

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

JERRY WHISNER,

COMPLAINT NO. VCRB 2023-47

County Commissioner of Mineral County,  
Respondent

**PROBABLE CAUSE ORDER**

The Probable Cause Review Board, having investigated and considered the allegations set forth in VCRB 2023-47, unanimously finds that there is probable cause to believe that the Respondent Jerry Whisner (“Whisner” or “Respondent”) violated the West Virginia Governmental Ethics Act, in his public position as County Commissioner of Mineral County, as follows:


**Count One:** On **January 21, 2021**, Whisner violated W. Va. Code § 6B-2-5(b), when he allowed the former Sheriff Jeremy Taylor to buy his duty weapons, a Springfield Armory Saint .223 rifle and Glock 43 9mm pistol, from the County. The Respondent’s act constituted the use of public office for the private gain of another person because the Respondent used his public position to directly benefit Taylor.

In accordance with W. Va. Code § 6B-2-4(g), the Commission staff is hereby **Ordered** to prepare a Statement of Charges and to schedule this matter for a public hearing to determine the truth or falsity of the charges set forth in Count One.

The Probable Cause Review Board finds that there is not probable cause to believe that the Respondent violated the Ethics Act regarding the allegation in the

Complaint that the Respondent removed government property for use on a personal project and therefore, in accordance with W. Va. Code § 6B-2-4(g), dismisses that claim.

ENTERED: September 18, 2024

  
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Michael A. Kawash, Chairperson  
Probable Cause Review Board

  
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Daniel J. Guida, Member  
Probable Cause Review Board

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**COMPLAINT NO. VCRB 2023-47**

**County Commissioner of Mineral County,  
Respondent**

**STATEMENT OF CHARGES**

The Probable Cause Review Board of the West Virginia Ethics Commission entered an Order on September 18, 2024, finding that there is probable cause to believe that Jerry Whisner, the Respondent in the above-referenced Complaint, violated the following provision in the Ethics Act when he authorized the sale of two county-owned weapons to the former sheriff Jeremy Taylor.

W. Va. Code § 6B-2-5(b)(1) provides:

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. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

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

**Jurisdiction**

1. Jerry Whisner (“Respondent” or “Whisner”) was a member of the Mineral County Commission at all times pertinent herein.

2. Whisner was a “public official” as defined in the Ethics Act, at W. Va. Code § 6B-1-3(k).

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

### **Facts**

4. Jeremy Taylor’s term of office as the elected Sheriff of Mineral County ended on or around December 30, 2020. His successor, Forrest Ellifritz, was sworn into office on or around January 1, 2021.

5. The law, W. Va. Code § 7-7-23(a), authorizes a county or sheriff’s department to award a retired deputy sheriff his or her service pistol. Pursuant to this law, the Mineral County Commission gave Jeremy Taylor his service weapon, a Glock 21. The Mineral County Commission then, however, on January 21, 2021, also allowed Taylor to purchase his other duty weapons from the County, a Springfield Armory Saint .223 rifle and Glock 43 9mm pistol. Taylor paid the County nine hundred eighty-five dollars (\$985) for the weapons.

6. Sheriff Ellifritz did not authorize the sale of the weapons to Taylor or declare the weapons as surplus. Sheriff Ellifritz also asserts that the Sheriff’s Department needed the weapons that were sold to Taylor.

7. The Respondent asserts that he believed that the County could allow a former sheriff, such as Jeremy Taylor, to purchase his duty weapons after leaving office.

8. W. Va. Code § 36-8A-5(a) mandates how counties must dispose of weapons. This law states:

(a) Except as provided in section three of this article<sup>1</sup>, subject to the duty to return firearms to innocent owners pursuant to subsection (b) of this section, **all firearms**, as defined in section two, article seven, chapter sixty-one of this code, that are forfeited or abandoned to any law-enforcement agency of this state or a political subdivision of this state, including the West Virginia Division of Natural Resources, or **that are otherwise acquired by the state or a political subdivision of the state and are no longer needed, shall be transferred to the State Treasurer for disposal as provided in this section.** [Emphasis added]

9. The Respondent did not comply with state laws governing the disposal of surplus weapons. Instead, he allowed the former Sheriff Jeremy Taylor to buy his duty weapons from the County.

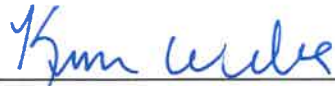
### Count One

#### **January 21, 2021, Sale of Weapons to Jeremy Taylor**

10. The allegations set forth in paragraphs 1 through 9 are re-alleged and incorporated herein by reference.

11. On **January 21, 2021**, Whisner violated W. Va. Code § 6B-2-5(b) by allowing former Sheriff Jeremy Taylor to purchase County property, a Springfield Armory Saint .223 rifle and Glock 43 9mm pistol. The Respondent's act constituted the use of public office for the private gain of another person because the Respondent used his public position to directly benefit Taylor.

Dated: September 20, 2024

  
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Kimberly B. Weber  
Executive Director

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<sup>1</sup> W. Va. Code § 36-8A-3 refers to disposal of unclaimed stolen property including firearms and ammunition. The weapons in the current situation were purchased for use by the Sheriff's Department.

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**In Re:**

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**COMPLAINT NO. VCRB 2023-47**

**Commissioner, Mineral County,  
Respondent.**

**NOTICE OF HEARING**

Notice is hereby given that the public hearing in the above-captioned matter will be held on Tuesday, December 17, 2024, 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 determine the truth or falsity of the charges set forth in the Statement of Charges issued on September 20, 2024. The hearing will be continued until completed.

Dated: September 20, 2024

  
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Kimberly B. Weber  
Executive Director

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JERRY WHISNER,

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County Commissioner of Mineral County,  
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CERTIFICATE OF SERVICE

I, Kimberly B. Weber, Executive Director of the West Virginia Ethics Commission, hereby certify that I mailed a true and complete copy of the foregoing **PROBABLE CAUSE ORDER, STATEMENT OF CHARGES, and NOTICE OF HEARING** on September 20, 2024, to:

*Via Email and Certified Mail, Return Receipt Requested:*

Jason Sites, Esq.  
112 Main Street  
Keyser, WV 26726  
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**Counsel for Respondent**

*Via Email and Hand Delivery:*

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**Counsel for Complainant**



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