

**BEFORE THE WEST VIRGINIA ETHICS COMMISSION**

**In Re:**

**DANIEL ELLIOTT,**

**VCRB 2020-71**

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

**PROBABLE CAUSE ORDER**

The Probable Cause Review Board, having investigated and considered the allegations set forth in VCRB 2020-71, unanimously finds that there is probable cause to believe that Respondent Daniel Elliott violated the provisions of the West Virginia Governmental Ethics Act, in his public position as Conservation Technician, as follows:

**Count One:** Respondent was hired to work for the Tygarts Valley Conservation District (“Conservation District”) as a Conservation Technician, effective April 3, 2017, and held that position until April 12, 2021. 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.

The Respondent owns equipment that he uses on farms that he owns. Respondent rented his equipment to the Conservation District for use on Conservation

District projects. The Respondent determined whether the rental of his equipment to the Conservation District was necessary or desirable for a particular project. After making this determination, the Respondent then presented the request for the Conservation District to rent his equipment to James Nester, a Conservation District Supervisor.

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) \$5,675.00 for the rental of unspecified equipment beginning on an unspecified date through July 31, 2018, and
- (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.

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.

The Respondent, because he rented his equipment to the Conservation District, 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:** 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. 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 received \$684.87 from Ed Arley & Sons, Inc., for the sale of the logs in two payments made to him by checks. One check was dated May 23, 2018, and was in the amount of \$440.43, and the other check was dated June 5, 2018, and was in the amount of \$244.44. Another Conservation District employee with the Respondent's knowledge, 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 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. The Respondent used the money from the sale of the logs to give the Conservation District work crew a Christmas bonus, of around \$100 each, 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.

The Respondent used his office for the private gain of others by taking timber from a private property owner; using 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. This action of the Respondent violated W. Va. Code § 6B-2-5(b)(1).

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.

The Probable Cause Review Board hereby finds that there is not probable cause to believe that the Respondent violated the Ethics Act regarding the allegations in the Complaint designated as Complaint Summary #1 - Work at Elliott's farm, March 2018; Complaint Summary #2 - Repairs to Elliott's white Chevrolet truck; and Complaint Summary # 4 - Work at Elliott's Farm, March 2020, and hereby, in accordance with W. Va. Code § 6B-2-4(g), dismisses those claims.

ENTERED: November 16, 2022



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Michael A. Kawash, Chairperson  
Probable Cause Review Board



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Daniel J. Guida, Member  
Probable Cause Review Board