

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:
Gregory L. Stewart,
Former Ohio County Administrator

COMPLAINT NO. VCRB 2021-24

Conciliation Agreement

The West Virginia Ethics Commission and Gregory L. Stewart freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all potential charges arising from allegations in the above-referenced Complaint.

Findings of Fact

1. Gregory L. Stewart ("Respondent") served as the Administrator of the Ohio County Commission at all times relevant herein.

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

3. Respondent was hired as the Ohio County Administrator in 1995. He remained in that position until his retirement on December 31, 2020. Starting around 2000 or 2001, as part of his County Administrator duties, he also served as the Director of Development for the Ohio County Development Authority at The Highlands, a retail, dining, and entertainment complex, in Triadelphia, West Virginia, until his retirement from the Ohio County Commission on December 31, 2020. Subsequent to his

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retirement, he contracted with the Ohio County Development Authority through his limited liability company to manage The Highlands for approximately three months.

Nepotism—Eli Stewart

4. Eli Stewart is the Respondent's son.

5. Eli Stewart was hired to work for the Ohio County Development Authority at The Highlands some time prior to 2013.

6. As of July 1, 2016, The Highlands utilized three different work crews: a maintenance crew, a construction crew, and an office crew.

7. As of July 1, 2016, Eli Stewart worked on the maintenance crew at The Highlands. The maintenance crew was supervised by The Highlands Project Manager Brian Taylor. Eli Stewart was, however, later moved to the office crew. The office crew reported directly to the Respondent who split his time between the Ohio County Commission Offices and The Highlands.

8. As the supervisor for The Highlands' office crew, the Respondent approved leave time for his son, Eli Stewart.

9. The Ethics Act's Legislative Rules on nepotism prohibits public employees from participating in matters which uniquely affect their relatives as opposed to affecting a class of five or more similarly situated employees. W. Va. Code R. § 158-6-3.5.b. (2017). The Respondent's participation in matters relating to leave approval for his son Eli Stewart did not comply with the nepotism rules. The Respondent acknowledges that he should not have participated in decisions affecting Eli Stewart's working conditions or directly supervised his son.

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Nepotism—Logan Stewart

10. Logan Stewart is the Respondent's son.

11. Logan Stewart was hired to work for the Ohio County Development Authority at The Highlands some time prior to 2013.

12. As of July 1, 2016, Logan Stewart worked on the construction crew at The Highlands. The construction crew was supervised by the Respondent.

13. On days the Respondent was present at The Highlands, he would direct the construction crew and assign them daily tasks.

14. On days that the Respondent was not present at The Highlands, he would instruct The Highlands Project Manager Brian Taylor of the specific daily tasks to give to the construction crew. Although the construction crew would contact Brian Taylor if they had any issues with materials on days the Respondent was not present on site, the Respondent was the direct supervisor for the construction crew and directly supervised his son Logan.

15. From 2015 to present, the construction crew consisted of between five and eight employees.

16. As the supervisor for The Highlands' construction crew, the Respondent approved leave time for his son, Logan Stewart. This leave was approved on an individual basis and was not a decision made with respect to a class of five or more construction crew employees.

17. The Ethics Act's Legislative Rules on nepotism prohibits public employees from participating in matters which uniquely affect their relatives as opposed to affecting

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a class of five or more similarly situated employees. W. Va. Code R. § 158-6-3.5.b. (2017). The Respondent's participation in matters relating to leave approval for his son Logan Stewart did not comply with the nepotism rules. The Respondent acknowledges that he should not have participated in decisions affecting Logan Stewart's working conditions or directly supervised his son.

Relevant Legal Provisions

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(b)(4) states, in relevant part:

A public official or public employee may not show favoritism or grant patronage in the employment or working conditions of his or her relative or a person with whom he or she resides

W. Va. Code R. § 158-6-3 (2017) states:

3.1. As used in this section, the term "nepotism" means favoritism shown or patronage granted in employment or working conditions by a public official or public employee to relatives or persons with whom the public official or public employee resides.

3.2. The Ethics Act prohibits public officials and public employees from knowingly and intentionally using their office or the prestige of their office for their own private gain or the private gain of another person. Nepotism is one form of the use of office for private gain because if public officials or employees use their positions to give an unfair advantage to relatives or persons with whom the public official or employee resides, the primary benefit to such action is to the public official or employee or another person rather than to the public.

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3.3. "Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

3.4. A public official or employee may not influence or attempt to influence the employment or working conditions of his or her relative or a person with whom he or she resides.

3.5. A public agency, including its officials and employees, must administer the employment and working conditions of a relative of a public employee or a public official or a person with whom the public official or employee resides in an impartial manner.

3.5.a. To the extent possible, a public official or public employee may not participate in decisions affecting the employment and working conditions of his or her relative or a person with whom he or she resides. If he or she is one of several people with the authority to make these decisions, others with authority shall make the decisions.

3.5.b. A public official or public employee may not directly supervise a relative or a person with whom he or she resides. This prohibition includes reviewing, auditing or evaluating work or taking part in discussions or making recommendations concerning employment, assignments, compensation, bonuses, benefits, discipline or related matters. This prohibition does not extend to matters affecting a class of five or more similarly situated employees.

Conciliation of Violations

I, Gregory L. Stewart, the Respondent, admit that I violated the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(b), and the nepotism restrictions in the Ethics Commission's Legislative Rule, at W. Va. Code R. § 158-6-3 (2017), by directly supervising my sons Eli Stewart and Logan Stewart and approving their leave requests. I understand that for this Agreement to be finalized, the Ethics Commission must approve it and determine which sanctions to impose.

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In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. The Respondent shall undergo training on the West Virginia Governmental Ethics Act within 30 days of the entrance of the Order approving the Conciliation Agreement.
2. A fine in the amount of \$7,500 to be paid to the West Virginia Ethics Commission within 30 days of the entrance of the Order approving the Conciliation Agreement.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the Complaint against me will proceed before the Probable Cause Review Board, where it will be processed in accordance with the West Virginia Code and Ethics Commission's Legislative Rules.

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 West Virginia Code § 6B-2-4(t), this Conciliation Agreement and Commission Order must be made available to the public.

3/2/23
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

2/16/23
Date


Gregory L. Stewart, Respondent

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2021-24

**Gregory L. Stewart,
Former Ohio County Administrator**

COMMISSION'S ORDER

After considering the Findings of Fact, Relevant Legal Provisions, and Conciliation of Violations in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interests of the State and Gregory L. Stewart, as required by W. Va. Code § 6B-2-4(t). In accordance with W. Va. Code § 6B-2-4(s), the Commission imposes the following sanctions:

1. Respondent shall undergo training on the West Virginia Governmental Ethics Act, either in person, virtually, or by viewing the training provided on the Ethics Commission's website at ethics.wv.gov, within 30 days of the entrance of this Order and shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing it.
2. Respondent shall pay a fine in the amount of \$7,500 to the West Virginia Ethics Commission within 30 days of the entrance of this Order.

3/7/23
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission