

BEFORE THE WEST VIRGINIA ETHICS COMMISSION


**IN RE:
DAMON TILLMAN,
Mayor,
City of Keyser**

Pre-Complaint Conciliation Agreement

The West Virginia Ethics Commission and Damon Tillman 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 of violations of the West Virginia Governmental Ethics Act ("Ethics Act") set forth below.

FINDINGS OF FACT

1. Damon Tillman ("Tillman") is the Mayor of the City of Keyser, West Virginia ("City" or "Keyser").
2. At all times pertinent herein, Tillman was 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 public officials, such as Tillman. W. Va. Code §§ 6B-1-1 through 6B-3-11.
4. In 2018, Keyser Police Chief Thomas Golden ("Chief Golden") drove Tillman, in a Keyser Police Department vehicle, from Keyser to Washington Dulles International Airport ("Dulles"). Tillman went to Dulles because he had a personal


DT

international flight that was unrelated to his mayoral duties. After Golden dropped Tillman off at the airport, Golden returned to Keyser. Golden then drove back to Washington Dulles in a Keyser Police Department vehicle to pick up Tillman when Tillman returned from his international trip and drove Tillman home.


5. The return trip to Keyser was not during Chief Golden's regular working hours.

6. Dulles is in Loudoun and Fairfax Counties in Virginia, approximately 118 miles from Keyser City Hall. A round trip is approximately 236 miles. In total, Chief Golden traveled 472 miles for two round trips between Keyser and Dulles to transport Tillman in a Keyser Police Department vehicle.

7. The IRS standard mileage rate in 2018 was 54.5 cents per mile. The total mileage cost for travel for the two round trips between Keyser and Dulles in a Keyser Police Department vehicle was \$257.24.

8. Tillman personally owns a 2018 Chevrolet Silverado K1500 LT ("Silverado").

9. On July 8, 2019, Tillman asked a City mechanic to change the oil and oil filter in Tillman's Silverado. At Tillman's direction, the City mechanic drove Tillman's Silverado from City Hall to AutoZone and purchased Castrol synthetic motor oil and a STP oil filter for a total cost of \$76.77. As further directed by Tillman, the City mechanic directed AutoZone to place the purchases on the City of Keyser's credit account with AutoZone which allowed Tillman to benefit from Keyser's tax exemption and an


DT

AutoZone discount. The City mechanic then forwarded the receipts for the AutoZone purchases to Keyser's accounts payable clerk.

10. The July 8, 2019, purchases from AutoZone would have cost \$85.83 without any discount or tax exemption.

11. The City mechanic then returned to the City garage and changed the oil and oil filter on Tillman's Silverado on the same day that he purchased the oil and oil filter.

12. At all times relevant herein, the City mechanic was on the clock and being paid by the City.

13. There is a City policy that allows the mayor to receive mileage reimbursement for traveling on City business. Tillman asserts that he frequently travels in his personal vehicle on City business and does not collect mileage reimbursement from the City.

14. Tillman acknowledges that he should have personally paid for his oil change and that he should have submitted mileage reimbursement to the City for his mayoral trips in his personal vehicle. Tillman asserts that it was his belief, however, that by not asking for or receiving mileage reimbursement from the City for other official travel in his personal vehicle, it was reasonable for the City to bear the cost of changing the oil in his personal vehicle on July 8, 2019.


DT

RELEVANT LEGAL PROVISIONS

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

Use of public office for private gain. -- (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

W. Va. Code R. § 158-6-4.2 states, in relevant part:

Public officials and public employees may not use subordinate employees during work hours to perform private work or provide personal services for their benefit or that of another person.

W. Va. Code R. § 158-6-5.2 states:

Improper Use [of Governmental Property] - Public officials and public employees may not use government property for personal projects or activities that result in private gain.

CONCILIATION OF VIOLATIONS

I, Damon Tillman, agree that I violated the private gain provision in the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(b)(1), when I used the Keyser Police Chief and a Keyser Police Department vehicle to transport me to and from Dulles and the City of Keyser for personal purposes and when I used Keyser's funds, staff, tax exempt status, and discount to have the oil and oil filter changed on my

DT
DT

personal vehicle even though I did not seek mileage reimbursement from the City for other instances when I used my personal vehicle for official travel on behalf of the City.

In order to resolve this matter, I am entering into this Agreement. I understand that for this Conciliation Agreement to be finalized, the Ethics Commission must approve it 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 in the amount of \$250 to be paid within 30 days of the entrance of the Order approving this Conciliation Agreement;
2. Training on the West Virginia Governmental Ethics Act, either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, within 30 days of the entrance of the Order approving this Conciliation Agreement. I shall provide written confirmation of the completion of this training to the Ethics Commission, and
3. Reimbursement to the City of Keyser in the amount of \$407.24, to be paid within 30 days of the entrance of the Order approving this Conciliation Agreement. I shall provide written confirmation of this reimbursement to the City of Keyser to the Ethics Commission. The reimbursement sum represents:
 - i) \$257.24 – two roundtrips to Dulles in a Keyser Police Department vehicle, and
 - ii) \$150 – fair market value for parts and labor for an oil change on my personal vehicle.

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 before the Probable Cause Review Board, where it


DT

will be processed in accordance with the West Virginia Code and the Ethics Commission's Legislative Rules.

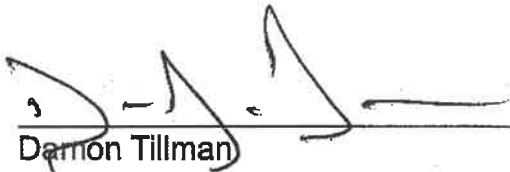
If the Ethics Commission approves the Agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

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.

8/4/22
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

7-29-2022
Date


Damon Tillman

DT
DT

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

**DAMON TILLMAN,
Mayor, City of Keyser**

COMMISSION'S ORDER

After considering the Findings of Fact, Relevant Legal Provisions, and Conciliation of Violations in the Pre-Complaint Conciliation Agreement, the West Virginia Ethics Commission finds that the Pre-Complaint Conciliation Agreement is in the best interests of the State and Damon Tillman, 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. Respondent shall pay a fine in the amount of \$250 to the West Virginia Ethics Commission on or before September 6, 2022;
2. Respondent shall undergo training on the West Virginia Governmental Ethics Act, either in person, virtually, or by viewing the training provided on the Ethics Commission's website at www.ethics.wv.gov before September 6, 2022. Respondent shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing the training, and
3. Respondent shall reimburse to the City of Keyser the amount of \$407.24, to be paid on or before September 6, 2022. Respondent shall provide written confirmation of this reimbursement to the City of Keyser to the Ethics Commission. The reimbursement sum represents:
 - i) \$257.24 – two roundtrips to Dulles in a Keyser Police Department vehicle, and
 - ii) \$150 – fair market value for parts and labor for an oil change on my personal vehicle.

8/8/22
Date

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