

NOW THEREFORE, you are charged with wilful misconduct in office, persistent failure or inability to perform judicial duties, and conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

The particulars of the charges are as follows:

COUNT ONE

It is alleged in the case of People v. Meneses, No H0503652, that you have improperly engaged in ex parte contact, including providing one party with legal advice, that you have failed to disclose your personal relationships and activities in the matter to all parties, and that you have intentionally made a material misstatement of fact in the matter designed to mislead a party. By your failure to timely recuse yourself in the matter of the bail review hearing in this felony criminal matter, or to at least disclose your previous relationships and conduct in this matter, you failed to act with the impartiality expected of judicial office. Such misconduct is exemplified by, but not limited to, the following circumstances in this matter:

(a) On March 6, 1993, Miguel Meneses was arrested by local narcotics officers on a charge of conspiracy to purchase cocaine. (Pen. Code, § 182.) Meneses was your gardener, to whom you owed approximately \$400 for previous services rendered. On the same day you went to the Corcoran Police Department,

reviewed investigative reports in the matter, and signed a "probable cause" form in support of continued pretrial confinement.

(b) On or about March 7, 1993, you were approached at your home by Meneses' wife and asked for help. You thereupon arranged with the Corcoran Police Department for Mrs. Meneses to visit her husband and accompanied her to jail for that purpose. At the jail you spoke with Meneses himself and advised him not to speak about the incident with anyone, but rather to obtain the services of an attorney. You told a police officer that Meneses was your gardener, asked that officer about the validity of the charges that were pending, and informed him that you would be recusing yourself in the matter.

(c) Later, on March 7, 1993, you telephoned Corcoran Police Officer Ray Garcia, asked him about the case, and asked him three times if he opposed an own recognizance ("O.R.") release for Meneses. He declined to answer but referred you to his supervisor, Sergeant David Frost. On March 8, 1993, Sergeant Frost went to your chambers and informed you that he opposed an O.R. release.

(d) On March 9, 1993, Kings County Municipal Court Judge John O'Rourke arraigned Meneses on a felony complaint, and set bail at \$100,000.

(e) On March 11, 1993, you presided over a contested bail review hearing in People v. Meneses and related cases. You neither recused yourself nor disclosed your relationship and

activities with Meneses and his wife. Upon taking the bench, you falsely stated that Corcoran Police Officer Ray Garcia did not oppose an O.R. release for either Meneses or a co-defendant. After the Kings County Probation Department recommended against either an O.R. release or a bail reduction, and after the prosecutor argued for continuation of the \$100,000 bail, you ordered Meneses released without bail.

COUNT TWO

It is alleged that you have engaged in a continuing pattern of failure to report income or loans on your Statement of Economic Interests (Form 721), that are legally required to be filed annually with the Fair Political Practices Commission. In that Statement, the declarant is required to declare, under penalty of perjury, that he has "used all reasonable diligence in preparing this statement" and that "I have reviewed the statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete."

On December 11, 1989, you were publicly reprovved by this Commission for your failure to report income in excess of \$75,000 on your Statements of Economic Interest. On August 13, 1990, you were privately admonished by this Commission, again for your failure to file a complete Statement of Economic

Interests, this time for omitting loans received from a court employee, Helen Cabell. Nonetheless, you have continued to fail to submit complete reports of your income or loans on your Statement of Economic Interests filed with the Fair Political Practices Commission. You have accordingly failed to conduct yourself with the integrity to be expected of a judicial officer. Such conduct is exemplified by, but not limited to, the following instances:

(a) On or about April 23, 1991, you borrowed some \$3,000 cash from Corcoran Police Department Lieutenant Russ Williams, which has not yet been repaid. (See Allegation III(d), infra.) You insisted to Williams that there be no promissory note or other written evidence of the loan. You have failed to report said loan on your Statement of Economic Interest.

(b) In December 1991, you borrowed an aggregate amount of approximately \$10,410 from Hugh Osburn, which has not yet been repaid. (See Allegation III(b), infra.) You have failed to report said loans on your Statement of Economic Interests.

