

# Warren County Board of Supervisors

## RESOLUTION NO. 300 OF 2024

**RESOLUTION INTRODUCED BY SUPERVISORS GERACI AND BEAN**

**ADOPTING PORTIONS OF THE WARREN COUNTY BOARD OF ETHICS  
ADVISORY DECISION REGARDING COUNTY SUPERVISOR BRAD MAGOWAN  
CONCERNING THE RECOMMENDED FINDINGS OF FACT AND SIX VIOLATIONS  
OF WARREN COUNTY CODE OF ETHICS, LOCAL LAW NO. 2 OF 2022 AND  
LOCAL LAW NO. 6 OF 2021, AND IMPOSING DISCIPLINE**

WHEREAS, the Warren County Board of Ethics, filed an Advisory Decision, dated August 8, 2024, with the Clerk of the Board of Supervisors regarding an investigation of Warren County Supervisor-at-Large Brad Magowan (hereafter, "Advisory Decision"), and

WHEREAS, the Advisory Decision provided twenty-five (25) recommended findings of fact and six (6) recommended violations of the Warren County Code of Ethics, as enacted by Local Law No. 2 of 2022, and Local Law No. 6 of 2021, (hereafter, "Code of Ethics") committed by Warren County Supervisor-at-Large Brad Magowan, and

WHEREAS, following Supervisor-at-Large Brad Magowan receiving notice and the opportunity to respond before the Warren County Board of Supervisors and due deliberation being had by the Warren County Board of Supervisors, it is hereby

RESOLVED, that the Warren County Board of Supervisors accepts and adopts that portion of the Advisory Decision which states twenty-five (25) findings of fact concerning Supervisor-at-Large Brad Magowan, which are incorporated by reference herein and set forth as Attachment "A", and it is further

RESOLVED, that the Warren County Board of Supervisors accepts and adopts that portion of the Advisory Decision which states that Supervisor-at-Large Brad Magowan violated the following six provisions of the Code of Ethics: Section 15(a), Interests in Contracts; Section 15(b) Interests in Contracts; Section 7, Annual Disclosure; Section 6: Disclosure of Interest in Legislation and Other Matters; Section 8, Recusal and Abstention: and Section 11(a)(3), Private Employment in Conflict with Official Duties,

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which are incorporated by reference herein and set forth at Attachment “A”, and it is further

RESOLVED, that based on the findings of fact and six violations of the Code of Ethics committed by Supervisor-at-Large, Brad Magowan, the Warren County Board of Supervisors hereby imposed the following discipline: That Public Censure is a proportional response based on the exhaustive deliberations by the Board of Supervisors concerning this matter to include the statements made by Supervisor-at-Large Brad Magowan who accepts responsibility for the violations stated herein.

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**BOARD OF SUPERVISORS FINDINGS OF FACT:**

1. During 2021, 2022 and 2023, the respondent, Brad Magowan, a supervisor-at-large for the Town of Queensbury, was an elected official for Warren County and was subject to the Warren County Code of Ethics set forth by Local Law No. 5 of 2021, as amended by Local Law 2 of 2022, per Resolution 353 of 2022, effective July 15, 2022 (Code).

2. The Code requires every elected official, which includes all County supervisors, to file an annual financial disclosure statement in the form provided by the Code. Code, section 7(1)(A).

3. Respondent was an elected official and required to file an annual financial disclosure statement in 2021, 2022 and 2023 and did file a financial disclosure statement each year.

4. During 2021, respondent engaged in private employment as a contractor through his construction company, Bilt Well Construction, LLC, with Christine Norton who was one of two owners of ADK Excursions, LLC. Respondent and Norton have known each other for 46 years. The respondent's services during 2021 were focused solely upon a boat owned by ADK Excursions, LLC and resulted in Norton paying respondent \$11,248.43 for approximately 132 hours of labor, of which respondent provided 98 hours, plus material expenses.

5. On August 3, 2022, ADK Excursions, LLC filed with the County an application seeking \$175,000.00 in County ARPA funds for the same charter boat which respondent performed work upon in 2021 and received payment in 2021. The August 2022 application was submitted to mitigate financial hardship caused by COVID.

