

## BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

**Thomas Taylor, Mayor  
White Sulphur Springs**

**VCRB #2011-45 and #2011-46**

### CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Thomas Taylor freely and voluntarily enter into the following Conciliation Agreement pursuant to West Virginia Code §6B-2-4(s) to resolve all potential charges arising from the above-referenced complaints.

### FINDINGS OF FACT

1. Respondent Thomas Taylor currently serves as the Mayor of White Sulphur Springs, West Virginia, and also served at all times relevant herein, beginning on July 1, 2011.

2. In **VCRB #2011-45**, the Complainant alleges that on July 24, 2011, and August 19, 2011 and September 13, 2011, Respondent used his official influence to have damaged police vehicles repaired by his father, Dewey Taylor, and/or his father's business. It is alleged that Respondent and his father share a residence and that his father received \$425.00 from the town for the repair work. Respondent denies that he participated in the decision to retain his father for any work.

3. Respondent asserts that the assistant police chief of White Sulphur Springs, Jerry Smith, made the unilateral decisions to retain the Respondent's father to repair damaged police vehicles. Officer Smith states that in August, he chose Dewey Taylor because he had repaired police vehicles in the past - before Thomas Taylor began serving as Mayor. City policy authorizes administrators to make purchases for goods and services without council approval or competitive bidding for amounts up to \$500.00. On September 13, 2011, Officer Smith selected Dewey Taylor to repair a police vehicle because he submitted the lowest estimate of \$225.00. Therefore, the Commission finds no clear and convincing evidence that the Respondent participated in the decision to retain his father to perform work on police cruisers.

4. In **VCRB #2011-46**, the Complainant alleges that Respondent misused his public office in that he:

5. Used the town's credit card to purchase auto parts for his personal vehicle from Advanced Auto Parts. He did this for the purpose of receiving a 25% government discount and to avoid paying sales tax. This did not result in any cost to the town. He repaid the town the full cost of \$169.86 and subsequently paid the sale tax to the state of West Virginia. However, the Commission has previously considered similar

situations and found that violations of the Act occurred. For instance, the Commission opined that using a town's tax identification number to avoid paying West Virginia sales taxes on a personal purchase is a violation of the Ethics Act. Also, using a town's SAMS Club membership for personal use violates the Act even if there is no additional cost to the public entity. (See A. O. 2010-18 and A.O. 2009-03; and Conciliation Agreements, VCRB #2005-01 and #2010-18.)

6. Used the town's credit card to pay for a hotel room for use by the Mayor's mother and aunt at the CAMC Inn in Charleston, WV, while his uncle was in ICU awaiting emergency open heart surgery. The amount paid for the room was \$124.00, which Respondent repaid the town and may have asked the financial secretary for prior approval.<sup>1</sup> The Ethics Commission previously maintained that this specific conduct violates the Ethics Act because, by virtue of his public position, the Mayor enjoyed the use of the town's credit card. The Commission stated that whether he had other available means of payment was irrelevant. (See Id. and Conciliation Agreement VCRB #2010-18.) However, the fact that the Mayor first tried to pay by check and had no other credit card serves as mitigating factors.

7. Used the town's credit card to purchase meals for his wife without authority or authorization while she accompanied the Mayor to the 2012 Municipal League conference in Charleston. These charges totaled around \$20.00.

8. Used the town's credit card to purchase meals without authority or authorization while conducting town business with town council members and while working alone through dinner time. According to the State Auditor's Office, meals may be reimbursed by a town in some situations if associated with overnight or out-of-town travel. (Final Decision and Order, VCRB #2008-20.) These charges totaled \$178.74.

9. Used the town's credit card without authority or authorization to purchase gasoline for both town business and personal use without identifying the personal mileage usage and reimbursing the town for his personal gas consumption. (See Conciliation Agreement and Order, VCRB #2008-05.) The charges for personal gasoline usage approximate \$25.00.

10. Used the town's E-Z (toll) pass for personal use in an amount totaling \$13.00 even though he repaid the town. (Id.)

11. Solicited \$400.00 in donations for a non-charitable event to raise funds for the town's police department. Raising funds for a town police department is not a qualifying charitable purpose. (See A.O. 2012-08.) The overriding purpose of the solicitation must be to provide a benefit to the public as opposed to defraying the internal administrative costs of the agency. (See A.O. 2005-02.) Respondent has returned the donations.

