STATE OF WEST VIRGINIA
WEST VIRGINIA ETHICS COMMISSION
210 Brooks Street, Suite 300
Charleston, West Virginia 25301-1838
(304) 558-0664 • FAX (304) 558-2169
ethics@wv.gov • www.ethics.wv.gov

June 8, 2015

Richard T. Linio
4826 Hartland Parkway
Lexington, KY 40515

Re: VCRB 2011-008

Dear Mr. Linio:

This letter confirms that you have now fulfilled all of your obligations under the Conciliation Agreement which was approved by the Ethics Commission on February 5, 2015. Accordingly, the above-referenced ethics Complaint will be closed.

On June 8, 2015, the Ethics Commission confirmed with West Virginia University Institute of Technology (WVU Tech) that you have paid the $4,750 required by your Conciliation Agreement.

Thank you for your cooperation in fulfilling these requirements.

Sincerely,

Rebecca L. Stepto
Executive Director

RLS/bpv

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

RICHARD T. LINIO

2015 JUN -3 PM 2:20

VCRB 2011-008

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Richard T. Linio 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 Richard T. Linio was employed as the Director of Facilities Management and Facilities Planning at the West Virginia Institute of Technology ("WVU Tech") at Montgomery, West Virginia, from January 2010 to July 2012.
2. A verified Complaint was filed against the Respondent with the West Virginia Ethics Commission by Dina Higginbotham on April 20, 2011.
3. The Complaint alleges that Respondent used state P-Card funds to rent vehicles for his personal travel, used state vehicles for personal travel, directed a subordinate to repair his wife's personal vehicle, and did not pay rent on property he rented from WVU Tech.

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4. The Probable Cause Review Board ("PCRB") of the Ethics Commission ordered that a Notice of Investigation ("NOI") be issued. The Executive Director issued the NOI on August 2, 2011.

5. On December 16, 2013, the PCRB unanimously found that probable cause existed that Respondent violated the provisions of W. Va. Code § 6B-2-5(b) as follows:

   a. Respondent used his public office for private gain by knowingly and intentionally using state P-Card funds for personal travel expenses, including gasoline, for trips to Pen Argyl, Pennsylvania, and Lexington, Kentucky;

   b. Respondent used his public office for private gain by knowingly and intentionally using state P-Card funds to rent vehicles for personal trips to Pen Argyl, Pennsylvania, and Lexington, Kentucky;

   c. Respondent used his public office for private gain by knowingly and intentionally using state-owned vehicles to run personal errands locally;

   d. Respondent used his public office for private gain by knowingly and intentionally directing a subordinate to rent vehicles with that subordinate's P-Card for Respondent's personal use;

   e. Respondent used his public office for private gain by directing WVU Tech employees to drive Respondent to Charleston, West Virginia in order to pick up and return rental cars for his personal use;

   f. Respondent used his public office for private gain by directing a subordinate to repair an automobile owned by Respondent's wife, in a garage owned and operated by WVU Tech;

g. Respondent used his public office for private gain to avoid paying rent on the Maclin Guest Apartment in Maclin Hall, a residence owned and operated by WVU Tech.

6. Respondent denies the first and second allegations. Respondent's employment contract provided for WVU Tech to pay $5,000.00 in moving expenses. Respondent contends that he had a verbal agreement with then WVU Tech Provost Scott Hurst authorizing Respondent's use of those expenses to rent vehicles for traveling and retrieving items from his former home in Pen Argyl, Pennsylvania.

7. Respondent denies the third allegation. Respondent contends that he only used state vehicles for travel approved by then WVU Tech Provost Scott Hurst. Respondent further contends that he had access to a personal vehicle to run errands and did not use the WVU Tech vehicle for personal use.

8. Respondent denies the fourth and fifth allegations and contends that all travel was approved by the WVU Tech Office of the Provost.

9. Respondent admits the sixth allegation. Respondent has offered to pay $150.00 to resolve this allegation.

10. Respondent admits the seventh allegation.

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, Richard T. Linio, freely and voluntarily acknowledge that I violated the West Virginia Governmental 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. That I pay directly to WVU Tech the rent owed for the Maclin Guest Apartment in the amount of Four Thousand Six Hundred Dollars ($4,600.00), paid in four monthly payments of One Thousand One Hundred Fifty Dollars ($1,150.00) on the following schedule:

First Payment:	$1,150.00	Due February 2, 2015
Second Payment:	$1,150.00	Due March 2, 2015
Third Payment:	$1,150.00	Due April 2, 2015
Fourth Payment:	$1,150.00	Due May 2, 2015

I will further provide the Ethics Commission with proof of each payment.

2. That I pay directly to WVU Tech One Hundred Fifty Dollars ($150.00) for the use of the garage lift, and submit proof of such payment to the Ethics Commission;

3. That a Public Reprimand be issued against me by the Ethics Commission pursuant to W. Va. Code § 6B-2-4(r)(1)(A), and

4. That I complete training regarding 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, before holding public office or public employment in the State of West Virginia. If I do hold public office or employment in West Virginia again, I will notify the Commission in writing upon my completion of this training.

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 will be referred back to the PCRB where the Complaint will continue to 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 this 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.

1/12/2015
Date

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

1-5-15
Date

Richard T. Linio, Respondent

RL (initials)

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

RICHARD T. LINIO

VCRB 2011-008

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 sanction:

> Respondent shall attend 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, before holding another public office or public employment in the State of West Virginia. Respondent shall notify the Commission in writing upon his completion of this training.

1/12/2015
Date

Robert J. Wolfe, Chairperson