FILED
FEB 20 2018
COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING FORMER JUDGE STEVEN C. BAILEY, No. 202	NOTICE OF FORMAL PROCEEDINGS

To Steven C. Bailey, formerly a judge of the El Dorado County Superior Court from January 2009 to August 31, 2017:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

By the following allegations, you are charged with willful misconduct in office, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, and improper action within the meaning of article VI, section 18 of the California Constitution providing for removal, censure, or public or private admonishment of a judge or former judge, to wit:

COUNT ONE

In connection with the judicial election campaign of an attorney who was running for a seat on the El Dorado County Superior Court bench in the June 2016 primary election, you retained the services of a business called the Redd Group. In or about April 2016, at your request, the Redd Group prepared a survey testing public opinion concerning the attorney candidate and the incumbent judge.

You subsequently agreed to provide a testimonial for the Redd Group. You approved a draft testimonial prepared by David Cooper of the Redd Group, but you did not review or pre-approve a final version of the testimonial before it was posted on the Redd Group's website. The testimonial posted on the website stated:

> I was helping a fellow attorney run for county judge. Our mail went out ahead of schedule and The Redd Group accommodated for our poll to be done accordingly with many more respondents than were promised. We got the detailed results in less than 24 hours. I recommend the Redd Group for all your polling needs. Excellent work!
>
> – Steven C. Bailey

The testimonial appeared on at least two pages of the website, http://reddgroup.org/about and http://reddgroup.org/testimonial-view/judgestevenbailey. On the former webpage, your name appeared as "Steven C. Bailey" and was linked to your personal website, https://judgestevencbailey.org, in which you are identified as a judge of the El Dorado County Superior Court. On the latter webpage, the testimonial appeared under the heading, "HOME | TESTIMONIALS | JUDGE STEVEN C. BAILEY," and both "JUDGE STEVEN C. BAILEY" and "Steven C. Bailey" were linked to the https://judgestevencbailey.org website.

Adjacent to each testimonial on the Redd Group website was a photograph of you in your judicial robe.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 4A, and 4D(2).

COUNT TWO

A. Your son is employed by CHI Monitoring, LLC (CHI) in Placerville, California. CHI is a provider of electronic monitoring services including SCRAM (Second Continuous Remote Alcohol Monitoring). CHI is the only provider of SCRAM in Placerville. On numerous occasions, you ordered criminal defendants to use services provided by CHI without disclosing that your son works for CHI, or that he might provide reports or information to the court concerning the defendants' enrollment for the services provided by CHI. You were sent correspondence from CHI, including from your son, concerning these matters. This conduct is exemplified by the following.

1. On April 16, 2014, you presided over the matter of *People v. Angelica Godinez*, Nos. P13CRM0868 and S14CRM0205. Godinez was in custody and was self-represented; the People were represented by Deputy District Attorney (DDA) Pete O'Hara. You arraigned Godinez on charges of driving under the influence, driving on a suspended/revoked license, and false impersonation with prior convictions. During the hearing, you granted Godinez an own recognizance (OR) release on the condition that she enroll in the SCRAM program in Placerville by April 18, 2014.

On April 17, 2014, a letter signed by your son on CHI letterhead was faxed to you concerning Godinez. The letter stated that Godinez had started on the SCRAM program that day. The letter was received at court on April 17, 2004.

On May 1, 2014, a letter signed by your son on CHI letterhead was faxed to you concerning Godinez. The letter stated that since being on the SCRAM program, Godinez had not consumed alcohol or had any bracelet tamper issues.

Attached to the letter was Godinez's SCRAM report. The letter was received at court on or about May 1, 2014.

2. On the morning of March 10, 2014, you presided over the matter of *People v. Julian Butler*, No. P13CRM0611. Butler was out of custody and was represented by attorney Roland Tiemann; the People were represented by DDA Dale Gomes.

Pursuant to a plea agreement, Butler entered a no contest plea to certain counts and the remaining counts were dismissed. You sentenced Butler to four years summary probation, including one year in county jail, with a surrender date of April 11, 2014. You granted Butler an OR release on the condition that he immediately be placed on the SCRAM program in Placerville.

