

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

**IN RE:
KIM WOLFE**

**COMPLAINT NO. CIC 2009-06, CIC
2010-04**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Kim Wolfe freely and voluntarily enter into the following Conciliation Agreement pursuant to West Virginia Code § 6B-2-4(s) to resolve all potential charges arising from allegations in both of the above-referenced Complaints.

FINDINGS OF FACT

1. Respondent Kim Wolfe served, at all pertinent times herein, as the Sheriff of Cabell County, from January 1, 2001 to December 31, 2008, and the Mayor of the City of Huntington from January 1, 2009 to December 31, 2012.
2. The above referenced Complaints allege multiple violations of the Ethics Act. The first allegation is that Respondent, while serving as Cabell County Sheriff, knowingly and intentionally approved, authorized, and/or ratified a subordinate employee's solicitation of a gift, in violation of 6B-2-5(b) of the West Virginia Ethics Act.

The Complaint further alleges that the solicitation was for a non-charitable purpose, and was intended to circumvent a West Virginia Auditor's finding of an improper use of the Sheriff Office's concealed weapons account in violation of W.Va. Code § 61-7-4(c).

Although Respondent was the supervisor of the subordinate employee, he denies knowingly approving or authorizing solicitation of such a gift. The Ethics Commission makes no finding regarding the truth of this allegation or denial.

3. The Complaint alleges that while serving as Mayor of Huntington, the Respondent solicited and/or accepted a non-charitable gift from an individual and/or business which was doing business, and/or seeking to do business, with the City of Huntington. It is further alleged that at the time of the gift, the individual's company held the contract for property and casualty insurance for the City of Huntington. It is further alleged that the solicited money was used for a non-charitable purpose, purchase of a horse trailer, which was also used to transport personal horses.

Respondent denies this allegation stating that the individual's company contract was

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accepted by sealed bid, that the money was for a charitable purpose, and was not used for transporting personal horses. The Ethics Commission makes no finding regarding the truth of this allegation or denial.

4. The Complaint alleges that while serving as Cabell County Sheriff Respondent knowingly and intentionally directed public monies from the Cabell County Sheriff's concealed weapon permit fund to an unlicensed, unregistered entity and that the money was used to stable, care and feed Respondent's personal horse as well as others' individual horses.

Respondent denies this allegation stating that to his knowledge the entity was properly licensed and registered and that the money was not improperly used for personal purposes. The Ethics Commission makes no finding regarding the truth of this allegation or denial.

5. The Complaint alleges that while serving as Sheriff Respondent executed an agreement between the City of Huntington and the Cabell County Sheriff's Office to establish a horse stable in Ritter Park. As Sheriff, Respondent had direct control and authority over the agreement and stable. It is alleged that Respondent used the stable to house, care, and feed his personal horse, and did not reimburse the City of Huntington or the Sheriff's Office for the cost thereof.

Respondent denies this allegation stating that the stable was not used for care of his personal horse, that the horse in question was donated to the City of Huntington by his daughter and used for public purposes. The Ethics Commission makes no finding regarding the truth of this allegation or denial.

6. The Complaint alleges that Respondent additionally allowed other individuals to stable their personal horses at the stable without reimbursement to the City of Huntington or the Cabell County Sheriff's Office. It is alleged that Respondent thereby created a private benefit to these individuals. As Sheriff, Respondent had direct control and authority over the agreement and stable.

Respondent denies this allegation stating that the stable was not used for care of any individual's personal horses, that all horses in question were either used for public purposes, or being considered for such public purposes. The Ethics Commission makes no finding regarding the truth of this allegation or denial.

7. Respondent admits to certain conduct contained in CIC 2010-04. Specifically, in 2008, while serving as Sheriff of Cabell County, and while running for Mayor of the City of Huntington, Respondent imprinted his Mayoral campaign symbol on Cabell County property tax envelopes, purchased with public funds, and mailed them to all Cabell County taxpayers.
8. Respondent admits to additional conduct contained in CIC 2010-04. Specifically, while serving as Sheriff of Cabell County, from 2001-2008, Respondent accepted baseball tickets to Cincinnati Reds' games, the value of which is believed to exceed \$25 per ticket, from a bank doing business with the Cabell County Sheriff's office.
9. Respondent acknowledges that his actions in paragraphs (7) and (8) above violated the Ethics Act and wants to resolve this matter as soon as possible. Respondent

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states that his actions were inappropriate. He states that he profoundly regrets any appearance of impropriety. He asserts that he did not intend to use his office for the private gain of himself or others.

10. Respondent and his counsel have been cooperative with the Ethics Commission staff throughout the investigation and conciliation process.

RELEVANT LEGAL PROVISIONS

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.

W. Va. Code § 6B-2-5(c) provides:

(1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: Provided, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: Provided, however, That nothing herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

(A) is doing or seeking to do business of any kind with his or her agency;

(B) is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially or materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

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CONCILIATION OF VIOLATIONS

I, Kim Wolfe, freely and voluntarily acknowledge that, based upon my current knowledge and understanding of the West Virginia Governmental Ethics Act, I violated the Ethics Act, as described above.

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. Fine not to exceed \$ 1,500;
2. Public Reprimand for the admitted charges; and
3. Training on the West Virginia Ethics Act either in person or by viewing the training provided on the Ethics Commission website, www.ethics.wv.gov, or as otherwise provided by the Ethics Commission, within six (6) months of the entry of this Agreement and Order, and provide written confirmation to the Ethics Commission within ten (10) days of completion.

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 complaints will be referred back to the Probable Cause Review Board where the Complaints will continue to be processed in accordance with the West Virginia Code and the Ethics Commission's Legislative Rules.

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.

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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.

Date: 8/7/14


Robert Wolfe, Chairperson
W.Va. Ethics Commission

Date: 7-23-14


Kim Wolfe, Respondent

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BEFORE THE WEST VIRGINIA ETHICS COMMISSION

**IN RE:
KIM WOLFE**

**COMMISSION INITIATED COMPLAINTS
CIC 2009-06, CIC 2010-04**

COMMISSION'S ORDER

After considering the foregoing FINDINGS OF FACT, RELEVANT LEGAL PROVISIONS 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 West Virginia Code § 6B-2-4(s). In accordance with West Virginia Code § 6B-2-4(r), the Commission imposes the following sanctions:

- (1) The West Virginia Ethics Commission hereby Orders that Respondent Kim Wolfe shall pay a fine of \$1,500.00 to the West Virginia Ethics Commission for violating the Ethics Act. The fine shall be paid to the Ethics Commission within sixty (60) days of the entry of this Order;
- (2) Respondent Kim Wolfe shall receive a public reprimand; and
- (3) Respondent shall attend training regarding the West Virginia Ethics Act provided through the Ethics Commission's website (at www.ethics.wv.gov) or otherwise provided by the Ethics Commission within 90 days of the entry of this Order. Respondent shall notify the Commission in writing upon his completion of this training.

Date

8/7/14


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission