

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Investigation of Complaints  
Pursuant to Section 44, subdivisions 1 and 2,  
of the Judiciary Law in Relation to

**MARK A. CUNNINGHAM,**

**STIPULATION**

a Justice of the Stockton Town Court,  
Chautauqua County.

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THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (“Commission”), and the Honorable Mark A. Cunningham.

1. Judge Cunningham has been a Justice of the Stockton Town Court, Chautauqua County, since January 1, 2013. His current term expires on December 31, 2021. Judge Cunningham is not an attorney.
2. In July 2020, the Commission apprised Judge Cunningham that it was investigating a complaint alleging that, between in or about December 2019 and March 2020, he engaged in conduct within his courthouse that was inappropriate and inconsistent with his ethical obligations to act at all times in a manner that promotes public confidence in the integrity of the judiciary and to conduct his extra-judicial activities so as not to detract from the dignity of his judicial office. By letter dated November 5, 2020, the Commission further advised Judge Cunningham that it was also investigating his failure to cooperate with the investigation in that, over a period of four

months, he did not respond to four letters of inquiry from the Commission regarding the complaint.

3. Judge Cunningham resigned his judicial office by letter dated January 18, 2021, a copy of which is annexed as Exhibit A. Judge Cunningham affirms that he vacated judicial office as of January 18, 2021.

4. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from a judge's resignation to complete proceedings and, if it so determines, render and file a determination that the judge should be removed from office.

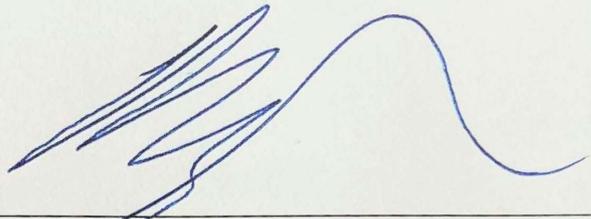
5. Judge Cunningham affirms that, having vacated his judicial office, he will neither seek nor accept judicial office at any time in the future.

6. Judge Cunningham affirms his understanding that, should he abrogate the terms of this Stipulation and hold any judicial position at any time in the future, the Commission's investigation of the complaint would be revived, he would be served with a Formal Written Complaint upon authorization of the Commission, and the matter would proceed to a hearing before a referee.

7. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

8. Judge Cunningham waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.

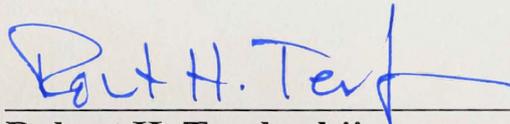
Dated: 01/26/2021



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Honorable **Mark A. Cunningham**

Dated: January 26, 2021



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**Robert H. Tembeckjian**  
Administrator and Counsel to the Commission  
(**John J. Postel** and **M. Kathleen Martin,**  
Of Counsel)

# EXHIBIT A

January 18, 2021

Town Supervisor David Wilson  
7344 Route 380  
Stockton, NY 14784

RE: Resignation of Town Justice position.

Dear Dave:

Purasant to our previous discussions, please accept this letter as my formal resignation as Stockton Town Justice. I did not arrive at this decision easily. When I first ran for election, I promised the residents of Stockton that I would keep the resident's safe. Based upon the changes in the bail reform law, I don't believe I can keep that promise anymore.

I appreciate everything you and the Town Board have done to facilitate all of the improvements to the facilities, the cooperation we always had working together, and the successes we achieved together.

I hopefully look forward to working together with you in the future someday in some capacity. We have had an amazing working relationship and I will always look back on my time as Town Justice fondly.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'Mark A. Cunningham', with a stylized flourish at the end.

Mark A. Cunningham  
Stockton Town Justice