On March 10, 2014, a letter signed by your son on CHI letterhead was faxed to you concerning Butler. The letter stated Butler had started on the SCRAM program that day and was expected to complete the program on April 11, 2014. The letter was received at court on or about March 10, 2014.

On April 17, 2014, a letter signed by your son on CHI letterhead, dated April 11, 2014, was faxed to you concerning Butler. The letter stated Butler had successfully completed the SCRAM program. The letter was received at court on or about April 17, 2014.

3. On February 19, 2014, in *People v. Shawn Price*, No. S14CRF0032, Judge Suzanne Kingsbury issued an arrest warrant for Price with a bail amount of $75,000.

On February 26, 2014, Price appeared before you on the out of custody arraignment calendar with attorney Dan Koukol; the People were represented by DDA Robert Priscaro.

During the hearing, you stated there had been a chambers conference and it was your understanding that Price intended to enter a plea of not guilty. You set the matter for a pre-preliminary hearing before Judge Kingsbury on March 17, 2014, and granted Price an OR release on the condition that he start on a SCRAM

program. You stated it was your understanding that Price would be going to the SCRAM program in Placerville, and that Price needed to provide proof of being in the program by February 28, 2014.

On February 27, 2014, a letter signed by your son on CHI letterhead was faxed to you concerning Price. The letter stated Price had started on the SCRAM program the previous day. The letter was received at court on February 27, 2014.

4. On October 30, 2009, you presided over the matter of *People v. Jason Jacobsen*, No. S08CRF0173. Jacobsen was in custody and represented by Deputy Public Defender (DPD) David Rogers; the People were represented by DDA Tony Sears.

During the hearing, DPD Rogers stated that Jacobsen was asking if the court would be willing to set bail or grant an OR release. DPD Rogers also stated that his client was willing to wear an alcohol monitoring bracelet. You granted Jacobsen an OR release on the condition that he be placed on a SCRAM device in Placerville.

On November 3, 2009, a letter signed by your son on CHI letterhead was faxed to you concerning Jacobsen. The letter stated Jacobsen had started on the SCRAM program the previous day. The letter was received at court on or about November 3, 2009.

5. On October 23, 2009, you presided over the matter of *People v. Camille DeSpain*, No. S09CRM1026. DeSpain was in custody and self-represented; the People were represented by DDA Priscaro. You arraigned DeSpain on charges of driving under the influence, driving with a suspended or revoked license, aggravated trespass, and providing false information to a police officer. You also arraigned DeSpain on a probation violation charge.

During the hearing, you told DeSpain you would only grant OR release on the condition she had a SCRAM bracelet installed, and that she would have to make arrangements with whoever ran the SCRAM program. At the time, the only alcohol monitoring program approved by the county was CHI. You set the next

hearing for October 30, 2014, before Judge Kingsbury, and advised DeSpain that if she was still in custody on that date she could make application to Judge Kingsbury for a different set of conditions.

Later on October 23, 2009, at approximately 4:21 p.m., a letter signed by your son on CHI letterhead was faxed to you concerning DeSpain. The letter stated DeSpain had been pre-approved for the SCRAM program. The letter was received at court on or about October 23, 2009.

On October 26, 2009, at approximately 11:31 a.m., a letter from the CHI program administrator, on CHI letterhead, was faxed to you concerning DeSpain. The letter stated CHI did not have a mobile unit at that time and thus could not go to the jail to connect DeSpain to a SCRAM device. The letter stated DeSpain would need to come to their location to have the bracelet connected and that she had been advised of this requirement. The letter also set forth CHI's hours and stated that DeSpain would need to be released no later than 2:00 p.m. to ensure she could get there before they closed. The court received the letter at approximately 11:36 a.m. that day.

On October 26, 2009, at approximately 2:00 p.m., you issued an ex parte minute order granting DeSpain a conditional OR release. The order stated: "Court directs the El Dorado County Jail to release the defendant to 'Rich Schenck' to be transported to CHI Monitoring in Placerville to be placed on the SCRAM program." Later that day, at approximately 4:51 p.m., a letter signed by your son on CHI letterhead was faxed to you concerning DeSpain. The letter stated DeSpain had started on SCRAM that day at 4:30 p.m. The letter was received at court on or about October 26, 2009.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(7), and 3E(2).

B. On December 10, 2009, in the matter of *People v. Jacobsen*, No. S08CRF0173, a letter signed by your son on CHI letterhead was faxed to you

concerning Jacobsen. The letter stated: "We are seeking restitution in the amount of $140 from Mr. Jason Jacobson [*sic*]. He completed our SCRAM monitoring program on November 19, 2009 with an outstanding balance. Mr. Jacobson had verbally agreed to a payment plan but has since decided not to honor it." The letter was received at court on December 10, 2009.

On December 18, 2009, you ordered Jacobsen to pay "victim restitution" in the amount of $140, for the SCRAM services provided by CHI, although CHI was not the "victim" and was not entitled to "restitution."

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(1) and 3B(2).

COUNT THREE

On March 13, 2009, the case of *Dorcich v. Tahoe Keys Property*, No. SC20090034, was assigned to you for all purposes. The case concerned a shared pier and access easement that was for the beneficial use of five lots located in the Tahoe Keys development in South Lake Tahoe. Plaintiffs, who owned one of the lots, alleged that certain other lot owners were excluded from the easement because they had their own private docks.

On June 28, 2011, at a mandatory status conference, you issued an order modifying a preliminary injunction order of October 29, 2010. Upon issuing the order, you appointed attorney Bradley Clark as a special master "to investigate violations of this order, review, approve, and submit to the Court for approval all tentatively approved applications for docks, piers, and floating structures." You appointed Clark at the rate of $350 per hour, with the fees to be approved by the court and paid by defendant Tahoe Keys Property Owners Association.

You appointed Clark without input from counsel and without disclosing to counsel the nature and extent of your relationship with Clark. You failed to disclose that Clark was a personal friend; that you see each other socially, that you

received numerous gifts from Clark; that you conducted Clark's marriage ceremony on May 5, 2010; that your nephew was an attorney whom Clark employed; and that Clark was a consultant on your campaign for judicial office in 2008 and contributed money to your campaign. Clark was not on a court-approved list of special masters.

On August 9, 2011, at a status conference, you relieved Clark of his duties as special master and authorized payment of his fees, in the amount of $1,715, by the defendant.

Your conduct violated the Code of Judicial Ethics canons 1, 2, 2A, 2B(1), 3E(2), and former canon 3C(4).

COUNT FOUR

From 2009 through 2012, you received numerous gifts that did not come within an exception in the Code of Judicial Ethics to the prohibition against judges accepting gifts. This conduct is exemplified by the following:

A. Gifts from Court-Appointed Special Advocates (CASA) El Dorado
   1. September 2009 – $35 gift to a CASAblanca event
   2. December 2009 – $50 gift to a snowball event
   3. January 29, 2011 – $200 gift of tickets to a Lake Tahoe event

B. Gifts from Placerville attorney Bradley Clark
   1. January 18, 2010 – $50 gift of tickets to a MORE event
   2. September 9, 2010 – $150 gift of tickets to a CASAblanca event
   3. January 22, 2011 – $50 gift of tickets to a MORE event
   4. September 25, 2011 – $42 gift of golf at Cold Springs
   5. January 21, 2012 – $50 gift of tickets to a MORE event

C. Gift from Lincoln Law School

   March 19, 2011 – $100 gift of tickets to a Barristers Ball

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 4D(6).

COUNT FIVE

On your Statements of Economic Interests (Form 700), you failed to report, or inaccurately reported, travel related payments, advances, and/or reimbursements you received from Northwestern University School of Law and George Mason University School of Law in connection with your attendance at judicial education programs. This conduct is exemplified by the following:

A. On November 8-13, 2009, you attended the Economics Institute for Judges offered by the Northwestern Law Judicial Education Program in Chicago, Illinois. The program paid for your lodging, group meals, honoraria for instructors, and travel related expenses. You did not disclose any payments, advances, or reimbursements you received in connection with this program on your Form 700 for 2009.

B. On October 30 – November 1, 2011, you attended the EconFest for Judges offered by the George Mason University School of Law Judicial Education Program in Arlington, Virginia. The program paid for your lodging and group meals, and reimbursed you for travel related expenses. You did not disclose any payments, advances, or reimbursements you received in connection with this program on your Form 700 for 2011.

C. On March 6, 2015, you filed your Form 700 for the 2014 calendar year with the Fair Political Practices Commission (FPPC). On Schedule E, you reported receiving gifts/income from George Mason University Law School in connection with two programs you attended, one on March 16-17, 2014, and one on October 5-8, 2014.

By letter dated March 11, 2015, the FPPC notified you that you had failed to report the amount and type of payments you received from George Mason University Law School.

On April 1, 2015, you filed an amendment to your Form 700 for 2014. On Schedule E of the amended form, you stated that for each of the George Mason programs you received $527.93 in income. You falsely reported receiving

$527.93 in income in connection with the George Mason program on October 5-8, 2014. In connection with that program, you received $1,348.51 for lodging and group meals, and were reimbursed $459.20 for travel.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3, and 4A.

COUNT SIX

On March 5, 2015, you were in the office of a member of court staff with that staff member and two other judges. One of the other judges made a comment about your shirt, indicating it was a nice shirt and that you were well-dressed. You responded that your wife had said to you that morning, "I don't know where you got that shirt. It's nice, but I don't think it goes with what you have put it together with." You said that you had stated to your wife, "I got it in Paris or somewhere from a gay guy, so I know it is a nice shirt, as the gays only have nice clothes, and I know it goes together with what I am wearing because he picked out the whole thing and gays really know how to dress."

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3C(1).

COUNT SEVEN

From approximately August 2016 through August 2017, you used your judicial title and/or lent the prestige of judicial office to raise funds for your campaign, potential campaign, or exploratory committee to run as a candidate for California Attorney General in 2018, personally solicited funds in support of your campaign for nonjudicial office, and accepted campaign contributions for the nonjudicial office, without taking a leave of absence from judicial office without pay.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 4A, 5, and 5A(3).

COUNT EIGHT

You did not file with the California Secretary of State a Candidate Intention Statement (Form 501) to run for California Attorney General until April 27, 2017. By then, your campaign or prospective campaign for Attorney General had received at least $17,749 in contributions, including contributions of $100 or more from 20 individuals, a law firm, and four other companies. By raising campaign funds before filing a Candidate Intention Statement, you violated your duties to comply with the law and with all applicable election, election campaign, and election campaign fundraising laws and regulations, including Government Code section 85200.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 4A, and 5.

COUNT NINE

Between approximately August 2016 and August 2017, inclusive, without taking a leave of absence from judicial office without pay, you engaged in political and campaign activity that is inconsistent with the independence, integrity, and impartiality of the judiciary or that may create the appearance of political bias or impropriety; made speeches for a candidate for nonjudicial office; used your judicial title or lent the prestige of judicial office to promote your candidacy or potential candidacy for California Attorney General in 2018; and conducted extrajudicial activities that demeaned the judicial office or cast reasonable doubt on your capacity to act impartially, including but not limited to the following:

A. In approximately August 2016, you formed a committee with the name "Judge Steven Bailey – Attorney General 2018" to receive funds to promote your candidacy or prospective candidacy for nonjudicial office.

B. Beginning in approximately August 2016, you met with Republican party leaders in California to seek support for your candidacy for Attorney General and sent a series of emails in which you used your judicial title to promote your candidacy. Each email was sent from an address using your judicial title

(judgestevenc.bailey@gmail.com or judgestevenbailey.ag2018@gmail.com) and had "Judge Steven Bailey" and your website name (judgestevencbailey.org) in the signature block.

C. On or about August 11, 2016, you met with Gina Gleason, the director of Faith and Public Policy for Calvary Chapel Chino Hills. You asked Ms. Gleason to arrange for you to meet with Calvary Chapel's pastor, Jack Hibbs, for the purpose of seeking his endorsement, and to introduce you to other people who might support your campaign.

D. On or about August 11, 2016, you also met with Fred Whitaker in Newport Beach. Mr. Whitaker was a member of the Orange City Council and Chairman of the Republican Party of Orange County. During the meeting, you asked Mr. Whitaker whether you could receive the endorsement of the Orange County Republican Party. Mr. Whitaker agreed to allow you to speak to the Orange County Republican Party Central Committee and to members of the "400 Club," which included medium-size donors to the Republican Party of Orange County.

E. In approximately August 2016, you asked Martha Romero to assist you in your campaign or prospective campaign for Attorney General. Ms. Romero agreed to be your Southern California Campaign Coordinator. Beginning on or about September 5, 2016, Ms. Romero sent emails to you and others in which the signature block referred to her as the "Southern California Campaign Coordinator [¶] Judge Steven Bailey Candidate for California Attorney General November 2018[.]" You never told Ms. Romero that you were not a candidate for Attorney General, or that she should remove your judicial title or the word "Candidate" from future emails she sent to anyone.

F. On September 10, 2016, you attended the annual Patriot's Award Breakfast & Charity Banquet that took place in Whittier. You or someone on your behalf purchased an ad in the Patriot's Award booklet that was distributed at the event. The ad stated:

Congratulations to the
2016 Patriot Award
Honorees

Judge Steven Bailey
California Attorney General
Candidate November 2018

*Leader *Conservative *Honest *Dedicated
*Excellent Character *Tough on Crime *Enforcer of
the Law

www.judgestevencbailey.org

A judge's gavel appeared in the background of the ad.

G. Martha Romero introduced you to some of the attendees at the Patriot's Award banquet (including Dr. Ralph Pacheco) as a sitting judge who was running for Attorney General. As host of the banquet, Dr. Pacheco made an announcement introducing you as a superior court judge from El Dorado County who was running for Attorney General. You introduced yourself to banquet attendees as "Judge Steven Bailey" and did nothing to correct anyone's statements that you were running for Attorney General.

H. On September 12, 2016, you sent emails to two persons whom you met at the Patriot's Award banquet. In both emails, you referred to your "campaign for California Attorney General."

I. On September 13, 2016, you sent an email to Frank de Lima, Senior Vice President of Political Affairs for the California Building Industry Association (CBIA). You wrote:

> I would love to meet with your organization in Sacramento.
>
> While it might appear that the Office of the Attorney General has minimal impacts on the building industry, the Attorney General is the chief law officer for the people of this state. As such, the Attorney General is responsible for enforcing or not enforcing state air and water quality standards, CEQA and climate change.

> Having someone who has common sense is critical. The business community can no longer afford the selective enforcement of the law. The business community depends on understanding what the law is and how it will be enforced.
>
> I would like to discuss with you, how my views will assist people in providing real jobs for our citizens and with certainty on how the law will be applied.
>
> I will be bringing my experience as a Judge to this office. As a Judge, I am committed to the fair application of the law using common sense.
>
> Please let me know when you might have time to meet.

J. On September 24, 2016, you sent an email to Doug Boyd, Treasurer of the Los Angeles County Lincoln Clubs, accepting an invitation to speak at the Southeast Los Angeles County Lincoln Club's October 7 breakfast meeting at Geezers restaurant in Santa Fe Springs. In the email, you wrote: "As a candidate for Attorney General in 2018, I would plan on discussing criminal justice issues and my views on our prospects in 2018."

K. On or about October 7, 2016, you spoke at the Southeast Los Angeles County Lincoln Club's breakfast meeting at Geezers. Club Chairman Barbara Stone introduced you at the meeting as "Judge Steven Bailey" from El Dorado County. During your remarks, you said that you were a judge, discussed your background in legal matters, and stated that you were trying to get name recognition and that a conservative voice in statewide office was needed. At this and other meetings, you distributed, and authorized others to distribute, a brochure that displayed you in your judicial robe, contained pictures of two judge's gavels and a scale, identified you as "Judge Steven Bailey" and your website as www.judgestevencbailey.org, set forth your employment history (including your service as a judge), and listed three judges' associations you had joined. Included in the brochure was a photograph of you, Representative Tom McClintock, and 11

other people who were identified as the "Collaborative Court team of the El Dorado County Superior Court."

