

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

MAYOR BARBARA BANNISTER

COMPLAINT NO. 2005-13

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Barbara Bannister freely and voluntarily enter into the following Conciliation Agreement pursuant to West Virginia Code § 6B-2-4(r) to resolve all potential charges arising from the above-referenced complaint.

FINDINGS OF FACT

The following facts are hereby stipulated and agreed upon by the West Virginia Ethics Commission and Barbara Bannister and are taken as true and correct:

1. That Barbara Bannister is the Mayor of the Town of Rowlesburg, West Virginia;
2. That on June 14, 2005 there was a municipal election. Mayor Bannister was seeking reelection as the Mayor;
3. In February of 2005 Mayor Bannister gave each candidate for city office a Code of Fair Campaign Practices. (hereinafter referred to as the "Code"). The Code of Fair Campaign Practices is voluntary. It is authorized by Chapter 3, Article 1B of the West Virginia Code. In adopting the Code, the Legislature has declared that it "[I]s a standard to which all candidates for public office should aspire for voters to determine fair play in the conduct of campaigns for public office." W.Va. Code § 3-1B-1;
4. That Mayor Bannister distributed the Code on her own initiative. When it was distributed, she did not provide a specific deadline to the candidates for returning the form. Mayor Bannister distributed the form because she wanted the candidates to refrain from "bad mouthing" each other during the campaign.;

5. The Town of Rowlesburg publishes a monthly newsletter. Mayor Bannister is in charge of the contents of the newsletter. In the March 2005 newsletter, she published a list of individuals who had signed the Code of Fair Campaign Practices. The newsletter indicated that the Respondent, Mayor Bannister, had signed the code. The newsletter further reflected that a majority of the candidates had not signed the code.

6. A candidate for city council complained to Mayor Bannister that he did not believe that it was fair that she, as a candidate, had published the information in the newsletter. Further the candidates generally complained that they were not adequately informed as to when the disclosures were due. It was the belief of the candidates that the manner in which the information was presented shed a poor light on them; particularly since they did not know that there was a deadline for returning the form or that this information would be published;

5. After the candidate complained to the Town and Mayor Bannister that her actions were unfair and may be in violation of the Ethics Act, Mayor Bannister contacted the Ethics Commission to discuss the situation and to seek advice regarding what action she should take to remedy the situation.

6. In seeking to remedy this matter, Mayor Bannister used her own personal funds to write each candidate and apologize for her actions. She also personally paid for an advertisement in the May 13, 2005 edition of the local newspaper, the Preston Penny Saver. The published apology read: *I, Barbara Banister, do apologize for any embarrassment I caused any candidate regarding information which I published in the Rowlesburg March Newsletter.*"

#### ALLEGED VIOLATION

West Virginia Code § 6B-2-5(b) provides, in relevant part, that 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.

CONCILIATION OF VIOLATION

I, Barbara Bannister, the Mayor of Rowlesburg, freely and voluntarily acknowledge that I should not have published in the Town's newsletter which candidates had signed the Code of Fair Campaign Practices. I should not have independently taken this action because I was a candidate for office. I now understand that my failure to provide a deadline to the candidates, and the way the information was presented in the newsletter, could be perceived as casting a negative light on those candidates who did not sign the form. In turn this action constitutes the use of public office for private gain.

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I believe that it is in my best interest and the interest of the public to resolve this matter without further proceedings. I understand that by signing this agreement that I am agreeing to the imposition of sanctions by the Ethics Commission. The sanctions to which I may be subject are: (1) public reprimand; (2) cease and desist order; (3) orders of restitution for money, things of value or services taken or received in violation of the Ethics Act; (4) fines, not to exceed \$ 1,000.00 per violation, or, (5) recommendation from Ethics Commission for removal from office. W.Va. Code § 6B-2-4(q).

I understand that pursuant to W.Va. Code § 6B-2-4 (r) that the conciliation agreement must be made available to the public.

Date July 14, 2005

John Charnock, Jr.  
John Charnock, Jr., Chairman  
W. Va. Ethics Commission

Date June 11, 2005

Barbara Bannister  
Mayor Barbara Bannister

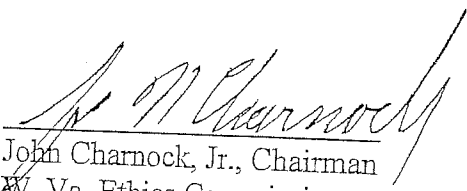
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COMMISSION'S ORDER

After considering the foregoing FINDINGS OF FACT, VIOLATION 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(r). In accordance with the Conciliation Agreement, and in accordance with West Virginia Code § 6B-2-4(q) the Commission imposes the following sanctions:

- (1) The West Virginia Ethics Commission hereby **Orders** that Mayor Barbara Bannister pay a fine of one hundred dollars (\$100.00) to the West Virginia Ethics Commission. The fine is to be submitted to the Commission within 30 days of the date of this order;
- (2) That the public official, Barbara Bannister, is hereby **publicly reprimanded.**

Date July 14, 2005

  
John Charnock, Jr., Chairman  
W. Va. Ethics Commission