

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In re:
BILL PAULEY,

Mayor,
Town of Marmet

**Complaint Nos. VCRB 2013-049 and
VCRB 2013-053**

STATEMENT OF CHARGES AND NOTICE OF HEARING

The Probable Cause Review Board of the West Virginia Ethics Commission entered an Order on June 30, 2015, finding that there is probable cause to believe that Bill Pauley, the Respondent in the above-referenced Complaints, violated the provisions of W.Va. Code § 6B-2-5(b), which states, in relevant part:

(b) Use of public office for private gain. – (1) 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.

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.

STATEMENT OF CHARGES

Jurisdiction

1. Bill Pauley ["Pauley" or "Respondent"] is the mayor of the Town of Marmet, West Virginia. He was re-elected as mayor in 2013 for a term of four years.
2. Respondent is an elected public official and, as such, is subject to the provisions of the West Virginia Governmental Ethics Act ["Ethics Act"] as set forth in W.Va. Code § 6B-1-1, *et seq.*

Facts

3. The Town of Marmet held its municipal general election on June 11, 2013. The polls for the municipal general election were located at the George Buckley Recreation Center in Marmet.

4. Prior to that election, Marmet conducted early voting between May 29, 2013, and June 8, 2013, at Marmet Town Hall, where the mayor's office is also located.

5. Pursuant to W.Va. Code § 3-1-3, "[c]itizens of the state shall be entitled to vote at all elections held within the precincts of the counties and municipalities in which they respectively reside. But no person who has not been registered as a voter as required by law, or who is a minor, or who has been declared mentally incompetent by a court of competent jurisdiction, or who is under conviction of treason, felony or bribery in an election, or who is not a bona fide resident of the state, county or municipality in which he or she offers to vote, shall be permitted to vote at such election while such disability continues, unless otherwise specifically provided by federal or state code."

6. The deadline for registering individuals to vote in the Marmet municipal general election and early voting was Monday, May 21, 2013.

7. Respondent drove individuals to Marmet Town Hall for early voting during the period between May 29, 2013, and June 8, 2013, despite having knowledge that they were either not properly registered to vote and/or were not residents of the Town of Marmet.

8. Respondent used his mayoral office to meet with the individuals referenced immediately above when they arrived at Marmet Town Hall for early voting during the period from May 29, 2013, and June 8, 2013.

9. Respondent attempted to register these individuals to vote by providing them with voter registration forms and assisting them with completion of the forms while inside his mayoral office at Marmet Town Hall during the period between May 29, 2013, and June 8, 2013, despite the fact that the May 21, 2013, voter registration deadline for the June 11, 2013, election had passed.

10. While meeting with these individuals in his mayoral office, Respondent Pauley provided those individuals with pre-completed sample ballots and/or lists of his preferred candidates for their use during voting.

11. Respondent told poll workers during the early voting period that these individuals were in fact properly registered to vote and that their votes should be accepted and counted.

12. Respondent encouraged ineligible voters to cast votes during early voting despite the fact they were not residents of the Town of Marmet, but were in fact residents of towns other than Marmet.

13. Respondent contacted the Kanawha County Voters' Registration Office on June 14, 2013, to request that 10 to 12 individuals' votes, which had been accepted by poll workers on a provisional basis, be counted as valid votes in the June 11, 2013, Marmet municipal general election.

14. On May 7, 2012, Respondent requested that a representative of the Town's computer/software vendor, Mountaineer Computer Services, Inc., remotely log into the Town's accounting system for the purpose of generating and printing a check made payable to Respondent in the gross amount of \$8,462.56. After tax withholding and benefit deductions, the net amount payable to Respondent was \$6,120.42.

15. "Remote login" allows an authorized user to log into another host machine on a network and to interact as if the user were physically at the host computer.

16. The vendor generated the check to print in Marmet pursuant to Respondent's request while the vendor was physically located in Lewisburg, West Virginia.

17. Mountaineer Computer Services, Inc. charged the Town \$77.50 to generate and print the check.

18. The check which Respondent requested and received was for Respondent's purported wages for working in the Town of Marmet bingo games for the period from August 2010 to May 2012.

19. Respondent took possession of the check.

20. Respondent's request was made at a point in time when Town Council was still considering whether to authorize this payment to Respondent Pauley.