L. At the end of the October 7, 2016, meeting at Geezers, Brenda Jahn, the program chair for Whittier Republican Women Federated (WRWF), spoke to you about speaking to WRWF. You said that you were interested in speaking and gave Ms. Jahn a business card that identified Martha Romero as your Southern California Campaign Coordinator and that stated, "**Judge Steven Bailey, Candidate** [¶] FOR CALIFORNIA ATTORNEY GENERAL [¶] Judge, South Lake Tahoe." (Bold in original.)

M. On or about November 3, 2016, you attended the Mexican American Bar Association Judges' Night & Awards Dinner in Los Angeles in order to promote your candidacy or prospective candidacy for Attorney General. You met various people there, including Robert Duran, a partner at Manatt, Phelps & Phillips, LLP. On November 11, 2016, you sent Mr. Duran an email in which you sought an opportunity to meet with Mr. Duran's partners in order to promote your candidacy or prospective candidacy for Attorney General. Among other things, you wrote: "I will have Martha Romero follow up to see when it might be possible to meet with your firm[']s partners regarding the Attorney General. While many lawyers are [D]emocrats, for all practical purposes our statewide offices are now 'non-partisan' with the top two vote getters being in the run-off. I would hope that your partners might want to talk to a Judge who values the individual and who's [*sic*] philosophy is more centrist and independent."

N. On December 9, 2016, you sent an email to Fred Whitaker reminding him of his offer to allow you to speak to the Orange County Republican Party Central Committee and to "the Medium size donors." You wrote: "With the campaigns now ramping up I would like to find a date that would be convenient to speak to the group."

O. On December 15, 2016, you sent an email to Julian Babbitt, Executive Director of the Republican Party of Orange County, stating that you looked

forward to attending an upcoming meeting with donors and Orange County Republican Party Central Committee members and asking what date was available.

P. Beginning in late 2016 or early 2017, you distributed or caused to be distributed a campaign card that summarized your legal background, including your work as a judge since 2009, and stated, "*Steven Bailey's judicial experience and his legal and legislative skills make him uniquely qualified to be California's Attorney General in 2018.*" (Italics in original.) It also stated:

> *"California needs an Attorney General, who knows the law and its true impact on California families. Please join me, Steven Bailey, a sitting judge who has a proven record of enforcing our laws according to our Constitution not the 'political whim of the day.' I am committed to protecting our families of California."*

(Italics in original.) The top of the card said, "FOR ATTORNEY GENERAL 2018 [¶] STEVEN [¶] BAILEY." The bottom of the card had a tear-off portion in which recipients could check three boxes stating that they wanted to join the mailing list, help on the campaign, and/or financially contribute.

Q. On or about January 5, 2017, you attended a reception that was held for you at a private residence in Whittier and gave a speech to promote your candidacy or potential candidacy for Attorney General. When you spoke to the group, you introduced yourself as "Judge Steven Bailey."

R. On or about January 6, 2017, you spoke at a lunch meeting of the Whittier Republican Women Federated. During your speech, you referred, among other things, to defendants you were seeing in your courtroom who were charged with various offenses, such as drug crimes or violent crimes. You spoke about your judicial career, described yourself as a conservative, and said that Republicans needed a voice because Democrats had a supermajority in the Legislature. You brought with you the same brochure that you had brought to the October 7, 2016, Lincoln Club meeting at Geezers. You also brought contribution

envelopes that indicated that you are a judge and that invited persons to "support Judge Steven Bailey's campaign for Attorney General[]" and to "make checks payable to: Judge Steven Bailey – Attorney General."

S. On or about January 30, 2017, on behalf of your campaign, you sent or caused to be sent to supporters and/or potential supporters an email that requested monetary contributions to "Judge Steven Bailey – Attorney General 2018." Among other things, the email cited your judicial experience and stated that your "statewide campaign team is working hard to make Steven Bailey the next Attorney General." The email was sent using the email address of judgestevenbailey.ag2018@gmail.com.

