

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2017-029

ARTHUR E. KIRKENDOLL,  
Former State Senator

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Arthur E. Kirkendoll voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all potential charges arising from allegations in the above-referenced Complaint.

**Findings of Fact**

1. The Respondent, Arthur E. Kirkendoll, at all relevant times herein, was a member of the West Virginia Legislature as a representative of the Seventh Senatorial District.
2. The Respondent was therefore a "public official" as defined in the West Virginia Governmental Ethics Act ("Ethics Act") at W. Va. Code § 6B-1-3(k).
3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act, W. Va. Code §§ 6B-1-1 through 6B-3-11, committed by public officials, such as Respondent.
4. The Respondent is the sole owner of a consulting business known as K&K Consulting.
5. In 2013, K&K Consulting entered into a contract with the Logan County Commission which provided that it provide consulting services to the Logan County Commission.

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6. K&K Consulting has received approximately \$2,500.00 per month in consulting fees from the Logan County Commission from January 2013 to the present.

7. The contract between K&K Consulting and the Logan County Commission was not memorialized in writing, but rather was an oral contract terminable by either party at any time.

8. Pursuant to W. Va. Code § 6B-2-6(a)(1), the Respondent, at all pertinent times herein, was required as a West Virginia Senator to file Financial Disclosure Statements each year with the West Virginia Ethics Commission.

9. Respondent filed Financial Disclosure Statements in the years 2012, 2013, 2014, 2015 and 2016.

10. In the Financial Disclosure Statements in the years 2014, 2015 and 2016, the Respondent represented that neither he nor his spouse "had a contract for the sale of any goods or services to a state, county, municipal or other local governmental agency either directly or through a partnership, corporation or association in which either [he or his spouse] owned or controlled more than (10%) ten percent during the past calendar year."

11. At the time Respondent filed the Financial Disclosure Statements in the years 2014, 2015 and 2016, Respondent's representation that he did not have a contract for services to a county governmental agency was false due to the existence of the contract between K&K Consulting and the Logan County Commission.

12. Respondent did report income from K&K Consulting on the Financial Disclosure for the relevant years, however, he failed to check the appropriate box

indicating that it was related to a government entity as required.

### Relevant Legal Provisions

W. Va. Code § 6B-2-6 states:

(f) No person shall knowingly file a materially false statement that is required to be filed under this section.

W. Va. Code § 6B-2-10 states:

(f) Any person who knowingly gives false or misleading material information to the commission or who induces or procures another person to give false or misleading material information to the commission is subject to administrative sanction by the commission as provided in subsection (s), section four of this article.

### Conciliation of Violation

I, Arthur E. Kirkendoll, admit that I provided false information to the Ethics Commission in my Financial Disclosure Statements in the years 2014, 2015 and 2016. To resolve this matter, I enter into this Agreement. For this Conciliation Agreement to be finalized, the Commission must approve the Agreement and determine which sanctions to impose. In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. A fine of \$500.00 to be paid to the West Virginia Ethics Commission on or before June 1, 2018, and
2. A public reprimand.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the

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Complaint against me will proceed in accordance with West Virginia Code and the Ethics Commission's Legislative Rules.

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

If the Ethics Commission approves this Agreement, it will not recommend criminal prosecution related to the allegations contained in VCRB 2017-029.

Both parties understand that, pursuant to W. Va. Code § 6B-2-4(t), the Conciliation Agreement and Commission Order must be made available to the public.

4/5/18  
Date

Betty S. Ireland  
Betty S. Ireland, Acting Chairperson  
West Virginia Ethics Commission

3/15/2018  
Date

Arthur E. Kirkendoll  
Arthur E. Kirkendoll, Respondent

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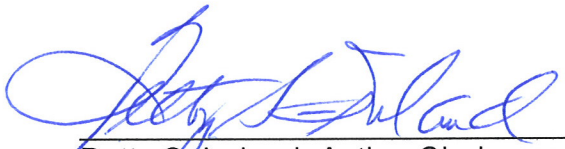
ARTHUR E. KIRKENDOLL,  
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COMMISSION'S ORDER

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

1. A fine of \$500.00 to be paid to the West Virginia Ethics Commission on or before June 1, 2018, and
2. A public reprimand.

4/5/18  
Date

  
Betty S. Ireland, Acting Chairperson  
West Virginia Ethics Commission