

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

LLOYD “ALLEN” COGAR,

COMPLAINT NO. VCRB 2018-26

**City of Richwood,
Former Chief of Police,
Respondent.**

STATEMENT OF CHARGES

The Probable Cause Review Board of the West Virginia Ethics Commission entered an Order on July 19, 2023, finding that there is probable cause to believe that Lloyd “Allen” Cogar, the Respondent in the above-referenced Complaint, violated the following provisions in 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) states, in relevant part:

(1) 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: *Provided*, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body: *Provided, however*, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has

been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder, or creditor of the business which is awarded a public contract. A limited interest for the purposes of this subsection is:

(A) An interest which does not exceed \$1,000 in the profits or benefits of the public contract or contracts in a calendar year;

. . . .

(3) If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest.

(4) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board, or other governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

The Probable Cause Review Board found probable cause that Respondent Lloyd “Allen” Cogar violated the Ethics Act’s public contract restrictions, at W. Va. Code § 6B-2-5(d), and the private gain prohibition, at W. Va. Code § 6B-2-5(b)(1), by using his public position and City of Richwood funds to purchase goods and services for the City of Richwood Police Department from his business, Allen’s Discount Tire, LLC.

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. Lloyd “Allen” Cogar (“Cogar”) served as the Chief of Police for the City of Richwood at all times relevant herein.

2. At all times pertinent herein, Cogar was either a “public employee” or “public official” as defined in the Ethics Act, at W. Va. Code § 6B-1-3(j) and (k).

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

Facts

4. The Richwood Police Department (“Police Department”) is a subunit of the City of Richwood. The Chief of Police is appointed by the Mayor.

5. As the Chief of Police, Cogar had direct authority and control over all Police Department contracts, including contracts to purchase goods or services.

6. As the Chief of Police, Cogar was issued a City of Richwood Purchasing Card (“P-Card”).

7. At all times pertinent herein, Cogar also owned Allen’s Discount Tire, LLC (“Allen’s Tire”), a business that sold automobile tires and performed automobile maintenance.

8. On July 6, 2016, Cogar used his P-Card to pay Allen’s Tire \$455 for the cost and installation of four new tires for Cogar’s City-assigned cruiser, a Ford Explorer. The cruiser’s old tires were damaged by a large flood, which devastated the City of Richwood and other parts of West Virginia in June 2016, and Cogar directed that the tires be replaced at Allen’s Tire.

9. On July 15, 2016, Cogar used his P-Card at Allen's Tire for purchases for the City of Richwood in the amount of \$150. The first purchase on that day included two new tires and labor for a City-owned black Chevrolet Impala cruiser.

10. On July 15, 2016, Cogar used his P-Card at Allen's Tire for a second time for additional purchases for the City of Richwood in the amount of \$150. This purchase included two new tires and labor for a City-owned gray Chevrolet Impala cruiser.

11. On December 23, 2016, Cogar used his P-Card at Allen's Tire for purchases for the City of Richwood in the amount of \$32. The purchase included a six-quart oil change for Cogar's City-assigned vehicle, a Ford Explorer.

12. In 2016, therefore, Cogar used his P-Card at Allen's Tire for purchases for the City of Richwood totalling \$787.

13. On March 23, 2017, Cogar used his P-Card at Allen's Tire for purchases for the City of Richwood in the amount of \$420. The purchases were for an oil change, grease job, front brake replacement, tire rotation, and wiring, including installation of a light bar for a newly purchased City of Richwood cruiser. Allen's Tire performed the oil change, grease job, front brake replacement, and tire rotation at a cost of \$70. The remaining \$350 of the \$420 was paid by Allen's Tire to a subcontractor for the labor.

14. On March 28, 2017, Cogar used his P-Card at Allen's Tire for purchases for the City of Richwood in the amount of \$294. The purchases were for a new alternator for Cogar's City-assigned vehicle, the Ford Explorer cruiser, and rear brakes for a Dodge Charger cruiser, another City-owned vehicle. The amount included parts and labor costs.

15. In 2017, therefore, Cogar used his P-Card at Allen's Tire for purchases for the City of Richwood totalling \$714.

16. Cogar used his P-Card for a total of \$1,501 for purchases of goods and services for the City of Richwood Police Department from Allen's Tire from July 2016 through March 2017.

17. Pursuant to W. Va. Code § 6B-2-4(w)(1), VCRB 2018-26 was held in abeyance from May 2, 2019, until January 6, 2023.

Count One

Purchases from Allen's Tire in 2016

18. The allegations set forth in paragraphs 1 through 17 are re-alleged and incorporated herein by reference.

19. In **2016**, Cogar violated the public contract restrictions in the Ethics Act, W. Va. Code § 6B-2-5(d), by using his City of Richwood P-Card to purchase goods and services from his business, Allen's Tire, in the amount of \$787. Even though the amount of goods and services purchased from his business, Allen's Tire, did not exceed the limited financial interest threshold, \$1,000, found in W. Va. Code § 6B-2-5(d)(2)(A), Cogar, as the Chief of Police, had authority and control over the purchases and did not remove himself from decisions relating to the purchase of goods and services from his business, Allen's Tire, by using his City of Richwood P-Card for the purchases from his business in violation of W. Va. Code § 6B-2-5(d)(3).

Count Two

Purchases from Allen's Tires in 2017

20. The allegations set forth in paragraphs 1 through 17 are re-alleged and incorporated herein by reference.

21. In **2017**, Cogar violated the public contract restrictions in the Ethics Act, at W. Va. Code § 6B-2-5(d), by using his City of Richwood P-Card to purchase goods and services from his business, Allen's Tire, in the amount of \$714. Even though the amount of goods and services purchased from his business did not exceed the limited financial interest threshold found in W. Va. Code § 6B-2-5(d)(2)(A), Cogar did not remove himself from the purchase of goods and services from his business, Allen's Tire, by using his City of Richwood P-Card for the purchases from his business in violation of W. Va. Code § 6B-2-5(d)(3).


Count Three

Use of Office for Private Gain

22. The allegations set forth in paragraphs 1 through 21 are re-alleged and incorporated herein by reference.

23. Cogar used his office for private gain in violation of the Ethics Act, at W. Va. Code § 6B-2-5(b)(1), by knowingly and intentionally using City of Richwood funds to purchase goods and services from his business, Allen's Tire.

Dated: 7.20.2023



Kimberly B. Weber
Executive Director