COUNT THREE

It is alleged that you have improperly exploited your judicial position by engaging in financial dealings with court staff and you have involved yourself, by obtaining loans or unpaid services, in continuing business relationships with

individuals who appear before the court on which you sit. Such conduct is exemplified by, but not limited to, the following instances:

(a) On August 13, 1990, you were privately admonished by this Commission for borrowing money from a court employee under your supervision, Helen Cabell. Nonetheless, on or about August 10, 1993, you again requested and received a loan of \$740, purportedly for the benefit of your daughter, from Helen Cabell.

(b) In December 1991, you borrowed an aggregate sum of \$10,410 from Hugh Osburn, a debt which you have not repaid. (See Allegation II(b), supra.) Osburn and his business, Western Counties Insurance Brokers, frequently appear before the court on which you sit.

(c) Sometime before January 1, 1992, you borrowed approximately \$10,000 from Morris Proctor, a debt which you have not repaid. On May 24, 1992, you presided over criminal sentencing proceedings in which Proctor's son Jason was defendant. (Kings County Municipal Court No. C-00519) You did not disqualify yourself nor did you disclose the debt to the defendant's father on the record or obtain a written waiver of disqualification from the parties.

(d) On or about April 23, 1991, you borrowed \$3,000 cash from Corcoran Police Department Lieutenant Russ Williams, which you have not repaid. (See Allegation II(b), supra.) You insisted to Williams that there be no promissory note or other

written evidence of the loan. At that time, Williams was the liaison of the Corcoran Police Department with your court. He frequently filed papers in your court, including criminal complaints signed by him. He also signed declarations for arrest warrants. You considered these declarations and issued the requested warrants. Examples include, but are not limited to:

People v. Montoya (No. CR 6821)--complaint and declaration signed by Williams, March 6, 1991; arrest warrant signed by you March 11, 1991.

People v. Burkett (No. CR 6859)--complaint signed by Williams, April 23, 1991.

People v. Aragon (No. CR 6860)--complaint signed by Williams, April 23, 1991.

People v. Miranda (No. CR 6869)--complaint and declaration signed by Williams, May 1, 1991; arrest warrant signed by you May 3, 1991.

(e) On or about March 11, 1993, in People v. Meneses, No. H0503652, a bail review hearing in a felony criminal matter, you ordered the defendant released on his O.R. You owed and continue to owe Meneses approximately \$400 for gardening services previously rendered. You did not recuse yourself nor did you disclose your personal business relationship with Meneses to the parties. (See Allegation I, supra.)

COUNT FOUR

You have deliberately made false statements in a declaration filed under penalty of perjury in a bankruptcy matter before the federal court, thus failing to act in a manner that promotes confidence in the integrity of the judiciary. On June 29, 1993, you filed a voluntary bankruptcy petition in the United States Bankruptcy Court of the Eastern District of California. (No. 93-13467-7K.) You were required by law (18 U.S.C. § 152) to list all property, creditors, and debts. On June 28, 1993, you declared under penalty of perjury

"that I have read the foregoing summary and schedules, consisting of 25 sheets, and that they are true and correct to the best of my knowledge, information, and belief."

On the same day you also declared under penalty of perjury that the appended "Creditor Matrix" was complete and correct. These declarations were intentionally incomplete and false. Fabrie Jewelers, Russ Williams, Hugh Osburn, Dorothy McDonald, Morris Proctor, and Joy and Ted Ewalt are creditors who do not appear in the bankruptcy schedules or Creditor Matrix.

