BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: **COMPLAINT NO. VCRB 2015-122**

HAROLD D. GREEN,
Former President, Board of Directors,
Boone County Ambulance Authority

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Harold D. Green 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. Harold D. Green ("Green") served, at all pertinent times herein, as a member of or the President of the Board of Directors 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. Mr. Green at all pertinent times herein was a public official subject to the West Virginia Governmental Ethics Act. W.Va. Code § 6B-1-1 through § 6B-3-11.

4. Legislation was passed into law effective June 6, 2012, which 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").

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

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

7. In addition, under the EMSRS plan, participants may retire and start collecting retirement benefits 10 years earlier than participants in the PERS plan.

8. At a meeting of the BCAA on June 21, 2012, Randall W. Lengyel, ("Lengyel") the Executive Director of the BCAA, 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

9. Lengyel did not provide the BCAA Board of Directors with relevant details regarding the proposed terms of the loan or the loan amount, nor did members of the Board request such information at the June 21, 2012, meeting.

10. At the June 21, 2012, meeting, Green made a motion that the BCAA Board of Directors pay the amount needed for Lengyel to transfer from the PERS to the EMSRS plan and that Lengyel sign a contract requiring him to repay the BCAA for this personal loan.

11. Green and the other Board members present at the meeting voted unanimously to approve Lengyel's loan request without determining whether it had

statutory authority to make a personal loan to its Executive Director.

12. In September 2013, Green was President and Joseph S. Gollie ("Gollie") was Vice President of the BCAA Board of Directors.

13. In September 2013, Lengyel requested that Green and Gollie, as President and Vice President of the BCAA, sign a loan repayment Agreement which had been drafted by an attorney on Lengyel's behalf.

14. The loan repayment Agreement, which was signed by Green, Gollie and Lengyel on September 19, 2013, specifies that BCAA would loan Lengyel $103,000 interest free.

15. The Agreement provides that Lengyel repay the loan with monthly payments of $350 per month which would not begin until he received his first retirement benefit payment. He was then to make the monthly payments until the balance of the loan was repaid. The Agreement effectively provided Lengyel more than 24 years within which to pay back his interest-free loan.

16. Green and Gollie, as President and Vice President of the Board of Directors, failed to present the loan Agreement, which is the only document containing the loan terms and amount, to the full BCAA Board of Directors.

17. The BCAA provided Lengyel with a check in the amount of $103,000 on September 20, 2013.

18. Lengyel sent a personal check in the amount of $103,000 to CPRS dated

September 30, 2013, to allow him to participate in the EMSRS retirement system.

19. Lengyel was the only County 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 statutory or other authority to make such a personal loan.

21. In July 31, 2015, Prosecuting Attorney Randolph directed Lengyel 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. Prosecuting Attorney Randolph filed a civil action against Lengyel for payment of the $103,000 in October 2015.

24. On October 6, 2015, Lengyel 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.

25. Mr. Green resigned his position as President of the BCAA Board of Directors on or about October 19, 2015.

RELEVANT LEGAL PROVISION

W.Va. Code § 6B-2-5(b)(1) provides:

> 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, Harold D. Green, admit that I violated the Ethics Act by using my public position for the private financial gain of Randall W. Lengyel, the BCAA Executive Director.

In order to resolve this matter, I enter into this Conciliation 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. 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 March 1, 2016. I shall provide written confirmation of the completion of this training to the Ethics Commission, and

3. A fine in the amount of $1000.00, payable as follows:

   I shall pay the amount of $100.00 per month by March 1, 2016; April 1, 2016; May 1, 2016; June 1, 2016; July 1, 2016; August 1, 2016; September 1, 2016; October 1, 2016; November 1, 2016; and I shall pay the final amount of $100.00 by December 1, 2016.

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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 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.

2/4/16
Date

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

1-19-16
Date

Harold D. Green, Respondent

HDG _____

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: **VCRB 2015-122**

HAROLD D. GREEN,
Former President,
Boone County Ambulance Authority
Board of Directors

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 Harold D. Green 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 in the amount of $1,000, payable as follows: $100.00 per month by March 1, 2016; April 1, 2016; May 1, 2016; June 1, 2016; July 1, 2016; August 1, 2016, September 1, 2016; October 1, 2016; November 1, 2016; and by December 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 March 1, 2016. Harold D. Green shall provide written confirmation of the completion of this training to the Ethics Commission.

