IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2012 MAY 14 PM 2:22

STATE OF WEST VIRGINIA
ETHICS COMMISSION,
Petitioner,

v.

Case No. 11-MISC-620

ROGER L. WOLFE,
Respondent.

ORDER GRANTING THE WEST VIRGINIA ETHICS COMMISSION'S PETITION TO ENFORCE ITS FINAL DECISION AND ORDER DATED JULY 14, 2011

On the 26th day of April, 2012, the undersigned heard oral arguments on the Petitioner West Virginia Ethics Commission's Petition to Enforce Final Decision and Order of the West Virginia Ethics Commission. Petitioner appeared by its General Counsel, C. Joan Parker, Esq. and Respondent, Roger L. Wolfe appeared *pro se*.

WHEREUPON, the Court acknowledged the pleadings that had been filed by the respective parties, and called upon counsel for the Petitioner to speak to its Petition.

WHEREUPON, Ms. Parker provided a synopsis of the procedural history of the underlying matter, including the entry of a Final Decision and Order entered by the West Virginia Ethics Commission on July 14, 2011 against Roger L. Wolfe. Ms. Parker further explained to the Court the substance of the Final Decision and Order, including specifically the sanctions that the Ethics Commission imposed on Mr. Wolfe. Finally, Ms. Parker argued that the West Virginia Ethics Commission is statutorily authorized to enforce its final orders and that Mr. Wolfe failed to exercise his statutory right to appeal the decision. She then requested that the Court grant the Petition to Enforce.

WHEREUPON, the Court inquired of Ms. Parker as to the limited review the Court possesses in this enforcement proceeding with respect to the Commission's Final Decision and Order including the sanctions imposed therein, to which Ms. Parker confirmed that the Court was not empowered by statute to look to the merits of the underlying findings and conclusions of law, or the sanctions imposed in the Commission's Final Decision and Order since Mr. Wolfe did not pursue an appeal of the Final Decision and Order.

WHEREUPON, the Court called upon the Respondent, Mr. Wolfe, to speak to the Petition.

WHEREUPON, Mr. Wolfe explained to the Court that the six Complainants in the underlying matter had filed the underlying Complaint with the Ethics Commission, as well as a removal proceeding, because they disagreed with the actions he was taking as Mayor. Mr. Wolfe further challenged the integrity of the six Complainants, as well as the Ethics Commission, and asked the Court not to enforce the Petition.

WHEREUPON, the Court explained to Mr. Wolfe about the limited nature of the Court's review, and asked if he wished to speak to the finality of the Final Decision and Order.

WHEREUPON, Mr. Wolfe again argued the substantive merits of the underlying action, including the alleged insufficiency of evidence, to which the Court again reminded Mr. Wolfe of the basis for this hearing.

WHEREUPON, the Court noted that Mr. Wolfe had admitted the allegations in the Petition, including the finality of the Ethics Commission's Final Decision and Order, as well as his failure to pursue an administrative appeal.

WHEREUPON, the Court again inquired of Mr. Wolfe if he wished to speak to the Petition, specifically whether there existed a reason as to why it should not be enforced, to which Mr. Wolfe again argued the substantive merits of the underlying findings against him.

WHEREUPON, there being nothing further from the Respondent as to the Petition, the Court did **FIND** and **CONCLUDE** as follows:

1. That the Ethics Commission had jurisdiction over Respondent Roger L. Wolfe, and is empowered to enforce the provisions of the West Virginia Ethics Act, §6B-1-1, *et seq.*;
2. That the Ethics Commission's Final Decision and Order dated July 14, 2011 is a final order;
3. That the Ethics Commission's Final Decision and Order imposed the following sanctions upon the Respondent:

> (a) It is hereby Ordered that Respondent Wolfe is publicly reprimanded;
>
> (b) It is hereby Ordered that Respondent Wolfe make restitution to the City of Dunbar in the amount of $5,757.47.
>
> (c) It is hereby Ordered that Respondent Wolfe pay a fine of $15,000. The fine shall be paid within 90 days of the entrance of this Order. The check or money order is to be made payable to the State of West Virginia.
>
> (d) It is hereby Ordered that Respondent Wolfe reimburse the West Virginia Ethics Commission $5,698.07 for its actual costs of investigating and prosecuting this complaint.

(e) It is hereby Ordered that if Respondent Wolfe is, in the future, elected or appointed to public office or accepts public employment, that he cease and desist from expending public funds for unauthorized personal expenses;

4. That the Respondent has failed to comply with the Ethics Commission's Final Decision and Order by not paying the specified fine, restitution and reimbursement to the Ethics Commission;
5. That the Respondent neither appealed the Final Decision and Order, nor pursued other legal remedies to administratively challenge the Final Decision and Order as permitted by W. Va. Code §6B-2-4(t) and W. Va. Code §29A-5-4, and the time for filing such an appeal has passed;
6. That Ethics Commission is specifically authorized in W. Va. Code §6B-2-4(r)(3) to apply to the Kanawha County Circuit Court for enforcement of its Final Decision and Order; and
7. That this Court is the proper venue for this action pursuant to W. Va. Code §6B-2-4(r)(3).

ACCORDINGLY, it is hereby **ORDERED**, **ADJUDGED**, and **DECREED** that:

1. Respondent Roger L. Wolfe comply with the Ethics Commission's Final Decision and Order dated July 14, 2011, including specifically, and without limitation, the following monetary sanctions:

   (a) Respondent Wolfe make restitution to the City of Dunbar in the amount of $5,757.47.
   (b) Respondent Wolfe pay a fine of $15,000.
   (c) Respondent Wolfe reimburse the West Virginia Ethics Commission $5,698.07 for its actual costs of investigating and prosecuting the underlying complaint.

2. Judgment be entered in favor of the Petitioner, West Virginia Ethics Commission, and against Respondent Roger L. Wolfe, for the sanctions imposed against the Respondent in the Ethics Commission's July 14, 2011 Final Decision and Order.

IT IS FURTHER ORDERED that Respondent Roger L. Wolfe's objections to the foregoing is hereby noted and preserved.

The Clerk is directed to mail an attested copy of this ORDER upon its entry to all counsel of record and any unrepresented parties.

ENTERED this 10th day of May, 2012

JENNIFER F. BAILEY, JUDGE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF THE CIRCUIT COURT OF SAID COUNTY AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY FROM THE RECORDS OF SAID COURT.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 11 DAY OF May, 2012
Cathy S. Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Prepared by:

C. Joan Parker, General Counsel
WV Ethics Commission, Petitioner