T. On or about March 23, 2017, you spoke in support of your candidacy or prospective candidacy for Attorney General at a meeting of the Long Beach Lincoln Club that was held at the Long Beach Yacht Club. Prior to the meeting, Paul Carter, chairman of the Long Beach Lincoln Club, emailed to club members an announcement that set forth your background and stated that you were "planning a candidacy for Attorney General of California in 2018[]" and were introducing yourself and your "candidacy to key groups of GOP opinion leaders in southern California." Before you spoke, Mr. Carter introduced you as a judge and stated that you had been elected to the bench, were in charge of the juvenile court, and handled all types of cases.

U. On or about March 24, 2017, you spoke in support of your candidacy or prospective candidacy for Attorney General at a meeting of the Santa Clarita Lincoln Club. You also met in Santa Ana with Phyllis Schneider whom you retained (at a rate of $3,000 per month) to raise money for your campaign for Attorney General. As of June 30, 2017, your Attorney General campaign had paid Schneider & Associates $9,000 for their services.

V. On or about April 21, 2017, you spoke at a meeting of the South Bay Lincoln Club in Torrance. You were aware that two items related to your campaign were at the place settings prior to your presentation: a remit envelope

for donations, and a pamphlet that contained background information and mentioned that you were a judge. During your presentation, you stated or conveyed the impression that you were running for Attorney General.

W. On or about June 24, 2017, you attended and spoke at an event for your campaign that took place at Roman Cucina restaurant in Fullerton. On or about June 19, 2017, you sent or caused to be sent to invitees an email that announced the event, mentioned your judicial title several times, and contained a link to donate to your campaign.

X. On or about August 2, 2017, you attended and spoke at an event for your campaign that took place at the Santa Ana Country Club in Santa Ana. Prior to the event, you sent or caused to be sent an invitation that announced the event and that asked invitees to join the host

To meet and discuss issues with
Judge Steven Bailey
Candidate, State Attorney
General 2018

Y. On or about August 13, 2017, on behalf of your campaign, you sent or caused to be sent to supporters and/or potential supporters an email invitation to the "KickOff Campaign Party for STEVEN BAILEY for Attorney General 2018" on September 9, 2017. The invitation requested an "RSVP" and gave the recipient the option of clicking on the statement, "I can't make it but want to support Steve in this effort." The invitation included references to your judicial title.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 4A, 5, and 5A.

COUNT TEN

In approximately November and December 2016, without taking a leave of absence from judicial office without pay, you engaged in political and campaign activity that is inconsistent with the independence, integrity, and impartiality of the judiciary or that may create the appearance of political bias or impropriety, and used your judicial title or lent the prestige of judicial office to promote your

candidacy or potential candidacy for California Attorney General in 2018, by authorizing or permitting your Southern California Campaign Coordinator, Martha Romero, to create a "Judge Steven Bailey" Facebook page and post the following on the page:

- The "Home" page indicated that you are a "Political Candidate."
- The "Home" and "About" pages included the statement that you are "running for California state Attorney General in 2018[]" and needed support.
- On November 7, 2016, Ms. Romero posted, "Judge Steven Bailey, Candidate for Attorney General 2018 has started his campaign. Currently a Judge in El Dorado County."
- On November 9, 2016, Ms. Romero shared a post from her own Facebook page, dated November 5, 2016, which included a photo in which you appeared. Above the photo was the statement, "This is my friend Judge Steven Bailey and his wife Kathleen. He will make an awesome Attorney General 2018." Below the photo was the following statement by Ms. Romero, "Life of a Lawyer. Let's believe in people again. Judge Steven Bailey is running for Attorney General. November 2018. I have know [*sic*] him abs [*sic*] his family for 15 years. Let's get the word out. We need to make Bailey for Attorney General a slogan. Please repost. Let me know if you can put an event together !!!!!"
- On November 9, 2016, Ms. Romero shared a post from her own Facebook page, dated November 3, 2016, which stated, "Mexican American Bar Association Judges night. !!! With Judge Steven Bailey Candidate for Attorney General November 2018!!"
- On November 9, 2016, Ms. Romero shared a post from her own Facebook page, dated October 29, 2016, which included two photos in which you appeared. Below the photos was the following statement by

Ms. Romero, "Judge Steven Bailey. Candidate for Attorney General 2018. He will be the next Attorney General !!! Please repost. We need to win this !!"

