

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2018-03

**JEFF D. DAVIS,
County Commissioner,
Hancock County**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Jeff D. Davis freely and 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 Verified Complaint.

Findings of Fact

1. Respondent, Jeff D. Davis, ("Respondent") has been serving as an elected County Commissioner in Hancock County since 2001.
2. As a County Commissioner, the Respondent is a "public official" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(k).
3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act committed by West Virginia public officials, such as the Respondent. W. Va. Code §§ 6B-1-1 through 6B-3-11.
4. The Respondent has owned a car wash, Water World, Inc., ("Water World") since August 8, 1997.
5. Before the Respondent began serving as a County Commissioner and until June 30, 2017, the Hancock County Commission regularly received monthly invoices

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from Water World, and the County Commission approved payments to Water World during its regular meetings.

6. The Ethics Act, at W. Va. Code § 6B-2-5(d), prohibited Water World, as the Respondent's business, from doing business with the county after the Respondent began serving as a County Commissioner in 2001.

7. The Hancock County Commission paid Water World a total of \$29,487.35 from January 10, 2013, through June 30, 2017, for washing county vehicles consisting primarily of cruisers used by the Hancock County Sheriff's Office. County vehicles used by the Assessor's Office were occasionally washed at Water World.

8. The Ethics Act, at W. Va. Code § 6B-2-5(j), prohibits public officials from voting on matters in which they or a business with which they are associated has a financial interest. Proper recusal from voting requires a public official to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue.

9. The Respondent attended the County Commission meetings during which the Commission approved Water World's invoices. The Respondent did not physically remove himself from the meeting room or fully disclose his interests in the payments to Water World. He also voted to approve these payments to Water World by a general vote to approve all invoices for the payment period.

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10. On April 5, 2018, the Ethics Commission, pursuant to W. Va. Code § 6B-2-4(w)(1), ordered that the allegations in the above-reference matter be referred to the county prosecutor for a criminal investigation and possible prosecution.

11. The basis for the criminal investigation and possible prosecution was W. Va. Code § 61-10-15(a), which states, in relevant part: "It is unlawful for ... any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as ... [an] officer ..., he or she may have any voice, influence or control"

12. As a result of the criminal investigation, the Respondent and the Hancock County Prosecuting Attorney's Office, through a Special Prosecutor, entered into the following agreement: "In exchange for the restitution/disgorgement of \$29,487.35 representing the County's payments to Water World from January 10, 2013, through June 30, 2017, the State has agreed to not prosecute Mr. Davis for any alleged crime involving services provided through his car wash to the Sheriff."

13. On August 1, 2018, the Special Prosecutor notified the Ethics Commission that the Respondent had made full payment to the County Commission and that the criminal case was closed.

Relevant Legal Provisions

W. Va. Code § 6B-2-5(d)(1) states, in relevant part:

[N]o elected or appointed public official or public employee or member of his or her immediate family or business with which he or

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she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control: Provided, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body

.....

W. Va. Code § 6B-2-5(j) states, in relevant part:

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

.....

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

.....

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue. The recusal shall also be reflected in the meeting minutes.

Conciliation of Violations

I, Jeff D. Davis, Respondent, agree that I violated W. Va. Code § 6B-2-5(d)(1) and (j)(1) and (3) of the West Virginia Governmental Ethics Act. In order to resolve this matter, I am entering into this Agreement. For this Conciliation Agreement to be

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finalized, I understand that the Ethics Commission must approve it and must 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 in the amount of \$2,000 to be paid on or before ~~May 1, 2019;~~ ^{JDD}
~~March~~
2. A public reprimand, and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, before ~~May 1, 2019.~~ ^{JDD} I shall provide written confirmation of the completion of this training to the Ethics Commission.

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 Complaint against me will proceed to the Probable Cause Review Board, where it will be processed in accordance with the West Virginia Code and the Ethics 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(t), this Conciliation Agreement and Commission Order must be made available to the public.

2/7/19
Date

Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

1-10-19
Date

Jeff D. Davis
Jeff D. Davis, Respondent

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BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

**JEFF D. DAVIS,
County Commissioner,
Hancock County**

COMPLAINT NO. VCRB 2018-03

COMMISSION'S ORDER

After considering the Findings of Fact, Relevant Legal Provisions and Conciliation of Violations in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and Jeff D. Davis 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 in the amount of \$2,000 to be paid on or before March 1, 2019;
2. A public reprimand, and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, before March 1, 2019. Jeff D. Davis shall provide written confirmation of the completion of this training to the Ethics Commission.

2/27/19
Date

Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission