

BEFORE THE STATE OF WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. CIC 2010-01

MARY JANE BOWLING,
Respondent

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CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Mary Jane Bowling 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

- (1) At all times relevant herein, including the time period between March 2008 and April 2009, Mary Jane Bowling was employed as a Program Manager for the State of West Virginia Department of Commerce, WorkForce West Virginia, a state agency.
- (2) In her official capacity as a Program Manager, Respondent was in charge of administering and managing the "State Set-Aside" program, which is a federal grant program focused on workforce training and development, funded through Title I of the WorkForce Investment Act of 1998 by the United States Department of Labor.
- (3) In March 2008, COMAR, Inc. and its subsidiary VEC³, LLC, prepared and submitted a State Set-Aside grant proposal to WorkForce West Virginia.
- (4) Respondent's son, Martin Bowling, served as VEC³'s Chief Technical Officer, and prepared the grant, with the assistance of Respondent's housemate, Christine Gardner.
- (5) Prior to the submission of the grant application, Respondent provided input to COMAR through her son, Martin Bowling, to include relevant data and statistics in the grant proposal.
- (6) The COMAR grant application was submitted to WorkForce West Virginia on or about April 30, 2008.
- (7) During the grant review process, instead of using her own name, Respondent used the name of another WorkForce West Virginia employee without her

- knowledge or consent on the evaluation form for reviewing the COMAR grant proposal.
- (8) Respondent awarded a perfect score to the COMAR grant proposal.
 - (9) Respondent failed to disclose to her superiors her son's role in the preparation of the grant proposal.-
 - (10) Based in part on Respondent's actions, WorkForce West Virginia approved COMAR's grant request, in the amount of \$100,000 for Fiscal Year 2008-2009, which included a \$10,000 line item for consultant contracts.
 - (11) Respondent's superiors assigned her as the Program Coordinator for the COMAR grant.
 - (12) During its first draw down of funds under the grant, COMAR requested \$37,100, of which \$10,000 was a request to pay two consultants \$5,000 each, as referenced in the grant proposal. In support of the draw down, COMAR submitted two Independent Contractor Agreements which indicated that COMAR hired Christine Gardner and Mandi Felty, Martin Bowling's fiancé as the consultants, to perform a "needs assessment study on West Virginia based small businesses and internet marketing." Respondent forwarded the draw-down request for payment by WorkForce West Virginia.
 - (13) On or about July 22, 2008, COMAR drafted a \$5,000 check to Gardner who deposited it into a checking account held jointly with Respondent.
 - (14) In March 2009, WorkForce West Virginia notified COMAR of its intention to conduct an audit of their State Set-Aside Grant.
 - (15) As a result of the audit, WorkForce West Virginia disallowed the two \$5,000 consultant payments made to Gardner and Felty.
 - (16) On April 6, 2009 Respondent gave Felty \$5,000 cash to repay COMAR for the money Felty received as payment. Respondent further instructed Felty not to tell anyone that Respondent gave her the money. Felty used the cash to obtain a \$5,000 cashier's check and paid it to COMAR.
 - (17) Mary Jane Bowling was discharged from employment on May 29, 2009.
 - (18) On February 4, 2010, the Ethics Commission voted to initiate an ethics complaint against Respondent, based on her conduct described above.
 - (19) Mary Jane Bowling has fully cooperated with the West Virginia Ethics Commission subsequent to the filing of the above-captioned complaint.
 - (20) On June 16, 2010, Mary Jane Bowling was sentenced in federal court for engaging in the conduct set forth above. She was ordered, *inter alia*, to pay \$11,663 in restitution and a \$1,000 fine. Judge Copenhaver made a finding that Mary Jane Bowling has insufficient resources to pay the monthly costs of home confinement, and so did not impose the costs, as required by law unless the defendant is financially unable to pay.

ALLEGED VIOLATION

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

CONCILIATION OF VIOLATION

I, Mary Jane Bowling, freely and voluntarily acknowledge that I should not have used my public office for the private gain of Martin Bowling, my son, and Christine Gardener. I further acknowledge that I violated the West Virginia Governmental Ethics Act by using my position for the financial gain of my son, his girlfriend, and my housemate.

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.

For this Conciliation Agreement to be finalized, the Commission must approve the Agreement and must further make a 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; and
- (2) Fine not to exceed \$1,000.

I understand that in consideration of my cooperation with the Ethics Commission in this case, the Commission will not impose the maximum fine of \$20,000.

I further agree to forgo seeking or accepting any public office, elected or appointed, or public employment, with any public entity for ten (10) years following the execution of this Agreement.

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.

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. I further hereby agree that if the Commission fails to approve this Conciliation Agreement that the 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 Commission's legislative rules.

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.

Date: _____


Kemp Morton, Chairperson
W. Va. Ethics Commission

Date: June 23, 2010


Mary Jane Bowling

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

MARY JANE BOWLING

CIC 2010-01

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(r). In accordance with West Virginia Code § 6B-2-4(q), the Commission imposes the following sanctions:

- (1) The West Virginia Ethics Commission hereby **Orders** that the former public official, Mary Jane Bowling, should be and hereby is **publicly reprimanded** for using her public employment for the financial gain of others;
- (2) The West Virginia Ethics Commission hereby declines to consider whether it should recommend Respondent's termination from employment with the State of West Virginia since she has already been terminated from said employment;
- (3) The West Virginia Ethics Commission hereby notes that on June 16, 2010, Mary Jane Bowling was sentenced in federal court to five years probation and six months home confinement, and was ordered, *inter alia*, to pay \$11,663 in restitution and a \$1,000 fine;

- (4) The West Virginia Ethics Commission hereby **Orders** Respondent Mary Jane Bowling to pay a fine of \$1,000, payable to the West Virginia Ethics Commission, for violating the West Virginia Governmental Ethics Act. The fine is to be paid within thirty (30) days of the entry of this Order;
- (5) In lieu of imposing a higher fine, the West Virginia Ethics Commission hereby **Orders** that Respondent Mary Jane Bowling shall neither run for nor accept appointment to any elected State, county or municipal office for ten years following the execution of this Conciliation Agreement. The Commission further **Orders** that she shall not accept employment with any public entity, for ten years following the execution of this Conciliation Agreement; and
- (6) If Mary Jane Bowling defaults on any payment ordered herein, she shall be responsible for all costs of the Ethics Commission's enforcement of this Order, including, without limitation, costs and attorney fees.

1/9/10
Date


Jonathan E. Turak, Acting Chairperson
West Virginia Ethics Commission