

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

WILLIAM PERRY

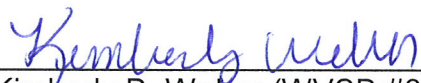
COMPLAINT NO. CIC 2009-004

AMENDED NOTICE OF PUBLIC HEARING

Pursuant to the agreement of the parties, the public hearing regarding the Statement of Charges issued on October 25, 2012, in the above-captioned matter has been rescheduled for:

**January 26, 27, and 28, 2015,
beginning at 9:00 a.m. each day and
continuing until concluded.**

**Morgantown Public Library
2nd Floor - Meeting Room B
373 Spruce Street
Morgantown, WV 26505**



Kimberly B. Weber (WVSB #6860)
General Counsel
West Virginia Ethics Commission
210 Brooks St., Suite 300
Charleston, WV 25301
(304) 558-0664
(304) 558-2169 (fax)

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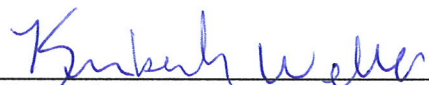
COMPLAINT NO. CIC 2009-004

CERTIFICATE OF SERVICE

I, Kimberly B. Weber, General Counsel for the West Virginia Ethics Commission, do hereby certify that I have, this 5th day of November, 2014, served true and complete copies of the foregoing ***Amended Notice of Hearing*** upon:

Denise M. Spatafore, Esq.
Dinsmore & Shohl LLP
215 Don Knotts Blvd., Suite 310
Morgantown, WV 26501
Hearing Examiner
Via first-class, United States Mail

Raymond H. Yackel, Esq.
Law Office of Raymond H. Yackel
162 Chancery Row, Suite 2
Morgantown, WV 26505
Counsel for Respondent,
Via Certified Mail



Kimberly B. Weber (WVSB #6860)
General Counsel
West Virginia Ethics Commission
210 Brooks St., Suite 300
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BEFORE THE STATE OF WEST VIRGINIA ETHICS COMMISSION

IN RE:

WILLIAM PERRY
Former Chief Deputy Assessor of
Monongalia County, West Virginia

Complaint No. CIC 2009-04

STATEMENT OF CHARGES

and

NOTICE OF HEARING

The Probable Cause Review Board of the West Virginia Ethics Commission, by unanimous vote, entered an Order dated June 13, 2012 finding probable cause to believe that the Respondent violated W.Va. Code § 6B-2-5(b) and directing the preparation of this Statement of Charges.

The members of the Review Board charge that within two years before the filing of the Complaint in this matter, William Perry, while the Chief Deputy Assessor of Monongalia County, used his public office and position for his own private gain to wit: conducting private businesses using public equipment/resources and subordinate employees.

More specifically, in accordance with the Probable Cause Order dated June 13, 2012, it is hereby **ALLEGED** and **CHARGED** that Respondent, William Perry, violated the Ethics Act (W.Va. Code § 6B-1-1 *et seq.*) as follows:

1. At all times relevant herein, the Respondent, William Perry, was publicly employed full-time as the Chief Deputy Assessor of the Monongalia County Assessor's Office, and had been employed in this capacity for the prior twenty (20) years.

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2. As the Chief Deputy Assessor, Respondent Perry served as the second-in-charge of the Monongalia County Assessor's Office in Morgantown, West Virginia, and, among other duties, was responsible for the supervision of employees of the Monongalia County Assessor's Office.

3. Upon information and belief, in addition to his full-time public employment and at all times relevant herein, Respondent owned, operated, and/or engaged in the following business activities for profit:

- a. Importing/exporting goods with China under the business name LAMPBA, Inc.;
- b. Renting/leasing property;
- c. Selling flags of the world; and
- d. Purchasing items from Federal auction/surplus (GSA) and re-selling for profit.

4. During the pendency of the investigation in this matter, Respondent Perry ceased his employment with the Assessor's Office.

COUNT ONE

(Use of Public Office for Private Gain)
W.Va. Code § 6B-2-5(b)

5. The allegations set forth in paragraphs 1-4 are realleged and incorporated by reference.

6. It is hereby charged that Respondent William Perry knowingly and intentionally used his public office for his own private gain in violation of W.Va. Code § 6B-

2-5(b) by using public resources/equipment, as well as public time, in furtherance of one or more of his private business ventures, including, but not limited to, LAMPBA Inc.

