BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

DEBORAH A. HENNEN **COMPLAINT NO. VCRB 2010-31**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Deborah A. Hennen (collectively referred to herein as the "Parties") 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 the above referenced Complaint filed and initiated by Diana Wiley, a former employee of the Wirt County Assessor's Office.

FINDINGS OF FACT

The following facts are hereby stipulated and agreed upon by the West Virginia Ethics Commission and Deborah A. Hennen, and are to be taken as true and correct:

1. Respondent Deborah A. Hennen ("Respondent") is the Assessor of Wirt County, West Virginia, and held this elected public office at all times relevant herein.
2. Because Wirt County is a Class X County, the position of Wirt County Assessor is a part-time position, and the Respondent is not required to have any established/set public work hours. W.Va. Code § 7-7-4(8).
3. The Wirt County Assessor's Office is located in the Wirt County Courthouse in Elizabeth, WV and is open to the public from 8:00 a.m. to 4:00 p.m. during the weekdays.

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4. As the elected Assessor, the Respondent is responsible for overseeing the assessment of all property, real and personal, throughout the county.
5. In addition, the Assessor's office is responsible for annually collecting a fee from county residents to license their personal dogs.
6. Historically, some monies collected by the Assessor's office were retained in a cash drawer at the Assessor's office, and submitted to the Sheriff's office at the end of each month for deposit. This collected cash was more commonly referred to as the "Dog Fund".
7. On multiple occasions, Respondent borrowed money from the cash drawer for her personal use.
8. Respondent always repaid the borrowed money back to the Dog Fund. To ensure there were no shortages, at the end of each month, Respondent would take an accounting of the money in the cash drawer along with the number of dog licenses given, and pay back any difference to the Dog Fund.
9. The Commission acknowledges that all monies borrowed by Ms. Hennen were reimbursed at the end of each month, and that there were no shortages in the Dog Fund when submitted to the Sheriff's Office.
10. Additionally, on occasion, Respondent used the Assessor's Office stamps for her own personal use and/or for the private use of others, including specifically, mailings for the Wirt County Fair.
11. While Respondent acknowledges that she did not keep a record of the number of stamps used for the her personal business or for the Fair, the Commission

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acknowledges that Respondent did, on occasion, purchase stamps to replace those used from the Assessor's Office.

12. Further, in addition to her elected duties, Respondent has engaged in the sale of Avon products generally from 1997 to 2009.

13. Although she has no established work hours, Respondent engaged in the sale of Avon products in the Courthouse, during public office hours.

14. Respondent additionally used public equipment and public resources in furtherance of non-Assessor related matters, including specifically, the Assessor's Office computer and printer.

15. Additionally, Respondent has been, and continues to be, active in a number of community organizations, including the Wirt County Fair and the Wirt County High School athletic booster organizations.

16. In furtherance of these community related activities, Respondent used public equipment and public resources. For example, Respondent designed and developed brochures for the Wirt County Fair on her office computer, printed them, and then copied the brochures on the Assessor's Office copier.

17. Respondent acknowledges use of the public equipment and resources, but maintains that these activities were community related in nature and were not for her private gain. She also maintains that she purchased and supplied paper for her various community related projects. However, Respondent acknowledges and admits that these community projects were not part of her public duties as the Wirt County Assessor.

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18. Finally, during the course of the investigation in this matter, the Commission discovered discrepancies in Respondent's travel reimbursements over the last three years. The Commission additionally found that for several years Respondent was responsible for approving her own reimbursements from the Assessor's Valuation Fund.
19. Respondent was able to explain many discrepancies with additional information, however, the Respondent acknowledges some errors in these reimbursements and overall poor record keeping in relation to her travel expenses.
20. Notwithstanding, and in an effort to ensure no monies have been misappropriated, Respondent has agreed to pay for any and all questionable reimbursements discovered by the Ethics Commission for which there is insufficient documentation.
21. The Commission acknowledges that additional administrative controls have been put into place to oversee the reimbursements, and that the total reimbursement errors do not exceed $500.00.
22. Throughout the Commission's investigation, Respondent has been cooperative and forthcoming, and has expressed a willingness to correct and avoid any appearance of impropriety which her conduct may have created.

RELEVANT LEGAL PROVISIONS

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/her office or the prestige of his/her office for his/her own private gain or that of another person.

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West Virginia Legislative Rule § 158-6-5 generally prohibits the use of government property for personal projects or activities that result in private gain.

CONCILIATION OF VIOLATION

I, **DEBORAH A. HENNEN**, Assessor of Wirt County, West Virginia, freely and voluntarily enter into this Conciliation Agreement. I admit and acknowledge that I violated the West Virginia Ethics Act (W.Va. Code § 6B-1-1 *et seq.*) by using, in more than a *de minimis* amount, public equipment, resources and monies for my own private benefit and/or the private benefit of others.

In order to resolve this matter, I hereby enter this agreement. I believe it is in my best interest and the interest of the public to resolve this matter without further proceedings. By signing this agreement, I also agree to the imposition of sanctions by the West Virginia Ethics Commission.

I acknowledge and hereby agree that no promise or agreement other than that herein expressed has been made to me. I further acknowledge that in executing this Agreement, I have carefully considered the terms and sanctions; have been afforded the opportunity to consult with counsel; am entering this Agreement of my own free will and accord; and am not suffering from any condition which prevents the exercise of my judgment with respect to the terms of the Agreement.

I additionally acknowledge that I do not have to enter into this Conciliation Agreement. I understand that in lieu of this Agreement, I may challenge, refute and provide a defense on my own behalf to the allegations raised in the Complaint. I understand that if I do not enter into this Agreement, this matter will be referred back to the Probable Cause Review Board and I will have the opportunity to respond to the Complaint in writing

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and/or in person. I also understand that if, after investigation, the Review Board finds probable cause to believe that I violated the Ethics Act, I will be entitled to a public hearing; and I will be permitted to call witnesses on my own behalf and to cross examine witnesses called by the Complainant and to refute evidence presented against me.

I also fully understand that if I do not enter into this Agreement, the Ethics Commission must prove beyond a reasonable doubt that I have violated the West Virginia Ethics Act before imposing any sanctions against me. Notwithstanding these foregoing rights, it is still my desire to proceed with this Agreement and resolve this matter without further adjudication of the merits of the alleged violations.

I understand that for this Conciliation Agreement to be finalized, the Ethics Commission must approve the Agreement and must further make determination concerning the sanctions to impose.

In consideration for the settlement and resolution of this matter, I agree to the imposition of the following sanctions by the Ethics Commission:

a. Public Reprimand;

b. Cease and Desist personal use of public monies and resources, including specifically stamps;

c. Cease and Desist from use of public equipment, including computer, copier and printer, for non-Assessor related activities;

d. Cease and Desist conducting any non-assessor related work in the Assessor's office and/or Wirt County Courthouse including, but not limited to, the following:

    i. Sale/ Distribution of Avon

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ii. Wirt County Fair

iii. Wirt County High School Booster business

iv. Personal/Family matters

e. Pay the Wirt County Commission One Thousand ($1,000.00) dollars as reimbursement for the monetary equivalent of time and resources spent in furtherance of my private activities;

f. Pay the Wirt County Assessor's Valuation Fund Five Hundred ($500.00) dollars as reimbursement for errors in travel reimbursements;

g. Pay the West Virginia Ethics Commission Seven Hundred Fifty ($750.00) dollars as reimbursement for the cost of the investigation; and

h. Pay a Fine of Four Thousand ($4,000.00) dollars.

I further agree to repay the reimbursements and fine in the following structured payments, with the understanding that the reimbursements to the Wirt County Commission and the West Virginia Ethics Commission shall be completed prior to the payment of the $4,000.00 fine:

a. Pay to the Wirt County Assessor Valuation Fund Five Hundred ($500.00) dollars on or before October 15, 2012;

b. Pay to the Wirt County Commission the aggregate of One Thousand ($1,000.00) dollars in four equal monthly payments of Two Hundred Fifty ($250.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before November 15, 2012;

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c. Pay to the Ethics Commission the aggregate of Seven Hundred Fifty ($750.00) dollars in three equal monthly payments of Two Hundred Fifty ($250.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before January 15, 2013; and

d. Pay to the Ethics Commission for deposit into the State of West Virginia General Fund the aggregate of Four Thousand ($4,000.00) dollars in sixteen equal monthly payments of Two Hundred Fifty ($250.00) dollars due on or before the 15th of each successive month, with the first payment owing and due on or before April 15, 2013.

In addition to the Ethics Commission's sanctions, I further agree to:

1. Institute and comply with administrative controls for review of approval of issuance of travel/expense reimbursements to myself, including, but not limited to, submitting travel and expense reimbursement requests, accompanied by a signed statement of the reason for the travel/expenses and accurate receipts, to the Sheriff for approval; and
2. Cease claiming mileage reimbursement for daily/routine Assessor activities within the County; and to seek reimbursement only for Assessor-related activities involving training or meetings attended where the overriding purpose of the training/meeting relates to my duties as Assessor, and for which there is proper documentation reflecting both the purpose and miles traveled.

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I further acknowledge and agree that should I be found guilty of violating the Ethics Acts in the future, the Ethics Commission will recommend removal from office as one of the penalties.

By signing this Agreement, I hereby acknowledge and agree that the Ethics Commission will impose only the sanctions listed above. In the event the Ethics Commission enters an Order imposing any sanction exceeding or in addition to those specifically set forth herein, then this Conciliation Agreement shall be null and void.

It is further hereby agreed that if the Ethics Commission fails to approve this Conciliation Agreement, this Agreement shall be null and void and this matter will be referred back to the Probable Cause Review Board 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, I understand that it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above. I further understand that pursuant to W. Va. Code § 6B-2-4(s), this Conciliation Agreement and the Ethics Commission's Order must be made available to the public.

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WHEREFORE, the foregoing constitutes the full and complete Agreement between the Parties, and each Party has voluntarily and freely affixed their signature below with the intent to be bound thereby.

Date: 10/4/12

R. Kemp Morton, Chairperson, as
WV Ethics Commission acting chairperson

Date: 9/7/2012

Deborah A. Hennen, Respondent

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BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

DEBORAH A. HENNEN **VCRB 2010-31**

COMMISSION'S ORDER

After considering the 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. Respondent Deborah A. Hennen shall be and hereby is **Publicly Reprimanded**;
2. Respondent shall **Cease and Desist** pe rsonal use of public monies and resources, including specifically stamps;
3. Respondent shall **Cease and Desist** from use of public equipment, including computer, copier and printer, for non-Assessor related activities;
4. Respondent shall **Cease and Desist** conducting any non-Assessor related work in the Assessor's office and/or Wirt County Courthouse including, but not limited to, the following:
    a. Sale/ Distribution of Avon
    b. Wirt County Fair
    c. Wirt County High School Booster business

d. Personal/Family matters

5. Respondent shall pay a total of **Six Thousand Two Hundred Fifty dollars ($6,250.00)**, as follows:

   a. Pay the Wirt County Commission One Thousand dollars ($1,000.00) as restitution for the monetary equivalent of time and resources spent in furtherance of her private activities;

   b. Pay the Wirt County Assessor's Valuation Fund Five Hundred dollars ($500.00) as restitution for errors in travel reimbursements;

   c. Pay the West Virginia Ethics Commission Seven Hundred Fifty dollars ($750.00) as reimbursement for the cost of the investigation;

   d. Pay a Fine of Four Thousand dollars ($4,000.00); and

   e. Pay the reimbursement and fine in the following structured payments, with the understanding that the reimbursements to the Wirt County Commission and the West Virginia Ethics Comm ission shall be completed prior to the payment of the $4,000.00 fine:

      i. Pay to the Wirt County Assessor Valuation Fund Five Hundred dollars ($500.00) on or before October 15, 2012;

      ii. Pay to the Wirt County Commission the aggregate of One Thousand dollars ($1,000.00) in four equal monthly payments of Two Hundred Fifty dollars ($250.00) due on or before the 15th of each successive month, with the first payment owing and due on or before November 15, 2012;

      iii. Pay to the Ethics Commission the aggregate of Seven Hundred Fifty dollars ($750.00) in three equal monthly payments of Two Hundred

Fifty dollars ($250.00) due on or before the 15th of each successive month, with the first payment owing and due on or before March 15, 2013; and

iv. Pay to the Ethics Commission for deposit into the State of West Virginia General Fund the aggregate of Four Thousand dollars ($4,000.00) in sixteen equal monthly payments of Two Hundred Fifty dollars ($250.00) due on or before the 15th of each successive month, with the first payment owing and due on or before June 15, 2013.

In addition to the foregoing sanctions, and in accordance with the Conciliation Agreement, which is hereby incorporated into this Order, it is further ORDERED that Respondent Deborah A. Hennen:

6. Institute and comply with administrative controls for review and approval of Respondent's travel and expense reimbursements, including, but not limited to, submitting travel and expense reimbursement requests, accompanied by receipts a signed statement of the reason for each reimbursement requests, to the Sheriff for approval; and

7. Cease claiming mileage reimbursement for daily/routine Assessor activities within the County; and seek reimbursement only for Assessor-related activities involving training or meetings attended where the overriding purpose of the training/meeting relates to Respondent's duties as Assessor, and for which there is proper documentation reflecting both the purpose for the trip and the number of miles traveled.

It is so ORDERED.

Dated: October 4, 2012

Jonathan E. Turak, Acting Chairperson
W. Va. Ethics Commission