like to sit in the courtroom and talk, go to the courthouse cafeteria and talk, or go for a car ride.

23. During the court's lunch recess, respondent took Mr. [REDACTED] alone, for a ride in his personal automobile. Respondent drove Mr. [REDACTED] to Robert Moses State Park, on the western end of Fire Island, approximately 16 miles from the courthouse. The ride to the park lasted approximately 20 minutes.

24. At the park, respondent and Mr. [REDACTED] parked on the roadway adjacent to a public wildlife observation deck and walked to the observation deck, where they remained for approximately 10 minutes.

25. En route to, at and after they left the observation deck, respondent spoke with Mr. [REDACTED] about the reasons for his continuing substance abuse, including his mother's death and his need for grief counseling.

26. While respondent and Mr. [REDACTED] were at the observation deck, two police officers in a patrol car stopped alongside respondent's vehicle and asked if they needed assistance. Respondent said they did not, that he was a Family Court judge and that Mr. [REDACTED] was one of his respondents. The police officers departed without further inquiry. Respondent then drove Mr. [REDACTED] back to the courthouse.

27. Respondent states under penalty of perjury that he and Mr. [REDACTED] never had any relationship other than as a judge and litigant, and that no untoward behavior occurred between them at Robert Moses State Park or anywhere else, at any time. Commission Counsel interviewed Mr. [REDACTED] and has no evidence to the contrary.

28. Mr. [REDACTED] passed away in March 2010.

29. Throughout this investigation, respondent has been candid and fully cooperative with the Commission. Respondent admits he made a serious error in judgment resulting from what he believed were exigent circumstances created by Mr. [REDACTED] two drug overdoses within a months' time. Respondent acknowledges that he has no training as a social worker, or as a medical or mental health professional.

30. 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, in violation of Section 100.2(A) of the Rules; and initiated, permitted and considered an improper *ex parte* communication, in violation of Section 100.3(B)(6) of the Rules.

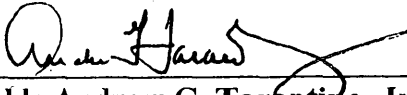
**IT IS FURTHER STIPULATED AND AGREED** that respondent enters into this Agreed Statement of Facts in lieu of filing an Answer to the Formal Written Complaint.

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

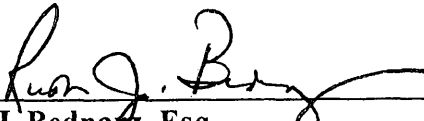
**IT IS FURTHER STIPULATED AND AGREED** that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Censure without further 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: 3.1.2011

  
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**Honorable Andrew G. Tarantino, Jr.**  
Respondent

Dated: 3/1/11

  
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**Ruth J. Bednatz, Esq.**  
Counsel to Respondent

Dated: 3/3/2011

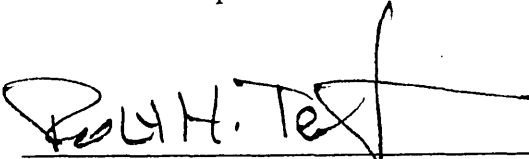
  
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**Robert H. Tembeckjian, Esq.**  
Administrator & Counsel to the Commission  
(Roger J. Schwarz, Of Counsel)



EXHIBIT 1

## ANDREW G. TARANTINO, JR.

### EDUCATION

J.D.; City University Queens College, 1991  
- Admitted in New York and Connecticut  
- Taught legal research and writing to underclassmen  
BA, Biology; Texas Christian University, 1976

### COMMUNITY SERVICE

President, Board of Education, Longwood Schools 2001-2004; Vice-president, 1999-2001; Trustee 1998-2004  
Arbitrator, Suffolk County District Court 1996 to 2007  
Past Member, Professional Ethics Committee, Suffolk County Bar Assoc  
Member, Suffolk County Bar Association, 1990 to present  
Member, New York State Bar Association  
Past Law Chair, Suffolk County Democratic Committee  
Past Candidate, Suffolk County Legislature 2003  
Past-president, co-founder, Northeast Coram Civic Association  
Past-president, Rotary, Middle Island NY 2001-2002  
Peace Corps Volunteer, Malaysia - teacher 1976 to 1978  
Past Board of Director, Affiliated Brookhaven Civic Org (ABCO)  
Past Board of Director, Longwood Alliance, Middle Island, NY  
Past-President, TCU Catholic Student Organization 1977-1979  
Presenter, New York State School Boards Association  
Presenter, National School Boards Association  
Presenter, Suffolk County Bar Association

### CAREER BACKGROUND

2007 - Present

**Family Court Judge**, New York State

2004 - 2007

**Assistant County Attorney** - Suffolk County  
- Assigned to Family Court Bureau  
- Assigned to Family Treatment Court Program

2000 - 2004

**Attorney, Partner** - Sarisohn Sarisohn Camer LeBow Braun Shiebler & Tarantino, Esqs., Commack, NY

Jan 1991-2000

**Attorney** - Solo Practitioner, Coram, NY  
- General Practice - matrimonial, family law, landlord-tenant, wills and estates, real estate law

Jun 1989- Jan 1991

**Legal Assistant** - Bracken & Margolin Esqs, Islandia, NY.

Sep 1987- Sep 1988

**Senior Account Executive** - Kallir, Philips & Ross, New York, NY  
- Health care advertising agency

June 1986 - Sep 1987

**Account Executive** - Dugan/Fairley Communications, Upper Saddle Riv, NJ  
- Developed medical marketing plans

### OTHER

**Sales Manager**, Pharmaceuticals, Modular Magazine Sampling Systems, New York, NY - Oct 1984 to March 1986

**Pharmacy Specialist** - Drug Store News, Jan to Oct 1984

**Professional Sales Representative**, Pharmaceuticals, Winthrop Laboratories, New York, NY - May 1981 to January 1984

**Credit Assistant** - Winthrop Labs, New York, NY - July 1979 to May 1981

SCUBA Divemaster

Private Pilot