

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2015-109

**RANDALL W. LENGYEL,
Executive Director,
Boone County Ambulance Authority**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Randall W. Lengyel 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 Complaint.

FINDINGS OF FACT

1. Respondent Randall W. Lengyel ("Randy Lengyel," "Lengyel" or "Respondent") served, at all pertinent times herein, as the Executive Director of the Boone County Ambulance Authority ("BCAA").
2. The BCAA is a public corporation created pursuant to the Emergency Ambulance Service Act of 1975. W.Va. Code § 7-15-1 *et al.*
3. Respondent is a public employee subject to the West Virginia Governmental Ethics Act. W.Va. Code § 6B-1-1 *et seq.*
4. In approximately 2012, Respondent Lengyel requested a member of the Legislature from his Legislative district to introduce legislation to allow ambulance

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authority directors to increase their retirement benefits by participating in a different state retirement plan.

5. The legislation, which was passed into law effective June 6, 2012, provided ambulance authority directors until June 6, 2013, to apply to transfer their participation from the Public Employees Retirement System ("PERS") to the Emergency Medical Services Retirement System ("EMSRS").

6. The legislation also provided that those directors who transferred into the EMSRS plan must pay the costs associated with the transfer by September 30, 2013, in a one-time lump-sum payment.

7. The EMSRS retirement system provides significantly higher monthly retirement benefits than the PERS system.

8. EMSRS plan participants may retire and start collecting retirement benefits 10 years earlier than participants in the PERS plan.

9. On June 21, 2012, Lengyel requested that the BCAA Board of Directors approve a personal loan of funds to him to enable him to transfer his retirement participation from PERS by buying into the more lucrative EMSRS plan.

10. When requesting this loan, Respondent Lengyel did not provide the BCAA Board of Directors with relevant details regarding the proposed terms of this transaction, including the loan amount.

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11. On June 21, 2012, with little or no discussion, and in the absence of information regarding the loan amount or other terms, the BCAA Board of Directors voted to approve Lengyel's loan request.

12. The BCAA Board of Directors did not vote regarding the terms of the loan.

13. In September 2013, Respondent Lengyel presented the President and Vice President of the BCAA Board of Directors with a loan repayment agreement, which was drafted by an attorney on Lengyel's behalf.

14. The loan repayment agreement specified that BCAA would loan Lengyel \$103,000 interest free. This amount was purported in the agreement to be the actuarial adjustment required by the Consolidated Public Retirement Board ("CPRS"), which oversees both retirement plans.

15. The agreement provided that Lengyel begin paying monthly payments of \$350 per month only when he first started receiving retirement plan payments. He was to then make the monthly payments until the balance of the loan was repaid. The agreement effectively provided Lengyel 294.28 months, or 24.52 years, within which to pay back his interest-free loan.

16. The President and Vice President of the BCAA Board of Directors signed the loan repayment agreement on behalf of the BCAA on September 19, 2013.

17. The BCAA provided Lengyel a check in the amount of \$103,000 which was dated September 24, 2013.

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18. Respondent Lengyel provided the CPRS with a personal check in the amount of \$103,000 to the Consolidated Public Retirement Board dated September 30, 2013, to allow him to participate in the EMSRS retirement system.

19. Respondent Lengyel was the only ambulance authority director in West Virginia to transfer his participation from PERS to EMSRS pursuant to the 2012 legislation.

20. Upon discovery of the BCAA loan to Lengyel, Boone County Prosecuting Attorney D. Keith Randolph determined that the BCAA did not have the authority to make such a personal loan.

21. On July 31, 2015, Prosecuting Attorney Randolph directed Respondent to repay the BCAA the full amount of the loan by September 30, 2015.

22. Lengyel failed to repay the loan by September 30, 2015.

23. The Boone County Commission authorized Prosecuting Attorney Randolph to file a civil action to collect the full amount of the loan from Respondent Lengyel.

24. The civil action was filed against Lengyel, who was personally served with a copy of the civil action on October 6, 2015.

25. On October 6, 2015, Respondent delivered two separate personal checks to the BCAA, one in the amount of \$67,000 and the other in the amount of \$36,000, for a total of \$103,000.

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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, Randall W. Lengyel, admit that I violated the Ethics Act. In order to resolve this matter, I enter into this Agreement. For this Conciliation Agreement to be finalized, the Commission must approve the Agreement and must further determine which sanctions to impose. In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. A Public Reprimand;
2. A fine of \$5,000, and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, before January 1, 2016. I shall provide written confirmation of the completion of this training to the Ethics Commission.

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 be referred back to the Probable Cause Review Board, where

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it will be processed in accordance with the West Virginia Code and the Ethics Commission's Legislative Rules.


If the Ethics Commission approves this 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), the Conciliation Agreement and Commission Order must be made available to the public.

1/7/2016
Date


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

12-29-15
Date


Randall W. Lengyel, Respondent

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BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

VCRB 2015-109

RANDALL W. LENGYEL
Former Executive Director
Boone County Ambulance Authority

COMMISSION'S ORDER

After considering the FINDINGS OF FACT, RELEVANT LEGAL PROVISION and CONCILIATION OF VIOLATION in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and Randall W. Lengyel 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. A public reprimand;
2. A fine of \$5,000 to be paid by February 1, 2016; and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, before February 1, 2016. Randall W. Lengyel shall provide written confirmation of the completion of this training to the Ethics Commission.

1/7/2016
Date



Robert J. Wolfe, Chairperson
WV Ethics Commission