21. Respondent's request for the check was made without the consent or knowledge of Marmet Town Council or of the Marmet Town Recorder.

22. Pursuant to Marmet Town Code Sections 2-131 and 2-132, Marmet's Town Recorder performs the duties of Town Treasurer and is responsible for issuing all checks on behalf of the Town. The Recorder is authorized to sign all checks, drafts and warrants against the Town treasury or any depository of the Town.

23. Respondent made the request to Mountaineer Computer Services, Inc. when the Town Recorder was out of town with the knowledge that the Recorder was aware that this payment had not been authorized.

24. The Town's policy was to allow two authorized signatories to sign checks in emergencies if the Town Recorder was unavailable.

25. The front of the check issued to Respondent contained space for two "authorized signatures."

26. The persons who could sign the "authorized signature" lines were Town Recorder David Fontalbert, City Councilwoman Peggy Jacobs, and Respondent.

27. Respondent requested that Town Councilwoman Jacobs sign one of the "authorized signature" lines on the front of the check made payable to him.

28. Town Councilwoman Jacobs refused to sign the "authorized signature" line.

29. Marmet Town Council had stopped paying Respondent for his work during the Marmet town bingo games in August 2010.

Count One

30. The allegations set forth in paragraphs 1 through 29 are incorporated herein by reference.

31. Respondent Bill Pauley knowingly and intentionally used his public office for private gain in violation of W.Va. Code § 6B-2-5(b) by using his mayoral office to attempt to register ineligible individuals to vote subsequent to the voter registration deadline and by providing those individuals with pre-completed sample ballots and/or lists of his preferred candidates.

32. Respondent Bill Pauley knowingly and intentionally used the prestige of his public office for private gain by instructing poll workers to accept these individuals' votes.

Count Two

33. The allegations set forth in paragraphs 1 through 32 are incorporated herein by reference.

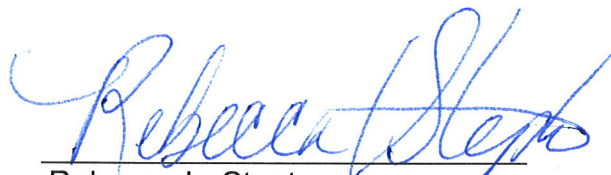
34. Respondent Bill Pauley knowingly and intentionally used his public office for private gain in violation of W.Va. Code § 6B-2-5(b) by requesting that the Town's computer/ software vendor generate and print a check for Respondent's purported bingo wages from the Town's funds when Respondent was without proper authority to do so.

NOTICE OF HEARING

Notice is hereby given that a PUBLIC HEARING will be held beginning on Tuesday, **September 29, 2015**, 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.** to determine the truth or falsity of the charges herein. The hearing will be continued until completed.

In accordance with W. Va. Code § 6B-2-4 and 158 C.S.R. § 17-1, *et seq.*, Jennifer N. Taylor will serve as the independent hearing examiner to preside at the hearing. The record compiled by the hearing examiner will be submitted to the members of the Ethics Commission for a final decision.

Dated: June 30, 2015.


Rebecca L. Stepto

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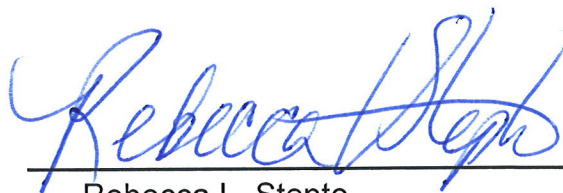
CERTIFICATE OF SERVICE

I, Rebecca L. Stepto, Executive Director of the West Virginia Ethics Commission, do hereby certify that on this 30th day of June, 2015, I served a true and complete copy of the foregoing **STATEMENT OF CHARGES AND NOTICE OF HEARING** upon:

Bill Pauley
9403 MacCorkle Avenue
Marmet, WV 25315
(via certified mail, return receipt requested, and via U.S. Mail)

and

David M. Dawson, Esq.
John R. Mitchell, L.C. Law Office
206 Berkeley Street
Charleston, WV 25302
Counsel for Bill Pauley
(via U.S. Mail and hand delivery)



Rebecca L. Stepto
Executive Director
West Virginia Ethics Commission
210 Brooks St., Suite 300
Charleston, WV 25301
(304) 558-0664