

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

Grady Bowyer
Former Executive Director
West Virginia Medical Imaging
& Radiation Therapy Technology Board of Examiners

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Grady Bowyer freely and voluntarily enter into the following Conciliation Agreement pursuant to West Virginia Code § 6B-2-4(s) to resolve all potential charges that could arise under the Ethics Act..

FINDINGS OF FACT

1. Grady Bowyer is the former Executive Director of the West Virginia Medical Imaging Board and Radiation Technology Board of Examiners (hereinafter the "Board"). He is now retired.
2. In the spring of 2012, the Board decided to hold a retirement dinner for Mr. Bowyer. The Board decided to hold the dinner at the Wonder Bar Steak House in Bridgeport. At its **March 22, 2012** meeting, the Board announced that the next meeting would be held at the Wonder Bar Steak House in Bridgeport on April 11, 2012 at 5:00 p.m.
3. On or about **March 27, 2012**, Mr. Bowyer called C. Joan Parker, General Counsel, West Virginia Ethics Commission. He asked her whether the Board could meet at a restaurant and then follow-up with dinner. He stated that the Auditor's Office said to call the Ethics Commission because the Board wanted to use the P-Card to purchase dinner. General Counsel Parker advised that it was not permissible to purchase the dinner under the circumstances described. Moreover, she related that a public meeting should also be held in a public place, not a restaurant. Mr. Bowyer states that he related this advice to the Chairperson. Nevertheless the Board decided to hold the meeting at the restaurant.
4. On **March 29, 2012** Mr. Bowyer emailed General Counsel Parker and stated "After our discussion the other day, I contacted our Chairperson and it was decided each Board Member would have to pay for their own dinner at the next Board meeting, since it will be a sit-down dinner. Sure don't want to get in trouble when I only have 32 days left!!!"

5. On **April 11, 2012**, despite Ethics Commission staff advice to the contrary, the meeting was held at the Wonder Bar. During the meeting, dinner was ordered. By the time dinner arrived, the meeting was over. After dinner, the bill arrived and various board members, and at least one employee of the board, contributed money to pay for the dinner. The bill was in excess of \$500.00. Board Member Fred Gabriele M.D. contributed several hundred dollars. Mr. Bowyer states that he believes Chairperson Alice Belmont contributed several hundred dollars or more as well. Mr. Bowyer states that on the night of the dinner, he offered to pay. In particular, he states that as the evening was wrapping up, he took out his wallet and asked how much he owed. Chairperson Belmont told him it was covered and not to worry about it. Mr. Bowyer states that he mentioned in passing that he would try to get the cost covered by the State.
6. Following the dinner, Mr. Bowyer devised a plan to reimburse Chairperson Belmont and Board Member Gabriele for the money they personally spent on his retirement dinner. Specifically, on Thursday, **April 12, 2012**, Mr. Bowyer sent an email to the State payroll administrator asking her to pay Chairperson Belmont \$675.00. In the email Mr. Bowyer stated that this payment represented per diem compensation for the Chairperson's attendance at a three day seminar for radiology students, and her attendance at the previous evening's Board meeting. Mr. Bowyer also stated in the email that Board Member Gabriele needed \$300.00 as per diem payment for attending two days of the seminar, and the board meeting. Mr. Bowyer states that the Chairperson and Board Member Gabriele were unaware of his efforts to try to get the cost of the dinner "covered", and the Ethics Commission is unaware of any evidence that suggests otherwise.
7. After Mr. Bowyer submitted these payment requests, someone questioned the legitimacy thereof, and asked Bowyer whether the requests were in fact being submitted to cover the cost of the retirement dinner. Thereafter, on Friday, **April 20, 2012** Mr. Bowyer sent an email to the payroll administrator stating that he needed to retract his requests for payments to the Chairperson and Board Member Gabriele for the seminar. He states in his email, "I thought they were representing the Board but they weren't—they were representing their professions. Therefore, their per diem should be \$75.00 each for the Board meeting. Is this possible?" Mr. Bowyer contends that he retracted the payment request due to his conscience; not because anyone raised questions. The Ethics Commission staff contends otherwise; however, no finding of fact is made in this regard. Instead, the parties agree to disagree.
8. The Chairperson and Board Member Gabriele were interviewed by the West Virginia Ethics Commission Investigator. The Chairperson stated that submitting the request had been a misunderstanding and when she attended a seminar, she was not representing the Board but her profession. When

asked by the West Virginia Ethics Commission Investigator what conference she attended, she gave no response and never indicated what conference purportedly gave rise to this confusion. Board Member Gabriele stated that he had not attended any seminar and was unaware that a request for compensation had been made on his behalf.

9. Payroll did not pay the Chairperson or Board Member any amount other than their legitimate per diem. Upon information and belief, no public funds were used – either as reimbursement or direct payments for any costs associated with Mr. Bowyer's retirement.
10. Following his retirement, Mr. Bowyer contracted with the Board to assist it during the transition period. In accordance with this Conciliation Agreement, he has already ceased contracting with the Board effective October 15, 2012.

RELEVANT LEGAL PROVISIONS

W. Va. Code § 6B-2-5(b) provides that a public official may not knowingly and intentionally use her office or the prestige of his or her office for his or her own private gain or that of another person.

CONCILIATION OF VIOLATION

I, Grady Bowyer, freely and voluntarily acknowledge that I violated the Ethics Act. I am aware that the Ethics Act prohibits the use of public office for my own private gain or the private gain of others and I have, in fact, attended ethics training on numerous occasions.

While I related to General Counsel Parker "[I] sure don't want to get in trouble when I only have 32 days left" upon reflection I realize that I messed up and believe I should be held accountable for my actions.

In Order to resolve this matter, I enter this agreement. By signing this agreement, I agree to the imposition of sanctions by the West Virginia Ethics Commission. I further hereby state and aver that I am not contracting with any public entity, I am not employed by any public entity and I do not serve by appointment on any public board or commission.

For this Conciliation Agreement to be finalized, the Commission must approve the Agreement and must further make determination concerning which sanctions to impose. In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

(1) Public reprimand;

(2) To forego public employment or entering into any public contract for a period of twenty-four months following the entrance of this Order. During this time period I also agree not to become a candidate for office or to accept appointment to any public position;

(3) Fine not to exceed \$2,500.00. I understand that in agreeing to the imposition of this fine, instead of the maximum fine of \$5,000.00, the Ethics Commission has taken into consideration the fact that I have ceased contracting with the Board and have agreed to the twenty-four month waiting period before being employed by, or contracting with, any public agency;

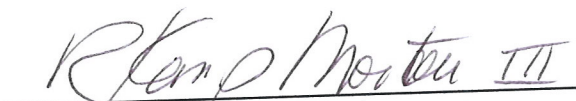
(4) Cease and desist.

By signing this Agreement, I hereby acknowledge and agree that the Commission will impose only the sanctions listed above. In the event the Commission enters an Order imposing any sanction exceeding or in addition to those specifically set forth herein, then this Conciliation Agreement is null and void and the Ethics Commission may initiate a complaint against me pursuant to W.Va. Code § 6B-2-3a.

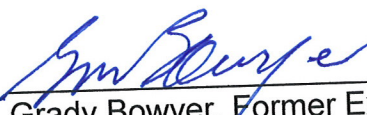
If the Ethics Commission approves the agreement, it will enter an Order in which it approves the agreement and sets forth the sanctions listed above.

Both parties understand that, pursuant to W.Va. Code § 6B-2-4(s), the Conciliation Agreement and Commission Order must be made available to the public. I acknowledge that in executing this Agreement, I have carefully considered the terms and I am aware that I have the right to consult with Legal Counsel of my choice; however, I understand that the Ethics Commission cannot provide me with an attorney. I understand that I have no duty to sign this agreement; however, I am signing this agreement as I believe it is in my best interest.

Date: 03/06/13


R. Kemp Morton, III, Chairperson
West Virginia Ethics Commission

Date: 3/4/13


Grady Bowyer, Former Executive Director
West Virginia Medical Imaging Board and Radiation
Technology Board of Examiners

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

GRADY BOWYER

Former Executive Director
West Virginia Medical Imaging
& Radiation Therapy Technology Board of Examiners

COMMISSION'S ORDER

After considering the foregoing FINDINGS OF FACT, RELEVANT LEGAL PROVISIONS and CONCILIATION OF VIOLATION, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and the Respondent, as required by West Virginia Code § 6B-2-4(s). In accordance with West Virginia Code § 6B-2-4(s) and the terms of the Conciliation Agreement, the Commission imposes the following sanctions:

- (1) The West Virginia Ethics Commission hereby **Orders** that Grady Bowyer should be, and is hereby **publicly reprimanded**;
- (2) The West Virginia Ethics Commission hereby **Orders** Grady Bowyer to forego public employment and to forego entering into any public contract for a period of twenty-four months following the entrance of this Order. During this time period, it is further ordered that Grady Bowyer shall not become a candidate for public office or accept appointment to any public position;
- (3) The West Virginia Ethics Commission hereby **Orders** Grady Bowyer to pay a **\$2,500.00 fine**, payable to the West Virginia Ethics Commission, for violating the West Virginia Ethics Act. The fine is to be paid within thirty (30) days of the entrance of the Order; and
- (4) Cease and desist.

Date: March 7, 2013


R. Kemp Morton, Chairperson
West Virginia Ethics Commission