

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:
RICHARD D. RASPA

COMPLAINT NO. CIC 2009-02

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Richard D. Raspa (collectively referred to herein as the "Parties") freely and voluntarily enter into the following Conciliation Agreement pursuant to West Virginia Code § 6B-2-4(s) to resolve all potential charges arising from the above referenced Complaint.

FINDINGS OF FACT

The following facts are hereby stipulated and agreed upon by the West Virginia Ethics Commission and Richard D. Raspa, and are to be taken as true and correct:

1. Respondent Richard D. Raspa ("Respondent") was and is employed full-time by the Monongalia County Assessor's office as a Deputy Assessor at all times relevant herein.
2. In his position as a Deputy Assessor, Respondent was and is primarily responsible for matters relating to Homestead exemptions, as well as representing the Assessor's office before the Monongalia County Board of Equalization and Review.
3. In addition to his full-time public employment, Respondent has owned and operated a business known as "Raspa & Associates, LLC" since at least November 2000.
4. Until recently, Raspa & Associates, LLC was a multi-service business which provided local security protection, service of process (e.g. subpoenas), private investigations, and general security and traffic contract work. In November 2009,

Respondent sold a portion of the business and now only performs service of process and private investigation work.

5. In the past and during the relevant periods of time referenced in the Complaint, Respondent utilized public equipment and public resources in furtherance of his private business. Specifically, Respondent used his Assessor's office computer to draft letters, balance his business accounts, and write reports for Raspa & Associates, LLC. Respondent also used the Assessor's office printer, copier, and fax machine for his private business.
6. Although Respondent maintains it was only occasional use, that he supplied his own paper and stationary, and that he used public equipment for his private business only during non-business hours; Respondent acknowledges and agrees that it was more than a *de minimis* use of the Assessor's office resources and equipment.
7. Further, Respondent occasionally conducted his business at the Assessor's office. Specifically, employees of Raspa & Associates, LLC would come to the Assessor's office to briefly meet with Respondent and/or to collect a pay check from Respondent.
8. In addition to the use of equipment, Respondent conducted his private business activities during public work hours without taking leave. In particular, Respondent routinely went to the Magistrate's office to collect documents for service and/or file documents in the office of the Clerk of the Circuit Court located in the County Courthouse. He also occasionally performed private business activities during his scheduled public work hours including service of subpoenas, assisting in traffic duties and/or private security detail.

9. Respondent maintains that prior to his use of public office equipment he had asked for and received permission from his superiors at the Assessor's office to use the equipment. Respondent maintains that any and all private business activities occurred after work hours or during one of several breaks he was provided during the day. Respondent further strongly asserts that any work that he performed for his private business during normal working hours did not detract from his ability to completely fulfill his responsibilities as a Deputy Assessor.
10. Respondent further maintains that his public duties required him to be out of the office, and that he did not conduct any private business activities while out of the office performing his public work duties.
11. Notwithstanding, Respondent acknowledges and agrees that he did not take leave when he performed business activities during breaks or when employees came to the Assessor's office to speak with him.
12. On March 6, 2009, the Ethics Commission voted to initiate a Complaint against Respondent relating to the Respondent's use of public resources and equipment, as well as for conducting private business during public work hours.
13. In accordance with statutory and procedural rules, the Complaint was forwarded to the Ethics Commission's Probable Cause Review Board, and on April 9, 2009, the Probable Cause Review Board issued a Notice of Investigation to Respondent.
14. Throughout the Investigation, Respondent has been cooperative and forthcoming about his business activities, and has expressed a willingness to correct and avoid any misperceptions which his private business activities have created in the public's eye.

15. In furtherance of his commitment to comply with the Ethics Act, Respondent sold the largest portion of his business. His private business now only consists of service of process and private investigations work, which will only be conducted during non-public work-hours and without any public resources.

RELEVANT LEGAL PROVISIONS

West Virginia Code § 6B-2-5(b) provides, in relevant part, that a public official or public employee may not knowingly and intentionally use his office or the prestige of his office for his own private gain or that of another person.

