

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

In Re:

JOHN K. SHINGLER

Complaint VCRB 2012-011

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and John K. Shingler 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 the allegations in the above-referenced Complaint.

FINDINGS OF FACT

1. A verified Complaint was filed against Respondent John K. Shingler with the West Virginia Ethics Commission on February 7, 2012, by Ray Hall, who was then a member of the City of Piedmont Council.
2. Respondent John K. Shingler ("Respondent" or "Shingler") was serving as Town Foreman for the City of Piedmont, West Virginia, during all relevant time periods.
3. The Complaint alleges that the Respondent:
 - a. Used the City of Piedmont's bank account to purchase six surplus travel trailers from the Federal Emergency Management Agency ("FEMA") for personal use by himself and others, and
 - b. Knowingly provided false and misleading information to FEMA regarding the use of six trailers purchased from FEMA through the City of Piedmont's account.

4. The Ethics Commission's Probable Cause Review Board ("PCRB") ordered on February 12, 2012, that a Notice of Investigation ("NOI") to investigate the above-captioned Complaint. The Executive Director of the Ethics Commission issued the NOI on February 17, 2012.
5. The Ethics Commission referred the matter to the Prosecuting Attorney of Mineral County pursuant to W. Va. Code §6B-2-4(v)(1) on March 6, 2012, for a criminal investigation and possible prosecution.
6. Respondent was subsequently indicted by a Grand Jury in United States District Court, Northern District, West Virginia, in January 2013 on six felony counts of embezzlement of government property and one felony count of making a false statement to authorities in Case Number: 3:12-CR-71.
7. Respondent signed a plea agreement with the U.S. Attorney's Office on May 10, 2013, in which he agreed to plead guilty to one count of conversion of government property.
8. Shingler pled guilty to one count of conversion of government property and was sentenced on August 19, 2013.
9. As part of his sentencing, Respondent was required to pay an assessment fee of \$100.00 and restitution in the amount of \$1,000.00 each to Richard Montgomery, Glen Shingler and Benjamin Smith.
10. Respondent additionally served three months in federal prison beginning on September 23, 2014, as part of his sentencing and was sentenced to one-year term of supervised release.

11. The Court imposed the additional special condition of his supervision that the Respondent shall not hold or be employed in any position of public trust or where he must or can handle money or finances.
12. The Court, finding that the Respondent lacked the ability to pay a fine or interest, waived the requirements of imposing a fine or interest.

RELEVANT LEGAL PROVISIONS

W. Va. Code § 6B-2-4(v)(1) states, in relevant part:

If the referral of [a] matter to the prosecuting attorney results in a criminal conviction of the respondent, the commission may resume its investigation or prosecution of the ethics violation, but may not impose a fine as a sanction if a violation is found to have occurred.

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, John K. Shingler, freely and voluntarily acknowledge that I violated the West Virginia Governmental Ethics Act by using my public position to knowingly provide false

and misleading information to FEMA in my public capacity regarding the use of six trailers purchased from FEMA through the City of Piedmont's account.

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 a Public Reprimand be issued against me by the Ethics Commission pursuant to W. Va. Code § 6B-2-4(r)(1)(A);
2. 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 November 1, 2015. I shall 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 PCRБ 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.

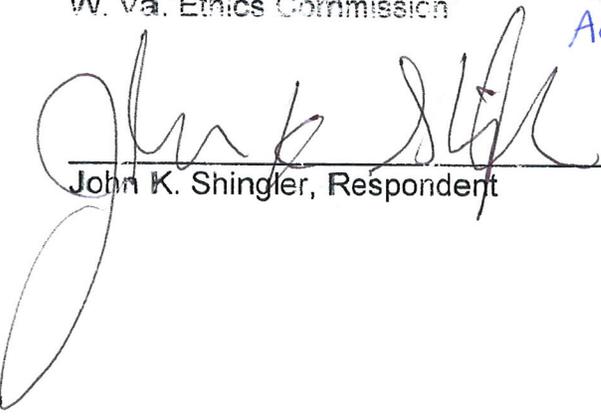
Both parties understand that, pursuant to W.Va. Code § 6B-2-4(s), the Conciliation Agreement and Commission Order must be made available to the public.

10-1-15
Date


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

Jack Buckalew,
Acting Chairperson

9-17-15
Date


John K. Shingler, Respondent

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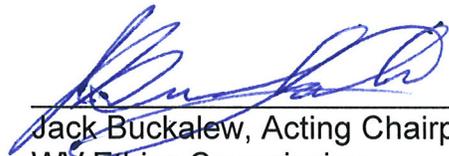
COMMISSION'S ORDER

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 John K. Shingler 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; and
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 November 1, 2015. John K. Shingler shall provide written confirmation of the completion of this training to the Ethics Commission.

10-1-15

Date


Jack Buckalew, Acting Chairperson
WV Ethics Commission