6. On September 27, 2022, respondent attended the ARPA committee meeting which discussed and reviewed the August 2022 application by ADK Excursions, LLC. Norton was also present for the committee meeting. Respondent attended as a non-member of the ARPA committee. This meeting was held less than 10 months after Norton made a final payment of \$1,729 to Bilt Well Construction which was due per the October 2021 bill. The ARPA Committee approved and recommended an award of \$30,000 for ADK Excursions, LLC for capital repairs to the 40-foot vessel operated out of Brody's Lakeside. It is unclear to the Board whether the County awarded ADK Excursions, LLC \$30,000 as partial reimbursement for safety improvement costs incurred during 2021, or for future safety upgrades required to the boat. If the Board of Supervisors determines that the \$30,000 in County ARPA funds was awarded to reimburse for 2021 expenses incurred by ADK Excursions, LLC, then the award was directly related to the \$11,248.43 paid to respondent during 2021.

7. On October 6, 2022, respondent knew he had performed work on the boat for ADK Excursion's LLC in 2021 and was paid by Norton for that work during 2021. With full knowledge of his prior business and financial relationship with ADK Excursions, LLC, on October 6, 2022, respondent was present for the Board of Supervisors meeting and exercised his voting power as a County supervisor in favor of Resolution 513 of 2022, which awarded \$30,000.00 of County ARPA funds to ADK Excursions, LLC. The meeting minutes indicate that Norton was also present for this meeting.

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8. On October 14, 2022, the ARPA committee held a meeting for which Norton was again present and the committee approved and recommended an additional award of \$19,000 to ADK Excursions, LLC from County ARPA funds to offset the negative impact COVID-19 had upon the business' start-up operations. It is not clear from the committee minutes that respondent was present for this committee meeting.

9. On October 22, 2023, Norton signed an ARPA Recipient grant agreement with Warren County for the \$30,000 in County ARPA funds awarded by resolution 513 of 2022.

10. On November 4, 2022, the Board of Supervisors voted to table resolution 595 of 2022 which would have awarded ADK Excursions, LLC an additional \$19,000 in County ARPA funds, as recommended by the ARPA committee. Respondent participated in the proceeding by voting to table the resolution.

11. On November 18, 2022, resolution 595 of 2022 was presented to the Board of Supervisors for a vote and respondent voted to award ADK Excursions, LLC an additional \$19,000 of County ARPA funds. Resolution 595 of 2022 passed with 552 votes as noted by the voting sheet. Respondent's vote in favor of ADK Excursions, LLC provided 89 votes in favor of the resolution. If respondent did not vote on the resolution awarding \$19,000 of County ARPA funds to ADK Excursions, then the resolution would not have passed.

12. On December 7, 2022, Norton signed the second ARPA recipient grant agreement between Warren County and ADK Excursions, LLC for \$19,000 of County ARPA funds.

13. On March 15, 2023, Norton submitted to Warren County a certified request for disbursement of all County ARPA funds awarded to ADK Excursions, LLC which included the \$30,000 contract and the \$19,000 contract. The certified disbursement request included a detailed budget of expenses to include a winless anchor purchase and installation, decking, Bimini extension, reinforced safety railings, generator work, hydraulic lifts for the engine and purchase of a bowrider. No reference was made to the contractors performing the designated work for ADK Excursions, LLC.

14. On March 20, 2023, Norton submitted to Warren County a certified request for disbursement of all County ARPA funds awarded to ADK Excursions, LLC and referred to the \$60,500 budget for the anticipated spend by the business to prepare the boat for the "spring commissioning" and also requested that Warren County "release both ARPA grants to us (\$30k safety grant & \$19k general grant) in order to cover these expenses."

15. On July 14, 2023, Norton filed a certified request for disbursement and reporting form with Warren County which included expenses incurred for safety improvements & engine work and referenced work performed by "Bilt Well from May 17, 2023 through June 23, 2023" along with the June 2023 bill from Bilt Well Construction, signed by Brad Magowan in the total amount of \$4,360.25.