West Virginia Legislative Rule § 158-6-5 generally prohibits the use of government property for personal projects or activities that result in private gain.

CONCILIATION OF VIOLATION

I, **RICHARD D. RASPA**, Deputy Assessor of the Monongalia County Assessor's office, freely and voluntarily enter into this Conciliation Agreement. I admit and acknowledge that I violated the West Virginia Ethics Act (W.Va. Code § 6B-1-1 *et seq.*) by using, in more than a *de minimis* amount, public equipment and public resources in furtherance of my private business. I further admit and acknowledge that I violated the Ethics Act by failing to take leave when I conducted private business activities during public work hours.

In order to resolve this matter, I hereby enter this agreement. I believe it is in my best interest and the interest of the public to resolve this matter without further proceedings. By

signing this agreement, I also agree to the imposition of sanctions by the West Virginia Ethics Commission.

I acknowledge and hereby agree that no promise or agreement other than that herein expressed has been made to me. I further acknowledge that in executing this Agreement, I have carefully considered the terms and sanctions; have been afforded the opportunity to consult with counsel; am entering this Agreement of my own free will and accord; and am not suffering from any condition which prevents the exercise of my judgment with respect to the terms of the Agreement.

I additionally acknowledge that I do not have to enter into this Conciliation Agreement. I understand that in lieu of this Agreement, I may challenge, refute and provide a defense on my own behalf to the allegations raised in the Complaint. I understand that if I do not enter into this Agreement, this matter will be referred back to the Probable Cause Review Board and I will have the opportunity to respond to the Complaint in writing and/or in person. I also understand that if, after investigation, the Review Board finds probable cause to believe that I violated the Ethics Act, I will be entitled to a public hearing, and I will be permitted to call witnesses on my own behalf, and to cross examine the witnesses and evidence presented against me.

I also fully understand that if I do not enter into this Agreement, the Ethics Commission must prove beyond a reasonable doubt that I have violated the West Virginia Ethics Act before imposing any sanctions against me. Notwithstanding these foregoing rights, it is still my desire to proceed with this Agreement and resolve this matter without further adjudication of the merits of the alleged violations.

I understand that for this Conciliation Agreement to be finalized, the Ethics Commission must approve the Agreement and must further make determination concerning the sanctions to impose.

In consideration for the settlement and resolution of this matter, I agree to the imposition of the following sanctions by the Ethics Commission:

- a. Public Reprimand;
- b. Cease and Desist from use of public equipment and office computers for private use;
- c. Cease and Desist from conducting private business during public work hours without taking leave;
- d. Pay the Monongalia County Assessor's Valuation Fund Five Thousand Two Hundred (\$5,200.00) dollars as reimbursement for the monetary equivalent of time spent performing private duties on public time over the last two years;
- e. Pay the West Virginia Ethics Commission Nine Hundred (\$900.00) dollars as reimbursement for the cost of the investigation; and
- f. Pay a Fine of One Thousand Five Hundred (\$1,500.00).

I further agree to repay the reimbursements and fine in the following structured payments, with the understanding that the reimbursements to the Monongalia County Commission and the West Virginia Ethics Commission shall be completed prior to the payment of the fine:

- a. Pay to the Monongalia County Assessor for deposit in the Monongalia County Valuation Fund the aggregate of Five Thousand Two Hundred

Initials



- (\$5,200.00) dollars in sixteen equal monthly payments of Three Hundred Twenty-Five (\$325.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before June 15, 2010;
- b. Pay to the Ethics Commission the aggregate of Nine Hundred (\$900.00) dollars in three equal monthly payments of Three Hundred (\$300.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before October 15, 2011; and
- c. Pay to the Ethics Commission for deposit into the State of West Virginia General Fund the aggregate of One Thousand Five Hundred (\$1,500.00) dollars in five equal monthly payments of Three Hundred (\$300.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before January 15, 2012.

In addition to the Ethics Commission's sanctions, I further agree to:

1. Establish set work hours which shall be posted publically in the Assessor's office;
2. Use the Assessor's office time-card system to take annual leave by clocking in and out anytime I perform an activity relating to my private business or otherwise not related to my public work duties, including, without limitation, going to the Magistrate Court during a break;
3. Maintain a written log of private business activities occurring during my established public work hours; and make the log available upon request to my supervisor and/or the Ethics Commission; and

4. Provide the Ethics Commission with a copy of the receipt for each reimbursement payment made to the Monongalia County Assessor within ten (10) days after making each payment.

I further understand that in consideration of my cooperation with the Ethics Commission, the Ethics Commission will not recommend my termination from employment. I further acknowledge and agree that should I be found guilty of violating the Ethics Acts in the future, the Ethics Commission will recommend termination as one of the penalties.

By signing this Agreement, I hereby acknowledge and agree that the Ethics Commission will impose only the sanctions listed above. In the event the Ethics Commission enters an Order imposing any sanction exceeding or in addition to those specifically set forth herein, then this Conciliation Agreement shall be null and void.

It is further hereby agreed that if the Ethics Commission fails to approve this Conciliation Agreement, this Agreement shall be null and void and this matter will be referred back to the Probable Cause Review Board where the Complaint will continue to be processed in accordance with the West Virginia Code and the Ethics Commission's legislative rules.

If the Ethics Commission approves this Agreement, I understand that it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above. I further understand that pursuant to W. Va. Code § 6B-2-4(s), this Conciliation Agreement and the Ethics Commission's Order must be made available to the public.

WHEREFORE, the foregoing constitutes the full and complete Agreement between the Parties, and each Party has voluntarily and freely affixed their signature below with the intent to be bound thereby.

Date: 06/03/10


R. Kemp Morton, Chairperson
WV Ethics Commission

Date: 5/12/2010


Richard D. Raspa, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

RICHARD D. RASPA

CIC 2009-02

COMMISSION'S ORDER

After considering the 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(r) and the terms of the Conciliation Agreement, the Commission imposes the following sanctions upon Respondent Richard D. Raspa:

1. Public Reprimand;
2. Cease and Desist from use of public equipment and office computers for private use;
3. Cease and Desist from conducting private business during public work hours without taking leave;
4. Pay the Monongalia County Assessor's Valuation Fund Five Thousand Two Hundred (\$5,200.00) dollars as reimbursement for the monetary equivalent of time spent performing private duties on public time over the last two years;
5. Pay the West Virginia Ethics Commission Nine Hundred (\$900.00) dollars as reimbursement for the cost of the investigation; and
6. Pay a Fine of One Thousand Five Hundred (\$1,500.00).

In addition to the foregoing sanctions, and in accordance with the Conciliation Agreement, which is hereby incorporated into this Order, it is further ORDERED that Respondent Richard D. Raspa:

7. Establish set work hours which shall be posted publicly in the Assessor's office;
8. Use the Assessor's office time-card system to take annual leave by clocking in and out anytime he performs an activity relating to his private business or otherwise not related to his public work duties, including, without limitation, going to the Magistrate Court during a break;
9. Maintain a written log of private business activities occurring during his established public work hours; and make the log available upon request to his supervisor and/or the Ethics Commission; and
10. Provide the Ethics Commission with a copy of the receipt for each reimbursement payment made to the Monongalia County Assessor within ten (10) days after making each payment.
11. Pay the reimbursements and fine in the following structured payments:
 - a. Pay to the Monongalia County Assessor for deposit in the Monongalia County Valuation Fund the aggregate of Five Thousand Two Hundred (\$5,200.00) dollars in sixteen equal monthly payments of Three Hundred Twenty-Five (\$325.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before June 15, 2010;

- b. Pay to the Ethics Commission the aggregate of Nine Hundred (\$900.00) dollars in three equal monthly payments of Three Hundred (\$300.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before October 15, 2011; and
- c. Pay to the Ethics Commission the aggregate of One Thousand Five Hundred (\$1,500.00) dollars in five equal monthly payments of Three Hundred (\$300.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before January 15, 2012.

It is so ORDERED.

Date 06/03/10


R. Kemp Morton, Chairperson
W. Va. Ethics Commission