2/4/16
Date

Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: **COMPLAINT NO. VCRB 2015-123**

JOSEPH S. GOLLIE
Former Vice President, Board of Directors,
Boone County Ambulance Authority

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Joseph S. Gollie 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. Joseph S. Gollie ("Gollie") served, at all pertinent times herein, as a member or the Vice President of the Board of Directors 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. Gollie at all pertinent times herein was a public official subject to the West Virginia Governmental Ethics Act. W.Va. Code § 6B-1-1 through § 6B-3-11.

4. Legislation was passed into law effective June 6, 2012, which 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").

5. 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.

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

7. In addition, under the EMSRS plan, participants may retire and start collecting retirement benefits 10 years earlier than participants in the PERS plan.

8. At a meeting of the BCAA on June 21, 2012, Randall W. Lengyel, ("Lengyel") the Executive Director of the BCAA, 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. Gollie was a member of the Board of Directors at that time.

9. Lengyel did not provide the BCAA Board of Directors with relevant details regarding the proposed terms of the loan or the loan amount, nor did members of the Board request such information at the June 21, 2012, meeting.

10. At the June 21, 2012, meeting, BCAA board member Harold D. Green ("Green") made a motion that the BCAA Board of Directors pay the amount needed for Lengyel to transfer from the PERS to the EMSRS plan and that Lengyel sign a contract requiring him to repay the BCAA for this personal loan.

11. Gollie and the other Board members present at the meeting voted unanimously to approve Lengyel's loan request without determining whether it had statutory authority to make a personal loan to its Executive Director.

12. In September 2013, Green was President and Gollie was Vice President of the BCAA Board of Directors.

13. In September 2013, Lengyel requested that Green and Gollie, as

President and Vice President of the BCAA, sign a loan repayment agreement which had been drafted by an attorney on Lengyel's behalf.

14. The loan repayment Agreement, which was signed by Green, Gollie and Lengyel on September 19, 2013, specifies that BCAA would loan Lengyel $103,000 interest free.

15. The Agreement provides that Lengyel repay the loan with monthly payments of $350 per month which would not begin until he received his first retirement benefit payment. He was then to make the monthly payments until the balance of the loan was repaid. The agreement effectively provided Lengyel more than 24 years within which to pay back his interest-free loan.

16. Green and Gollie, as President and Vice President of the Board of Directors failed to present the loan Agreement, which is the only document containing the loan terms and amount, to the full BCAA Board of Directors.

17. The BCAA provided Lengyel with a check in the amount of $103,000 on September 20, 2013.

18. Lengyel sent a personal check in the amount of $103,000 to CPRS dated September 30, 2013, to allow him to participate in the EMSRS retirement system.

19. 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 Lengyel 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. Prosecuting Attorney Randolph filed a civil action against Lengyel for payment of the $103,000 in October 2015.

24. On October 6, 2015, Lengyel 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.

25. After Green's resignation as the President of the BCAA Board of Directors in October 2015, Gollie briefly became President. Gollie resigned as President of the BCAA Board of Directors on or about November 12, 2015.

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, Joseph S. Gollie, admit that I violated the Ethics Act by using my public position for the private financial gain of Randall W. Lengyel, the BCAA Executive Director.

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 $ 1,000.00, 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 March 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 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.

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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.

2/4/16
Date

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

1-16-2014
Date

Joseph S. Gollie, Respondent

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BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: **VCRB 2015-123**

JOSEPH S. GOLLIE,
Former Vice President,
Boone County Ambulance Authority
Board of Directors

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 Joseph S. Gollie 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 in the amount of $1,000, payable as follows: $100.00 per month by March 1, 2016; April 1, 2016; May 1, 2016; June 1, 2016; July 1, 2016; August 1, 2016, September 1, 2016; October 1, 2016; November 1, 2016; and by December 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 March 1, 2016. Joseph S. Gollie shall provide written confirmation of the completion of this training to the Ethics Commission.

2/4/16
Date

Robert J. Wolfe, Chairperson
West Virginia Ethics Commission