- On November 9, 2016, Ms. Romero shared a post from Cathy Guerrero, dated September 10, 2016, which included a photo in which you appeared. Below the photo was the following statement by Ms. Guerrero: "Had the privilege of meeting Judge Steven Bailey this morning. He is running for Attorney General. You can check out his webpage at www.judgestephenbaily.org [*sic*] - please remember with our elections coming up we must be proactive in our vote to put the proper people in office."
- On November 9, 2016, Ms. Romero shared a photo from Bill Cardoza, dated July 11, 2015, in which you appeared with Mr. Cardoza and others. Above the photo was the statement, "Celebrating a great fundraiser[.]" Below the photo was the statement: "Situated at one of El Dorado County's premier seasonal destinations, Apple Hill, El Dorado County CRA's fundraiser -- pictured here -- from left, El Dorado County Superior Court Judge Steven Bailey, Assemblywoman Beth Gaines, myself, EDCRA president and CRA Senate District Director Joan Matteson, and Senator Ted Gaines! Bailey is the brother-in-law of El Dorado County Supervisor Ron Briggs and son-in-law of former California State Senator John Briggs." The fundraiser was for the California Republican Assembly (CRA), which is a volunteer organization chartered by the California Republican Party.
- On November 9, 2016, Ms. Romero shared a post from Sacramento State College Republicans, dated March 16, 2016, which included a photo in which you appeared. The post stated, "We had an amazing turnout tonight for our Spring Break Kickoff - thanks again to Judge

Steven Bailey, Assembly Candidate Cristi Nelson, and Marie Brichetto for joining us!"

- On December 5, 2016, Ms. Romero posted, "Thank you all for checking out this page. Please continue to share the page and if you [*sic*] are willing to support this candidate. We believe he has character and intergriy [*sic*] and will be a [*sic*] excellent Attorney General candidate. Let us know your thoughts!"

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 4A, 5, and 5A.

COUNT ELEVEN

Martha Romero is an attorney and a principal with the Romero Law Firm in Whittier and maintained the Romero Law Firm's Facebook page. You authorized or permitted Ms. Romero, who was your Southern California Campaign Coordinator, to use your judicial title or the prestige of your judicial office on the Romero Law Firm's Facebook page to promote your candidacy or potential candidacy for California Attorney General in 2018. On November 9, 2016, Ms. Romero shared on the Romero Law Firm's Facebook page a post from herself dated October 29, 2016, which included two photos in which you appear. Above the photos is the statement: "My friend Judge Steven Bailey is running for California Attorney General 2018 [*sic*] He is not a politician. Please help us!" Below the photos is the following statement by Ms. Romero, "Judge Steven Bailey. Candidate for Attorney General 2018. He will be the next Attorney General !!! Please repost. We need to win this !!" Even though you became aware of the above post by December 2016, you permitted Ms. Romero to continue to post your photo and judicial title to solicit support for your candidacy for nonjudicial office.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 2B(2), 4A, and 5.

YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to the California Rules of Court, rule 8.204(b). The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

Dated: February 5, 2018

Honorable Ignazio J. Ruvolo
Chairperson

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FEB 20 2018
COMMISSION ON
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING FORMER JUDGE STEVEN C. BAILEY, No. 202	ACKNOWLEDGMENT OF SERVICE OF NOTICE OF FORMAL PROCEEDINGS

I, James A. Murphy, on behalf of my client, former Judge Steven C. Bailey, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 202 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that former Judge Bailey has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: 2/15/18

James A. Murphy
Attorney for former Judge Steven C. Bailey
Respondent