

**BEFORE THE WEST VIRGINIA ETHICS COMMISSION**

**In Re:**

**DANIEL ELLIOTT,**

**VCRB 2020-71**

**Former Conservation Technician,  
Tygarts Valley Conservation District,  
Respondent.**

**STATEMENT OF CHARGES AND NOTICE OF HEARING**

The Probable Cause Review Board of the West Virginia Ethics Commission entered an Order on November 16, 2022, finding that there is probable cause to believe that Daniel Elliott, the Respondent in the above-referenced Complaint, violated the following provisions of the Ethics Act:

W. Va. Code § 6B-2-5(b)(1) 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 . . . .

W. Va. Code § 6B-2-5(d)(1) states, in relevant part:

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 . . . .

The Probable Cause Review Board found that Respondent Daniel Elliott used his public employment for the private gain of another person or persons in violation of the Ethics Act, at W. Va. Code § 6B-2-5(b)(1), by taking timber from a private property owner; using Tygarts Valley Conservation District (“Conservation District”) employees

and equipment to remove, transport, and sell the timber; and using the proceeds from the sale to give Conservation District employees a Christmas bonus. The Respondent also violated the Act by having an interest in the profits of Conservation District's contracts that the Respondent may have direct authority to enter into, or over which he may have control, through the rental of personally owned equipment to the Conservation District, in violation of W. Va. Code § 6B-2-5(d)(1).

The Order directed that this Statement of Charges and Notice of Hearing be prepared and that the matter be scheduled for a public hearing to determine the truth or falsity of the charges.

### **STATEMENT OF CHARGES**

#### **Jurisdiction**

1. Daniel Elliott ("Respondent") was employed as a Conservation Technician for the Tygarts Valley Conservation District at all times relevant herein.

2. As a Conservation Technician, the Respondent is a "public employee" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(j).

3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act committed by West Virginia public employees such as the Respondent. W. Va. Code §§ 6B-1-1 through 6B-3-11.

#### **Facts**

4. The Tygarts Valley Conservation District ("Conservation District") is overseen by seven elected District Supervisors. The Conservation District employed

the Respondent as a Conservation Technician effective April 3, 2017. The Respondent held this position until April 12, 2021.

5. As a Conservation Technician, the Respondent was responsible for planning and overseeing Conservation District projects; supervising the Conservation District employee work crews; determining which equipment the Conservation District needed for each project, and finding new projects for the Conservation District. The Conservation District, as part of its mission, performed work for pay on private and public property.

### **Count One**

#### **Prohibited financial interests in the Conservation District's public contracts over which Respondent had direct authority or control**

6. The allegations set forth in paragraphs 1 through 5 are re-alleged and incorporated herein by reference.

7. The Respondent owns equipment that he uses on farms that he owns.

8. The Respondent rented his equipment to the Conservation District for use on Conservation District projects.

9. The Respondent determined when the rental of his equipment to the Conservation District for use on a project was necessary or desirable. After making this determination, the Respondent presented the request to rent his equipment to James Nester, a Conservation District Supervisor.

10. On November 30, 2018, Respondent submitted an invoice to the Conservation District for the rental of his equipment to the Conservation District. The invoice states that the amount owed to the Respondent was \$9,202.50. The invoice categorizes the equipment rental charges as follows:

(i) \$5,675 for the rental of unspecified equipment beginning on an unspecified date through July 31, 2018.

(ii) \$3,527.50 for rental of a car trailer (\$510), tractor (\$967.50), boat (\$1,950), and scissor man lift (\$100) for unspecified dates between August 1, 2018, through November 28, 2018.

11. By check dated December 27, 2018, the Conservation District paid the Respondent \$5,374.26 for the equipment rental. The payment was not for the entire \$9,202.50 of the equipment rental invoice because the Conservation District offset \$3,828.24. This offset represented payment by the Respondent to the Conservation District for work performed by the Conservation District on the Respondent's farm, as described in the Conservation District Invoice #2705 to Daniel Elliott dated December 10, 2018.

12. Through his rental of his equipment to the Conservation District, the Respondent had a prohibited interest in public contracts over which he may have direct authority to enter into, or over which he may have control in violation of W. Va. Code § 6B-2-5(d).

### **Count Two**

#### **Use of proceeds from the sale of lumber owned by a customer of the Conservation District for employee Christmas bonuses.**

13. The allegations set forth in paragraphs 1 through 12 are re-alleged and incorporated herein by reference.

14. In late May or early June of 2018, the Conservation District contracted with Guy and Barbara Harris to complete a project on property they owned in Belington, West Virginia. The project involved repairing a dam on their property.

15. On or about May 23, 2018, as part of the Harris project, the Conservation District employees cut down pine and hemlock trees on the Harris' property and then transported and sold the logs to a lumber mill, Ed Arley & Sons, Inc. The Respondent and/or the Conservation District employees transported the logs to Ed Arley & Sons, Inc., with a Conservation District vehicle during Conservation District work hours. The Respondent received \$684.87 from Ed Arley & Sons, Inc., for the sale of the logs in two check payments from Ed Arley & Sons, Inc. on the following dates and in the following amounts: a check dated May 23, 2018, in the amount of \$440.43, and another check dated June 5, 2018, in the amount of \$244.44. Another Conservation District employee also received a check for \$134.62 dated May 24, 2018, from Ed Arley & Sons, Inc., for the lumber from the Harris farm. The Respondent knew the Conservation District employee received the check from Ed Arley & Sons, Inc.

16. The Respondent was responsible for overseeing the project on the Harris property. The Respondent did not ask the Harris family if he could sell the logs from the pine and hemlock trees removed from their property nor did he tell them that the logs had been sold.

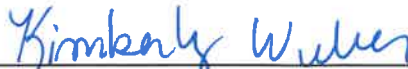
17. The Respondent used the money from the sale of the logs to give the Conservation District work crew a Christmas bonus after consulting with Conservation District Supervisor James Nester. The use of the funds from the sale of the logs for a Christmas bonus was not presented to or approved by the whole Board of Supervisors of the Conservation District.

18. The Respondent used his office for the private gain of another person or persons by taking timber from a private property owner; using Tygarts Valley Conservation District ("Conservation District") employees and equipment to remove, transport, and sell the timber, and using the proceeds from the sale to give Conservation District employees a Christmas bonus of around \$100 each. This action of the Respondent violated W. Va. Code § 6B-2-5(b)(1).

### **NOTICE OF HEARING**

Notice is hereby given that a PUBLIC HEARING will be held on February 14, 2023, at the offices of the West Virginia Ethics Commission, 210 Brooks Street, Third Floor Conference Room, Charleston, West Virginia, beginning at 10:00 a.m. before an independent hearing examiner to be selected at a later date, to determine the truth or falsity of the charges herein. The hearing will be continued until completed.

Dated: November 17, 2022

  
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Kimberly B. Weber  
Executive Director

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**In Re:**

**DANIELL ELLIOTT,**

**VCRB 2020-71**

**Former Conservation Technician,  
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Respondent.**

**CERTIFICATE OF SERVICE**

I, Kimberly B. Weber, Executive Director of the West Virginia Ethics Commission, do hereby certify that I mailed a true and complete copy of the foregoing **PROBABLE CAUSE ORDER** and **STATEMENT OF CHARGES AND NOTICE OF HEARING** on November 17, 2022, to:

*Via U.S. Mail and Certified Mail, Return Receipt Requested:*

Daniel Elliott  
1715 Glen Falls Road  
Clarksburg, WV 26301-9007  
**Respondent**

*Via Email and Hand Delivery:*

John Everett Roush, Esquire  
Staff Attorney  
West Virginia Ethics Commission  
210 Brooks Street, Suite 300  
Charleston, WV 25301  
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**Counsel for Complainant**



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