16. Based on documents produced to the Board of Ethics (hereafter, "Board") by the Warren County Planning Department, it is clear that ADK Excursions, LLC failed to submit documentation showing proof of actual payment to the contractors listed on the July 17, 2023

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certified reporting form. Numerous emails were sent from the County Planning Department to ADK Excursions, LLC seeking the required proof of payment documents which supported the claimed expenses listed on the July 14, 2023 certified report. ADK Excursions, LLC responded to those emails during July 2023 and August 2023, but failed to deliver the required proof of payment documents to Warren County until September 1, 2023.

17. The documents provided on September 1, 2023 which were in support of the July 14, 2023 certified request for disbursement and report form include a TD Bank statement of account for ADK Excursions LLC with handwritten notes indicating a May 17, 2023 cash withdrawal and payment to Bilt Well, a \$1,700 cash payment from "Petty cash" to Bilt Well and a TD Bank check 3154, dated August 16, 2023, payable to Bilt Well for \$160.25. These three payments equalled the total amount paid to Bilt Well by ADK Excursions for the June 2023 bill.

18. The Board concludes that it is not possible for ADK Excursions, LLC to have submitted the July 14, 2023 certified request for disbursement and reporting form to Warren County on July 14, 2023 and include a reference to a check not issued until August 13, 2023. Based on emails collected during the investigation of this matter, it is clear that ADK Excursions, LLC submitted the certified request for disbursement and reporting form to Warren County on July 14, 2023, which was prior to the reporting deadline of July 15, 2023, but failed to submit proof of the claimed expenses until after the July 15, 2023 due date. Backup documentation was not received by Warren County until after July 14, 2023. It appears that the required back up documents for the claimed expenses were produced by ADK Excursions, LLC on or about September 1, 2023.

19. Second, the work performed by respondent for ADK Excursions, LLC, as listed on the June 2023 and August 2023 bills, was work within the scope of work for which respondent voted to approve both ARPA awards to ADK Excursions, LLC.

20. Third, Norton told the Board that she spoke with respondent about submitting his Bilt Well invoices to the County and told respondent that he was paid with the County's ARPA funds. Respondent did not believe this was an issue. Norton also stated that her business partner had a similar conversation with respondent. Therefore, respondent actually knew that payment for the work he performed in 2023 was from the County's ARPA funds he approved for ADK Excursions, LLC as a County Supervisor.

21. At no time did respondent file with Warren County an outside interest form, as required by the Code.

22. At no time did respondent report his financial interest with ADK Excursions, LLC upon his 2022, 2023 or 2024 annual financial disclosure statement and respondent specifically refused to update any of those financial disclosure statements once he became aware of his financial interest in the County's ARPA funds through ADK Excursions, LLC.

23. It is clear from the facts in this matter that the 2023 and 2024 financial disclosure statements filed with Warren County were not correct and true.

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24. The Board finds that respondent will not comply with the Warren County Code of Ethics in the future, to include preparing and filing a complete financial disclosure statement each year.

25. The Board finds that respondent will continue to violate the Code of Ethics based on his statement that he would not turn away any ARPA work he receives in the future.