7. More particularly, during and after public work hours, Respondent utilized public equipment and resources in furtherance of one or more of his private business ventures and for his own private gain, including, specifically, the following:

- a. Publicly-provided computer and internet service;
- b. Assessor email address (bperry@assessor.org);
- c. Assessor telephone number and telephone service;
- d. Assessor fax number and machine; and
- e. Publicly-paid for stamps.

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

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.

9. W.Va. C.S.R. § 158-6-5 (“Use or Removal of Government ‘Property’”) states, in relevant part:

5.2. Improper Use - Public officials and public employees shall not use government property for personal projects or activities that result in private gain. This subsection does not apply to the de minimis use of government property.

10. W.Va. C.S.R. § 158-6-8 (“Private Work During Public Work Hours”) states:

Full-time appointed public officials and part-time and full-time public employees may not receive private compensation for performing private work during public work hours. This section shall not apply to de minimis private work.

11. In furtherance of his LAMPBA, Inc. business, Respondent marketed LAMPBA, Inc. over the internet and through email solicitations.

12. As contact information for LAMPBA, Inc., Respondent used his Assessor email address (bperry@assessor.org) as well as the telephone number and fax machine number of the Assessor's office.

13. Upon information and belief, Respondent regularly conducted activity in furtherance of LAMPBA, Inc.(his private business) out of the Monongalia County Assessor's Office during public work hours, and while he was being compensated as the Chief Deputy Assessor.

14. With respect to his other private business ventures, including notably his rental/leasing of property, Respondent regularly conducted private business and transactions out of the Monongalia County Assessor's Office during public work hours.

15. In addition, upon information and belief, Respondent utilized his office in the Monongalia County Assessor's office as storage space for his private businesses, including notably his sale of flags of the world.

16. Further, upon information and belief, Respondent used public equipment and resources, including notably the fax machine and email, to purchase property from the GSA, and then resold the items for a profit.

17. Finally, upon information and belief, Respondent regularly used the Assessor's Office publicly purchased stamps for his private mailings.

COUNT TWO

(Use of Public Office for Private Gain)

W.Va. Code § 6B-2-5(b)

18. The allegations set forth in paragraphs 1-17 are realleged and incorporated by reference.

19. It is hereby charged that Respondent William Perry knowingly and intentionally used his public office for his own private gain in violation of W.Va. Code § 6B-2-5(b) by using subordinate public employees of the Monongalia County Assessor's Office in furtherance of one or more of his private business ventures.

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

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.

21. W.Va. C.S.R. § 158-6-4 ("Use of 'Subordinate' for Private Gain") states:

4.1. After work hours - Public officials and public employees shall not use subordinate employees for their private gain as an implied or express condition to their continued employment. An example of prohibited conduct would be a public official requiring a subordinate employee to perform personal errands for the official in order to maintain his or her public employment.

4.2. During work hours - Public officials and public employees shall not use subordinate employees during work hours to perform private work or provide personal services for their benefit. An example of this 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.

22. Upon information and belief, Respondent used subordinate employees of the Monongalia County Assessor's Office for his own private gain, including, specifically:

- a. An employee to set-up an online e-bay account (and/or other online sale website) to sell Respondent's property, collect payments for Respondent, and provide Respondent with the proceeds;
- b. An employee to act as an officer in LAMPBA, Inc. to facilitate a transfer of property;
- c. An employee to assist in the preparation of deeds and other legal documents; and
- d. Employee(s) to collect rent checks for Respondent and/or relay messages to Respondent's tenants.

23. Upon information and belief, Respondent used subordinate employees in furtherance of his private business ventures during both public work hours and after public work hours.

IT IS SO CHARGED.

Dated: 10-25-2012



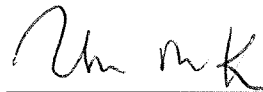
Theresa M. Kirk
Executive Director

NOTICE OF HEARING

Notice is hereby given that a **PUBLIC HEARING** will now be held to determine the truth or falsity of the charges against you contained in the foregoing Statement of Charges. In accordance with W.Va. Code § 6B-2-4 and W.Va.C.S.R. § 158-17-1 *et seq.*, the Commission will appoint an independent hearing examiner to preside at the hearing. The record compiled by the hearing examiner will then be submitted to the members of the Ethics Commission who will make a final decision in this case.

Upon the appointment of a hearing examiner, a specific date, time and place will be established for the Public Hearing.

Dated: 10/25/2012



Theresa M. Kirk
Executive Director