

aspects of the investigation. Judge Boone further agrees that he appeared before the Judicial Inquiry Board, as part of the investigative process on September 15, 2010.

Judge Boone, having been given an opportunity to consult with counsel, gives his express consent to this Stipulation. The facts and conclusions upon which the Commission may act are as follows:

1. At all times relevant to this case, Judge Boone was a judge of the Circuit Court for Washington County, Maryland. Judge Boone was appointed to the Circuit Court for Washington County in 1997. Presently Judge Boone continues to serve as a Circuit Court judge for Washington County, Maryland.

2. On November 5, 2009, Judge Boone was arrested by the Hagerstown Police Department after he was involved in a car accident in which his vehicle struck another vehicle on Prospect Street in Hagerstown, Maryland.

3. Judge Boone was arrested when police who responded to the scene of the accident, observed an odor of alcohol about Judge Boone and made other observations that caused them to request that Judge Boone take a breathalyzer test. Judge Boone took the required breathalyzer test and it provided evidence that his blood alcohol level was at a .18, well above the legal limit in Maryland.

4. Based upon all the facts and circumstances, on March 17, 2010, Judge Boone, while represented by counsel, entered a plea of guilty to driving under the influence of alcohol pursuant to Maryland Transportation Code 21-902(A) in the District Court for Washington County.

5. Judge Boone was placed on probation for three years, and required to pay a \$1,000.00 fine.

6. Judge Boone subsequently appeared before the Judicial Inquiry Board and advised the Board that he had in fact pled guilty and was guilty of the alleged driving under the influence of alcohol offense. Judge Boone also candidly advised the Board that he has a long history of struggling with the disease of alcoholism. Judge Boone has previously attended several alcohol related therapeutic programs and presently attends Alcoholics Anonymous on a regular basis. (According to documents provided by Judge Boone he has completed programs at the Wells House, Inc. in Hagerstown, Maryland and continues to interact with the counselor at the Wells House on an informal basis.)

7. Judge Boone, through his counsel, advised the Commission in his written response on July 8, 2010:

We are painfully aware that Judge Boone is an alcoholic, whose disease has led him to this inquiry. There is no question that he was convicted of driving under the influence of alcohol on March 17, 2010. As you know, Judge Boone has fully accepted responsibility for this specific charge and his battle generally with alcohol. There is no doubt that his response through treatment and public acceptance of responsibility for his actions is a mitigating factor.

8. Judge Boone was afforded an opportunity to review the contents of this Stipulation and all related documents and was given an opportunity to review said documents with his counsel. Judge Boone, his counsel, and the Commission's Investigative Counsel jointly request that the Commission accept this Stipulation.

9. Judge Boone acknowledges that his actions are subject to sanction and that the Commission determines the sanction to be imposed. By his signature on this Stipulation Judge Boone affirms that he agrees to the Stipulation voluntarily, having been given an opportunity to consult with counsel and after reviewing the evidence in the case with his counsel. The Commission will decide this case based upon the facts contained in this

Stipulation and the documents received from Judge Boone and the Commission's Investigative Counsel.

10. Judge Boone hereby waives his right to a hearing before the Commission and waives his right to any subsequent proceedings before the Maryland Court of Appeals with regard to this case. Judge Boone waives his right to challenge the findings that serve as the basis for the Private Reprimand that is being issued along with this Stipulation. Judge Boone agrees, pursuant to Maryland Rule 16-807 (b)(1)(C) that the Private Reprimand issued in this case may be admitted into evidence in any subsequent disciplinary proceedings against him to the extent that it is relevant to the charges at issue or the sanction to be imposed.

11. Judge Boone acknowledges that his conviction for driving under the influence of alcohol in violation of Transportation Code Section 21-902(A) was in violation of Canon 1 and Canon 6 of the Maryland Code of Judicial Conduct.

The pertinent portions of the Canons provide:

CANON 1
Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge shall observe high standards of conduct so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

CANON 6
Compliance

A. Courts. This Code applies to each judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court.

11. Judge Boone has agreed to execute this Stipulation and understands that a copy of this Stipulation will be retained by the Commission and shall be considered a public document. The Judge acknowledges that this Stipulation and any related document issued by the Commission based upon this Stipulation may be published in the *Maryland Register* and otherwise re-published in a manner consistent with the Commission's past practices, including publication on the Commission's web site. The parties further agree that in the event that Judge Boone chooses to make any public statements regarding the content of this Stipulation and any related documents, the Commission, or any other aspect of this case, pursuant to Maryland Rule 16-810(b)(2), the Commission may issue an explanatory statement in its discretion.

I, JUDGE W. KENNEDY BOONE, III, HAVE READ THE TERMS OF THIS STIPULATION AND WAIVER OF HEARING AND CAREFULLY REVIEWED ITS CONTENTS WITH MY COUNSEL. I UNDERSTAND THE STIPULATION AND WAIVER OF HEARING AND ACCEPT IT AS FULLY SET FORTH ABOVE.

Date

Judge W. Kennedy Boone, III

Date

David B. Irwin, Esquire, Counsel to Judge Boone

APPROVED AND RECOMMENDED:

Date

Steven P. Lemmey, Investigative Counsel