COUNT FIVE

It is alleged that during your tenure as a municipal court judge, you have persistently failed to diligently perform judicial duties assigned, in that you are habitually late for

court. You rarely begin court calendars on time, and frequently begin morning and afternoon court sessions 30 minutes to 1 hour late. Your pattern of chronic lateness has adversely affected the functioning of the Kings County Municipal Court and the operations of those parties who must utilize it. This pattern has persisted despite repeated expressions of concern by law enforcement, the county administrative officer, the court executive officer, and another member of your bench. Examples include, but are not limited to, your appearances in the Kings County Municipal Court during the first quarter of 1993, when morning calendars were scheduled to begin at 9:00 a.m. and afternoon calendars were scheduled to commence at 1:30 p.m. It is alleged that you began your judicial duties by first taking the bench for morning and afternoon calendars during that period, on the following dates at the following times:

<u>DATE</u>	<u>COURT</u>	<u>A.M. Calendar</u>	<u>P.M. Calendar</u>
1/11/93	Corcoran	11:12 a.m.	
1/12/93	Lemoore	9:48 a.m.	
1/15/93	Hanford		3:25 p.m.
1/20/93	Corcoran	9:52 a.m.	
1/21/93	Hanford	9:57 a.m.	
1/26/93	Corcoran	10:12 a.m.	
1/26/93	Hanford		2:00 p.m.
1/27/93	Corcoran	10:21 a.m.	
1/28/93	Hanford	9:48 a.m.	2:07 p.m.
1/29/93	Lemoore	11:04 a.m.	
2/3/93	Corcoran	9:38 a.m.	
2/8/93	Corcoran	9:59 a.m.	2:03 p.m.
2/9/93	Corcoran	11:08 a.m.	
2/9/93	Hanford		2:34 p.m.
2/10/93	Corcoran	10:09 a.m.	3:29 p.m.
2/11/93	Hanford	9:32 a.m.	2:05 p.m.
2/16/93	Hanford	9:18 a.m.	2:01 p.m.

<u>DATE</u>	<u>COURT</u>	<u>A.M. Calendar</u>	<u>P.M. Calendar</u>
2/17/93	Corcoran	10:45 a.m.	
2/18/93	Hanford	9:25 a.m.	2:01 p.m.
2/19/93	Hanford	9:29 a.m.	
2/22/93	Corcoran	9:34 a.m.	
2/23/93	Hanford	9:53 a.m.	
2/24/93	Corcoran	10:48 a.m.	
2/25/93	Hanford	9:33 a.m.	
2/26/93	Hanford	9:36 a.m.	4:06 p.m.
3/1/93	Corcoran	10:15 a.m.	2:12 p.m.
3/2/93	Hanford	9:31 a.m.	2:48 p.m.
3/4/93	Hanford	9:33 a.m.	2:03 p.m.
3/5/93	Hanford	9:29 a.m.	
3/8/93	Corcoran	10:03 a.m.	2:37 p.m.
3/10/93	Corcoran	10:09 a.m.	
3/11/93	Hanford	9:26 a.m.	3:36 p.m.
3/12/93	Hanford	9:49 a.m.	
3/15/93	Corcoran	10:50 a.m.	2:05 p.m.
3/16/93	Hanford	9:48 a.m.	2:02 p.m.
3/18/93	Hanford	10:14 a.m.	2:58 p.m.
3/19/93	Hanford	9:34 a.m.	
3/22/93	Corcoran	9:48 a.m.	
3/24/93	Corcoran	10:10 a.m.	4:13 p.m.
3/26/93	Hanford		2:22 p.m.
3/29/93	Corcoran	9:54 a.m.	2:16 p.m.
3/31/93	Hanford		3:48 p.m.

It is asserted that your conduct as charged in this notice constitutes wilful misconduct in office, persistent failure or inability to perform judicial duties, and conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, article VI, section 18, subdivision (c).

The filing and service of this notice does not foreclose the Commission on Judicial Performance from bringing additional charges against you at a later date by amendment.

You have the right to file a written answer to the charges against you within fifteen days after service of this notice upon you. The answer must be filed with the Commission on Judicial Performance, 101 Howard Street, Suite 300, San Francisco, California, 94105. The answer must be verified, must conform in style to California Rules of Court, rule 15, subdivision (c), and must consist of an original and eleven (11) legible copies.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: _____

June 27, 1994

Eugene M. Remo

CHAIRPERSON