

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

**IN RE:
CASEY MATHES,
City of Nitro,
Fire Department Chief**

Pre-Complaint Conciliation Agreement

The West Virginia Ethics Commission and Casey Mathes freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all the potential charges arising from allegations of violations of the West Virginia Governmental Ethics Act based upon the facts set forth below.

Findings of Fact

1. Casey Mathes ("Mathes") is the Chief of the City of Nitro Fire Department ("Nitro FD" or "Nitro Fire Department").
2. At all times pertinent herein, Mathes was either a "public employee" or "public official" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(j) and (k).
3. The Ethics Commission has jurisdiction over alleged violations of the West Virginia Ethics Act committed by employees or officials, such as Mathes. W. Va. Code §§ 6B-1-1 through 6B-3-11.
4. Nitro FD is a subunit of the City of Nitro municipal government.
5. As the Nitro FD Chief, Mathes has direct authority or control over all Nitro FD contracts, including purchases using Nitro FD funds.
6. Mathes owns C4Impress, Custom Designs and Graphics, LLC ("C4"), a business that sells custom apparel such as t-shirts, jackets, sweatpants, and hats.

7. Each year, the City of Nitro allots a \$1,000 stipend to each Nitro FD firefighter to cover uniform expenses. The \$1,000 is used to purchase apparel by one of two methods. The firefighter 1) pays for the apparel and provides the receipt to Mathes for reimbursement, or 2) notifies Mathes of what apparel to purchase and then Mathes issues a purchase order.

8. Each firefighter is required to use the \$1,000 stipend to purchase and replace apparel that meets certain specifications to ensure their uniforms match. Each firefighter was required to purchase a minimum of six shirts by August 8, 2022.

9. On January 11, 2022, Nitro FD stipend monies were used to purchase eight shirts from C4 at a total cost of \$148.00.

10. On June 20, 2022, Nitro FD stipend monies were used to purchase six shirts from C4 at a total cost of \$99.00.

11. On June 21, 2022, Nitro FD stipend funds were used to purchase two shirts from C4 at a total cost of \$33.00.

12. On July 6, 2022, Nitro FD stipend funds were used to purchase four shirts and two hats from C4 at a total cost of \$131.00.

13. On August 8, 2022, Nitro FD stipend funds were used to purchase two shirts and two hats from C4 at a total cost of \$90.00.

14. On August 8, 2022, Nitro FD stipend funds were used to purchase six shirts and three hats from C4 at a total cost of \$164.50.

15. On August 9, 2022, Nitro FD stipend funds were used to purchase eight shirts from C4 at a total cost of \$132.00.

16. On September 13, 2022, Nitro FD stipend funds were used to purchase one knit cap and two hats from C4 at a total cost of \$71.50.

17. On September 13, 2022, Nitro FD stipend funds were used to purchase three shirts from C4 at a total cost of \$49.50.

18. The total amount of Nitro FD stipend funds used to purchase items from C4 in 2022 was \$918.50.

19. Mathes' position as Nitro FD Chief gives him direct authority or control over purchases made by the Nitro FD due to the authority of his position. Mathes also sent the following email to all Nitro FD firefighters on July 21, 2022:

We are coming upon that time again with receiving our uniform allowance money. Attached are the stores in which you need to purchase your duty shirts and other department apparel. If you have anything that is ragged or needs replaced please do so. Everyone will need to purchase a minimum of 6 shirts. You can get all the same shirts or mix them 3 and 3. These will need to be purchased by August 8, 2022. If want [sic] to use a [purchase order] get me a total price and I will issue a [purchase order] for that order, [sic] if you want to purchase on your own, bring me the receipt and I will get you reimbursed from your uniform money. look [sic] at the shirt stores one says credit card and one says [purchase order].

20. The email contained two links to C4's business website, including a link for online purchases from C4.

Relevant Legal Provisions

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

(1) In addition to the provisions of § 61-10-15 of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or 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: *Provided, however*, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a

contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder, or creditor of the business which is awarded a public contract. A limited interest for the purposes of this subsection is:

(A) An interest which does not exceed \$1,000 in the profits or benefits of the public contract or contracts in a calendar year;

....

(3) If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest.

(4) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board, or other governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

Conciliation of Violation

I, Casey Mathes, admit that I violated W. Va. Code § 6B-2-5(d)(1) of the West Virginia Governmental Ethics Act when Nitro Fire Department funds were used to purchase products from my business C4 in the amount of \$918.50 in the calendar year 2022. I violated the public contract restrictions because although the purchases from C4 in 2022 did not exceed the limited financial interest threshold of \$1,000, I did not

remove myself from making or participating in decisions relating to the Nitro Fire Department's purchases from my business and included links to C4 in the email that I sent to Fire Department employees. I assert that I was unaware of the restrictions in the law.

In order to resolve this matter, I am entering into this Pre-Complaint Conciliation Agreement. I understand that for this Agreement to be finalized, the Ethics Commission must approve it and determine which sanctions to impose.

In consideration of the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. To 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 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.
2. A fine in the amount of Two Hundred & Fifty and 00/100 dollars (\$250.00) to be paid to the West Virginia Ethics Commission within 30 days of the entrance of the Order approving the Conciliation Agreement.
3. An Order directing me to cease and desist from allowing City of Nitro stipend monies to purchase items from any business that I own, unless the Nitro Fire Department or the City of Nitro complies with the Ethics Act, including seeking and receiving an Advisory Opinion from the Ethics Commission prior to using stipend monies to make or authorize future purchases from my business.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Pre-Complaint Conciliation Agreement is null and void and that a Complaint may be filed against me by any person or the Ethics Commission.

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 Pre-Complaint Conciliation Agreement and Commission Order must be made available to the public.

December 5, 2024



Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

11/26/2024

Date



Casey Matthews, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

CASEY MATHES,

City of Nitro,

Fire Department Chief

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 interests of the State and Casey Mathes, 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 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 ethics.wv.gov, within 30 days of the entrance of the Order approving the Conciliation Agreement and shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing it.
2. Respondent shall pay a fine in the amount of Two Hundred & Fifty and 00/100 dollars (\$250.00) to the West Virginia Ethics Commission within 30 days of the entrance of the Order approving the Conciliation Agreement.
3. Respondent is Ordered to cease and desist from allowing City of Nitro stipend monies to purchase items from any business that he owns, unless the Nitro Fire Department or the City of Nitro complies with the Ethics Act, including seeking and receiving an Advisory Opinion from the Ethics Commission prior to using stipend monies to make or authorize future purchases from Respondent's business.

Date: December 5, 2024



Robert J. Wolfe, Chairperson
West Virginia Ethics Commission