**BOARD OF SUPERVISORS' DETERMINATION OF VIOLATIONS OF  
CODE OF ETHICS:**

1. Violation of Code, Section 15(a): Interests in Contracts. Section 15 of the Code prohibits any Warren County officer or employee from having an interest in a contract which is prohibited under section 801 of the General Municipal Law. First, ADK Excursion, LLC entered into two separate contracts with Warren County which provided \$49,000 to the business and required compliance with the terms and conditions of the contracts, county resolutions, New York State law, and federal ARPA statutes and regulations. The ARPA award to ADK Excursions, LLC consisted entirely of federally regulated funds which could only be expended as permitted by federal statute and federal regulations, as well as New York State statutes, to include Article 18 of the General Municipal Law. Second, ADK Excursions, LLC entered into a contractual relationship with the respondent immediately before and after the respondent participated in two separate votes which awarded ADK Excursions \$49,000. Third, respondent had an interest in both contracts entered into between Warren County and ADK Excursions, LLC totaling \$49,000. The respondent has an interest because he had a direct or indirect pecuniary or material benefit as a result of the two contracts with Warren County for \$49,000. Specifically, respondent was paid \$5,480 in 2023 by ADK Excursions from ARPA Funds which respondent voted to approve for ADK Excursions, LLC. Therefore, respondent had a conflict of interest in both contracts with ADK Excursions, LLC.
2. Violation of Code, Section 15(b): Interests in Contracts. Section 15(b) requires every Warren County officer and employee to disclose interests in contracts as required by section 803 of the General Municipal Law. Section 803 states that a municipal officer who has, will have or later acquires an interest in any actual or proposed contract with a municipality shall publicly disclose the nature and extent of such interest in writing to the Board of Supervisors as soon as he has knowledge of such actual or prospective interest. At no time did respondent file an Outside Interest Form, as required by section 803 and the Code, Appendix C. Therefore, respondent's conduct and failure to disclose publicly the interest he possessed and the interest he acquired in the County's contracts with ADK Excursions, LLC violated section 15(b) of the Code.
3. Violation of Code, Section 7: Annual Disclosure. Respondent failed to disclose all financial interests he possessed on his 2023 financial disclosure statement which he filed with Warren County by failing to update the financial disclosure statement during the 2023 calendar year once respondent knew he had performed work and received payment for that work as a direct result of the ADK Excursion, LLC contracts with Warren County. Second, respondent's 2024 financial disclosure statement misrepresented by omission respondent's

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relationship with ADK Excursions, LLC which included financial payments from the County's ARPA funds equal to \$5,480. Respondent clearly told the Board that he withheld all financial information from his annual financial disclosure statement so that it would not become public information and disclosed to the public. At the same time, respondent stated repeatedly that he is "voice for the people." Most disturbing to this Board is respondent's refusal to acknowledge the requirement placed upon him and all Warren County elected officials to fully and completely disclose financial interests which conflict with their duties as elected officials. Respondent stated that he will not file true and complete information on his future financial disclosure statements. This is not acceptable and should not be permitted. Therefore, respondent violated section 7 of the Code.

4. Violation of Code, Section 6: Disclosure of interest in legislation and other matters. Respondent failed and refused to refrain from voting upon two separate Warren County resolutions which "could result in a direct or indirect financial or material benefit to himself." Resolution 513 of 2022 and Resolution 595 of 2022 awarded ADK Excursions, LLC \$49,000 of Warren County ARPA funds, and resolution 595 of 2022 only passed due to respondent's 89 weighted votes in favor of the County's ARPA fund award to ADK Excursions, LLC in the additional amount of \$19,000. Based on respondent's interest in the two contracts, his past work for ADK Excursions, LLC in 2021 on the same boat performing the same services for which ADK Excursions, LLC submitted their August 2022 ARPA application, and his later acquired payments from those same ARPA awards, the Board finds respondent violated section 6(a) of the Code by receiving a direct material benefit to himself. More troubling, respondent never disclosed in writing the nature of his interest in the \$49,000 awarded to ADK Excursions, LLC, in violation of section 6(b) and 6(c) of the Code and was adamant that he would not provide any such financial interest disclosure in the future, even if he were to accept additional work from any County vendor paid to him from the County's ARPA funds.
5. Violation of Code, Section 8: Recusal and Abstention. Respondent directly and indirectly participated in the decision to award \$49,000 of County ARPA funds to ADK Excursions, LLC, to include discussing the matter and voting upon the matter, despite respondent knowing or at least having a reason to know that his action could confer a direct or indirect financial or material benefit on himself. For all the reasons stated above, the Board finds that respondent violated section 8(a) of the Code.
6. Violation of Code, Section 11(a)(3): Private employment in conflict with official duties. Respondent's private employment with Bilt Well Construction, LLC engaged respondent in services as a contractor for ADK Excursions, LLC which was actively involved in two contractual relationships with Warren County regarding the County's ARPA funds. Respondent, while serving as a County supervisor, entered into an agreement with ADK Excursions, LLC to provide compensation for services rendered by respondent which were the same services for which ADK Excursions, LLC was awarded \$49,000. Respondent participated in awarding these funds by his vote in favor of each ARPA award under resolution 513 of 2022 and resolution 595 of 2022. ADK Excursions, LLC was required to submit proof of payment for the County ARPA funds back to Warren County.