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<sup>1</sup> Also, a town recorder cannot approve unauthorized payments. (See A.O. #97-30)

12. Improperly awarded contract work for landscaping clean-up services for the town to a council member, Bobby Sams. The total amount of this contract was \$4,400.18. It is alleged that Respondent violated the town's procurement policy and the Ethics Act by not putting the contract out to bid or getting approval from town council or the town administrator. Bobby Sams submitted an affidavit to the Commission in which he states that this did not occur. Rather, he states that it was city council that informally approved this work during an executive session of council in September or October, 2011. Because this contract was not properly awarded to Mr. Sams and the town wanted to ensure compliance with the Ethics Act, the town of White Sulphur Springs did not pay Mr. Sams for this work. Mr. Sams was agreeable to donating his services. Therefore, the Commission finds no clear and convincing evidence that the Respondent awarded contract work to Mr. Sams.

13. The Respondent is 22 years old and is employed as in the parts department of AutoZone Stores. He makes \$8.00/ per hour.

14. Throughout the Investigation, Respondent has cooperated and has expressed a willingness to conform his behavior to the requirements of the Ethics Act.

#### **RELEVANT LEGAL PROVISIONS**

W. Va. Code §6B-2-5(b) provides that a public official may not knowingly and intentionally use his office or the prestige of his office for private gain.

#### **CONCILIATION OF VIOLATION**

I, Thomas Taylor, freely and voluntarily acknowledge that I should not have used the town's petty cash and credit card for my personal use.

Based upon my current knowledge and understanding of the West Virginia Governmental Ethics Act, I freely and acknowledge that I violated the Ethics Act. I now realize that this is wrong and that just because others have done it in the past does not make it appropriate.

Therefore, the Ethics Commission hereby finds that the Respondent violated the Ethics Act as described herein. The parties agree to the following sanctions:

1. The imposition of a fine in an amount up to \$500.00; paying half now and the rest by payment plan - within the next six (6) months - agreeable by the Executive Director of the Ethics Commission; and
2. To attend training on the Ethics Act to be conducted at the convenience of the Executive Director of the Ethics Commission or her designee; and

3. To mandate city employees to attend training on the Ethics Act to be conducted at the convenience of the Executive Director of the Ethics Commission or her designee; and

4. To organize training on the Ethics Act for the current city council members to be conducted at the convenience of the Executive Director of the Ethics Commission or her designee; and

5. To pay the remaining Restitution in the amount of \$223.74 – within the next six (6) months - for personal use of gasoline and unauthorized food purchases; and

6. To cease and desist using the town's credit card; and

7. A public reprimand.

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(s), the Conciliation Agreement and Commission Order must be made available to the public.

Date: 9/6/12

  
Kemp Morton, Chairperson  
W.Va. Ethics Commission

Date: 8/29/2012

  
Thomas Taylor, Respondent

**BEFORE THE WEST VIRGINIA ETHICS COMMISSION**

**IN RE:**

**Thomas Taylor, Mayor of White Sulphur Springs**

**VCRB #2011-45 and #2011-46**

**COMMISSION'S ORDER**

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

1. The imposition of a fine in an amount up to \$250.00; paying half now and the remainder via payment plan upon the condition that the full amount be paid no later than six (6) months from the date of the entrance of this ORDER; and

2. To attend training on the Ethics Act to be conducted at the convenience of the Executive Director of the Ethics Commission or her designee; and

3. To mandate city employees to attend training on the Ethics Act to be conducted at the convenience of the Executive Director of the Ethics Commission or her designee; and

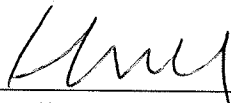
4. To organize training on the Ethics Act for the current city council members to be conducted at the convenience of the Executive Director of the Ethics Commission or her designee; and

5. To pay the remaining Restitution in the amount of \$223.74 – within the next six (6) months - for personal use of gasoline and unauthorized food purchases; and

6. To cease and desist using the town's credit card; and

7. A public reprimand.

Date: September 6, 2012



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Jonathan E. Turak, Acting Chairperson  
West Virginia Ethics Commission