

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2022-27

**Christopher Phillips,
Mayor
Town of Reedy**

Conciliation Agreement

The West Virginia Ethics Commission and Christopher Phillips 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") in the above-referenced Complaint.

Findings of Fact

1. Christopher Phillips ("Phillips" or "Respondent") is the Mayor of the Town of Reedy located in Roane County, West Virginia.
2. At all times pertinent herein, Phillips was 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 committed by public employees or officials, such as Phillips. W. Va. Code § 6B-1-1 through § 6B-3-11.
4. In the fall of 2020, Phillips had a Town employee use the Town's backhoe, a John Deere 310, to load timber from private property, situated in Reedy, into Phillips'



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private truck. The private property owner had given the timber to Phillips with the condition that Phillips remove the timber from the owner's property. Phillips used the timber for firewood.

5. The Town employee performed the timber removal work during his regular Town of Reedy work hours and did not use leave time. The employee's rate of pay is \$16 per hour, and the employee spent approximately five hours loading the timber into the Mayor's private truck.

Relevant Legal Provisions

W. Va. Code § 6B-2-5(b)(2) 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 (2017) states:

4.2. During work hours - 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. An example of prohibited conduct would be a public employee supervisor requiring state employees to repair a garage or pave a driveway for the supervisor during work hours. This subsection does not apply to de minimis work or services.


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W. Va. Code R. § 158-6-5.2 (2017) states:

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

Conciliation of Violation

I, Christopher Phillips, acknowledge that using a Town employee and the Town's backhoe for private purposes violated the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(b). I understand now that the Ethics Act prohibits me from using Town employees and Town equipment for personal purposes, but I did not know that when I had the employee use the backhoe to perform the private work. I state that in the future, I will not use Town employees or Town equipment for private projects for me or others. 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 Ethics Commission imposing the following sanctions:

1. An Order directing me to cease and desist from using Town equipment and Town employees for private purposes.
2. A fine in the amount of \$250 to be paid to the Ethics Commission within 30 days of the entrance of the Order approving this Agreement.
3. To pay the Town of Reedy \$380, within 30 days of the entrance of the Order approving this Agreement, as restitution for the use of the Town employee and backhoe, and to have the Town of Reedy provide documentation of the payment to the Ethics Commission.


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This amount represents five hours of the employee's time at \$16 per hour for a total of \$80, and an estimated rate of \$300 for a comparable backhoe rental.

4. An Order directing me to undergo 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 the Conciliation Agreement. I shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing it.

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 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.

FEB 02 2023

Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

1-17-2023

Date


Christopher Phillips

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IN RE:

COMPLAINT NO. VCRB 2022-27

**Christopher Phillips,
Mayor, Town of Reedy**

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 interests of the State and Christopher Phillips, 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 within 30 days of the entrance of this Order;
2. Respondent shall pay the Town of Reedy \$380, within 30 days of the entrance of this Order, as restitution for the use of the Town employee and backhoe, and shall have the Town of Reedy provide documentation of the payment to the Ethics Commission. This amount represents five hours of the employee's time at \$16 per hour for a total of \$80, and an estimated rate of \$300 for a comparable backhoe rental.
3. 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, within 30 days of the entrance of this Order and shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing it.

4. Respondent shall **CEASE AND DESIST** from engaging in similar acts, in accordance with the terms of the Conciliation Agreement, in the future.

FEB 02 2023

Date



Robert J. Wolfe, Chairperson
West Virginia Ethics Commission