

The Commonwealth of Massachusetts

COMMISSION ON JUDICIAL CONDUCT

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PRESS RELEASE

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FOR IMMEDIATE RELEASE
April 16, 2008

COMMISSION ON JUDICIAL CONDUCT RESOLVES JUDGE LIVINGSTONE MATTER BY AGREEMENT, RETIREMENT

BOSTON, MA (April 16, 2008) -- The Commission on Judicial Conduct has reached an agreement with Judge Michael J. Livingstone to resolve the Formal Charges pending against him with his retirement from the bench. Copies of the Agreed Disposition and the judge's apology are attached.

The Formal Charges and further information may be found on the Commission's website:
www.mass.gov/cjc.

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT

Complaints No. 2005-104 and 2006-97

AGREED DISPOSITION

The Commission on Judicial Conduct ("the Commission") and Judge Michael J. Livingstone ("Judge Livingstone"), Associate Justice of the Plymouth Division of the Probate & Family Court Department, hereby agree to dispose of Complaints No. 2005-104 and 2006-97 by Informal Adjustment, pursuant to MGL c.211C, §8(1) and (3), upon the following terms and conditions.

Formal Charges in this matter and Judge Livingstone's Response thereto were filed with the Supreme Judicial Court on October 22, 2007 and docketed as No. OE-120. The Supreme Judicial Court appointed retired Justice Charles F. Barrett to serve as Hearing Officer. The Public Hearing on the Formal Charges was scheduled to begin on January 2, 2008. The Hearing was postponed due to the filing on January 7, 2008 of a Conditional Submission to the Supreme Judicial Court upon Acknowledged Evidence by the Commission and Judge Livingstone pursuant to Commission Rule 13B, which was impounded. On February 20, 2008, the Supreme Judicial Court rejected the agreed recommendation for discipline contained in the Conditional Submission. A new Hearing Date of May 19, 2008 was set. Rather than proceed to this Public Hearing, Judge Livingstone and the Commission agree to dispose of these two complaints upon the following terms and conditions.

1. Judge Livingstone agrees to waive his right to a Public Hearing in this matter.
2. Judge Livingstone acknowledges that he has violated certain provisions of the Code of Judicial Conduct (SJC Rule 3:09), as described in the Formal Charges in this matter, and is hereby privately reprimanded by the Commission for those violations.
3. As a result of this acknowledgment, Judge Livingstone agrees that his last day sitting as a judge will be April 15, 2008. He will then take his accrued leave of 40 days, and retire voluntarily as a judge as of June 12, 2008.
 - a. Judge Livingstone agrees to submit his letter of resignation to the Governor by March 31, 2008, with a copy to the Commission, to be held in confidence by the Governor and the Commission until April 15, 2008.
4. Judge Livingstone agrees not to be recalled for service as a judge in Massachusetts.
5. Judge Livingstone agrees that the attached Press Release [Attachment A] will be issued by the Commission on April 16, 2008.

a. Judge Livingstone agrees to make public the attached apology [Attachment B], which will be attached to the Press Release.

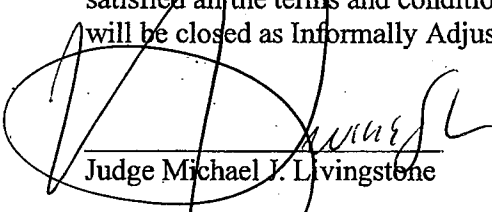
b. Judge Livingstone agrees that a copy of this Agreed Disposition will also be attached to the aforementioned Press Release.

c. No other statement or comment regarding this disposition will originate from the Commission, Judge Livingstone, his counsel, or any other person or organization acting on Judge Livingstone's behalf, either before or after the issue of this Press Release.


d. If any misleading information becomes public through the acts of either party, the other party may take such steps as reasonably necessary to correct the public record.

6. If Judge Livingstone does not comply with the terms and conditions of this agreement, the Commission may file the agreement with the Supreme Judicial Court. The parties agree that the Court may order the specific enforcement of this agreement, and/or any other sanction provided in G.L. c.211C, §8(4).

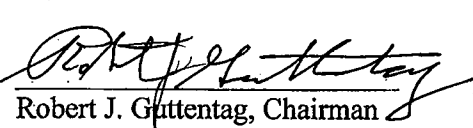
7. At the effective date of his retirement from the bench, if Judge Livingstone has satisfied all the terms and conditions of this agreement, Complaints No. 2005-104 and 2006-97 will be closed as Informally Adjusted.


Judge Michael J. Livingstone

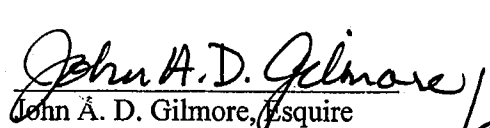
Date: 3/28/08


Michael E. Mone, Esquire
Attorney for Judge Livingstone

Date: 3/28/08


Robert J. Guttentag, Chairman
Commission on Judicial Conduct

Date: 3/29/08


John A. D. Gilmore, Esquire
Special Counsel to the Commission

Date: 3/28/08

**Attachment B to Agreed Disposition
Complaints Nos. 2005-104 and 2006-97**

April 15, 2008

Citizens of Massachusetts and my Colleagues in the Judiciary:

I am resigning as an Associate Justice of the Probate and Family Court and wish to apologize to the citizens of the Commonwealth of Massachusetts for my conduct for which I take full responsibility. I sincerely regret having created, in my private life, an appearance of impropriety, which although I never intended, violated my obligation to conform even my off-the-bench conduct to the Code that governs all judges. I am giving up a job that I truly love and that I felt I brought energy, wisdom, and compassion to every day in the hope that by voluntarily resigning, public confidence in the our judiciary will be preserved.

I want to thank all of my colleagues who have supported me through this difficult time and I will be forever grateful to them. I want to also acknowledge the lawyers and bar associations that independently have written to the Commission on Judicial Conduct to urge them that I remain on the bench. Their support, as well as the support of my colleagues in the Probate and Family Court, have lifted my spirits during this difficult time.

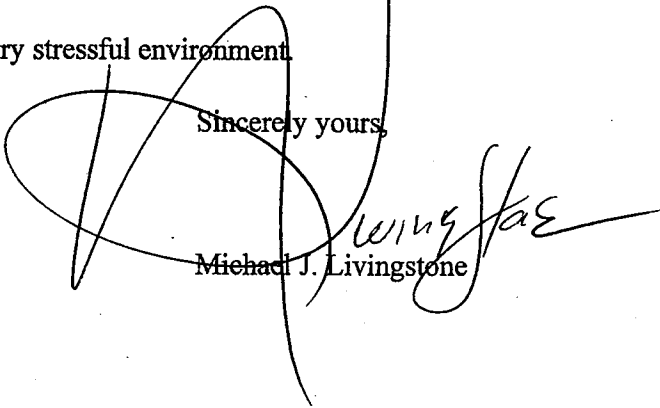
I want to acknowledge my family, who although they know that there was never an intention on my part to act improperly, have had to go through the emotional, trying times surrounding this investigation and my decision to resign.

I want to thank the Special Counsel for the Commission on Judicial Conduct, John Gilmore, who at all times acted professionally and compassionately with regard to his duties in this investigation. I am disappointed that the Supreme Judicial Court rejected the joint recommendation from the Commission and me, however, I must now move on.

I leave the court with great admiration for the men and women in the Probate and Family Court, for all of the court personnel, the court officers, administrative officers, and the judges, who work every day to dispense justice in family disputes in which there are always great tragedy and emotion.

They do a superb job in a very stressful environment.

Sincerely yours,


Michael J. Livingstone