



STATE OF WEST VIRGINIA
WEST VIRGINIA ETHICS COMMISSION

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June 1, 2015

J. Michael Benninger, Esquire
Benninger Law, PLLC
P.O. Box 623
Morgantown, WV 26507

**Re: Bernard "Bernie" Fazzini
CIC Nos. 2013-002 and 2013-003**

Dear Mr. Benninger:

This will confirm that your client has now fulfilled all of his obligations under the Conciliation Agreement dated April 28, 2015. Accordingly, the above-referenced ethics Complaints will be closed.

On May 28, 2015, your client provided written confirmation that he viewed the Ethics Commission training DVD, required by the Conciliation Agreement. Mr. Fazzini has also paid the \$3,500.00 fine and \$298.08 reimbursement fee to the Harrison County Commission, as required by the Agreement.

Thank you for your cooperation in fulfilling these requirements.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca Stepto".

Rebecca L. Stepto
Executive Director

RS/erw

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

BERNIE FAZZINI

CIC 2013-02

CIC 2013-03

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Bernie Fazzini freely and voluntarily enter into the following Conciliation Agreement pursuant to W.Va. Code § 6B-2-4(s) to resolve all potential charges arising from allegations in the above-referenced Commission Initiated Complaints ("CIC" or "Complaint(s)").

FINDINGS OF FACT

1. The Respondent traveled to Portland, Oregon, for a county-related conference which was held from July 15, 2011, through July 19, 2011.
2. Following the conference, Respondent and his wife travelled from Portland to Florida for a vacation until July 24 or July 25, 2011.
3. The Respondent requested and received reimbursement for a \$50 ticket for his wife to gain entrance to the county conference. The Respondent also requested and received reimbursement for baggage fees for his wife in the amount of \$25.
4. The Respondent also requested and received reimbursement for airplane shuttle services while in Portland. The Respondent submitted two receipts for

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reimbursement. The second receipt, for \$37, is simply a copy of the first receipt with the date altered.

5. The Respondent requested and received reimbursement for a meal while in Portland on July 20, 2011, in the amount of \$28.23. The Respondent altered a receipt from July 25, 2011, which was five days after the conference ended, to produce a receipt dated July 20, 2011, which purportedly was for the \$28.23 meal.

6. The Respondent requested and was reimbursed \$49.00 for an extra five days of airport parking while his vehicle was at the Pittsburgh International Airport during the time he and his wife were in Florida on vacation.

7. The Respondent also requested and received reimbursement for the expenses of \$3,097 related to his trip to Portland. Approximately five months after receiving a reimbursement check in this amount, on March 1, 2012, he again requested and received \$3,097.31 as reimbursement for the same trip. After a campaign advertisement accused the Respondent of excessive travel expenses reimbursed to him by the Harrison County Commission, the Respondent states that he reviewed his previously submitted reimbursement requests, and in doing so, found that he had made a duplicate request for reimbursement for expenses related to his Portland trip. The payment made was reimbursed by the Respondent from credits against his other travel and expense reimbursements and completely repaid in June 2012.

8. The Respondent traveled from Clarksburg to Morgantown, West Virginia, for a county-related meeting which was held from August 6, 2011, through August 9, 2011. The Respondent requested and was reimbursed for meals for this trip. He constructed

 [initials]

two false receipts to improperly obtain \$35.50 from the county for these purported meals.

9. The Respondent traveled to Orlando, Florida, for a county-related meeting held from December 7, 2011, through December 10, 2011. Following the county-related meeting, the Respondent remained in Orlando until December 14, 2011, for a personal vacation.

10. The Respondent improperly requested and was reimbursed for two personal meals he had while he was on vacation in Orlando. He altered the dates of two personal meal receipts to reflect that the meals were expenses from his county-related meeting. As a result, the Respondent improperly obtained \$88.00 as reimbursement for personal meals.

11. The Respondent rented a car for the county-related meeting in Orlando in December 2011. He returned the rental car three days after the meeting ended. However, the Respondent requested and received reimbursement for the car rental for the entire time he was in Orlando including during his vacation. He accordingly received \$49.08 in reimbursement for the rental car he used while he was vacationing.

12. The Ethics Commission agrees to dismiss the Statement of Charges issued in CIC 2013-03.

RELEVANT LEGAL PROVISION

W.Va. Code § 6B-2-5(b) provides:

(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. 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.

CONCILIATION OF VIOLATION

I, Bernard "Bernie" Fazzini, Respondent, agree that the Commission has sufficient facts to find that he violated the West Virginia Governmental Ethics Act and therefore, do not object to findings that I violated the Act. I admit to the facts asserted in this Agreement, however, I state that I did not knowingly and intentionally receive personal gain for myself or my wife. In order to resolve this matter, I am entering into this Agreement. For this Conciliation Agreement to be finalized, I understand that the Commission must approve it and must determine which sanctions to impose. In consideration for the settlement of this matter, I agree to the Commission's imposition of the following:

1. Training on the West Virginia Ethics Act, either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, within 60 days of the entry of the Commission's Order approving this Conciliation Agreement. I must notify the Commission in writing upon completion of this training;
2. A fine in the amount of \$3,500.00 which must be paid by June 1, 2015;


[initials]

3. Reimbursement shall be made to the Harrison County Commission in the amount of \$298.08, which reflects the amounts identified in paragraphs 3, 6, 10, and 11 in the Findings of Fact above; and

4. A Public Reprimand.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and public hearings will be scheduled on the two ethics complaints against me.

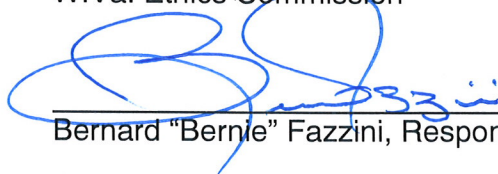
If the Ethics Commission approves the Agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

Both parties understand that, pursuant to W.Va. Code § 6B-2-4(s), this Conciliation Agreement and Commission Order must be made available to the public.

5/7/15
Date


Robert J. Wolfe, Chairperson
W.Va. Ethics Commission

04-28-2015
Date


Bernard "Bernie" Fazzini, Respondent


[initials]

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

**In Re:
BERNIE FAZZINI**

**CIC Nos: 2013-02
2013-03**

COMMISSION'S ORDER

After considering the foregoing FINDINGS OF FACT, RELEVANT LEGAL PROVISION and CONCILIATION OF VIOLATION, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and the Respondent as required by W.Va. Code § 6B-2-4(s). In accordance with W.Va. Code § 6B-2-4(r), the Commission imposes the following sanctions:

1. Training on the West Virginia Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, www.ethics.wv.gov, within six months of the entry of the Commission's Order approving this Conciliation Agreement. Respondent shall notify the Commission in writing upon completion of this training;
2. A fine in the amount of \$3,500.00, which must be paid by June 1, 2015;
3. Reimbursement shall be made to the Harrison County Commission in the amount of \$298.08, which reflects the amounts identified in paragraphs 3,6,10 and 11 in the Findings of Fact, to be paid by July 1, 2015, and
4. A public reprimand.

5/7/15
Date


Robert J. Wolfe, Chairperson
WV Ethics Commission