

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE NO. 14-005**

**IN RE: JOHN F. AKERS  
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER  
Initiation of Administrative Proceeding  
And Formal Complaint**

The Executive Branch Ethics Commission (the “Commission”), upon its own motion, initiated a preliminary investigation of John F. Akers (the “Respondent”), pursuant to KRS 11A.080(1), on May 20, 2013.

At all relevant times the Respondent was a “public servant” as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether it has sufficient probable cause to believe the Respondent violated provisions of KRS Chapter 11A, the Executive Branch Code of Ethics (also referred to herein as the “Ethics Code”).

The Commission focused its investigation upon the Respondent’s possible violation of the Ethics Code by using his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; influencing a public agency in derogation of the state at large; using his official position to give himself a financial gain and an advantage in derogation of the public interest at large; using his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; and failing to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest.

The Commission notified the Respondent of the preliminary investigation by letter dated May 29, 2013. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on January 27, 2014, to initiate an administrative proceeding, pursuant to KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the Allegations of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

**IT IS THEREFORE ORDERED** that:

1. This Initiating Order and Appendix shall be served on the Respondent pursuant to KRS 13B.050(2) by certified mail, return receipt requested, to the last known address of the Respondent.

2. The Respondent shall file his answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.

3. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that he committed the Ethics Code violations set forth in the Allegation of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

4. The Commission will request the designation of a Hearing Officer by the Administrative Hearings Branch of the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.

5. The Commission is represented by Kathryn H. Gabhart, General Counsel, and John R. Steffen, Executive Director and co-Counsel. They may be contacted through

the Commission's office at (502) 564-7954.

6. All original material shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. A copy of all materials shall be served on the designated Hearing Officer.

7. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.

8. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence that will be used at the hearing and any exculpatory information in the Commission's possession.

9. The Respondent has the right to subpoena witnesses on his own behalf. If the Respondent subpoenas witnesses, he shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.

10. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

11. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

12. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 27th day of January 2014.

**EXECUTIVE BRANCH ETHICS COMMISSION:**



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W. David Denton, Chair



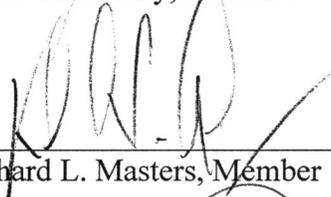
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William G. Francis, Vice-Chair



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Lewis G. Paisley, Member



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Richard L. Masters, Member



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Martin E. Johnstone, Member

**APPENDIX A  
CASE NO. 14-005  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, John F. Akers, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Fish and Wildlife Resources (“Department”), Tourism, Arts and Heritage Cabinet. As such, the Respondent was subject to the jurisdiction of the Commission. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that John F. Akers committed the following violations:

**COUNT I**

John F. Akers, during his course of employment as the Maintenance Branch Manager, Engineering Division of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; used his official position to give himself a financial gain and an advantage in derogation of the public interest at large; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; and failed to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest.

Specifically, from 2007-2011, Akers used his position to use the Department’s woodshop facilities to store his personal property, including, but not limited to, tools, duck decoys, boats, building materials, personal hunting equipment, and a motorcycle.

These facts constitute violations of KRS 11A.020(1)(a), (c), and (d), KRS 11A.020(2).

KRS 11A.020(1)(a), (c), and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.020(2) provides:

- (2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

## **COUNT II**

John F. Akers, during his course of employment as the Maintenance Branch Manager, Engineering Division of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; used his official position to give himself a financial gain and an advantage in derogation of the public interest at large; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; and failed to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest.

Specifically, from 2007-2011, Akers used his position to use the Department's woodshop facilities and equipment to build and repair his personal items. Akers also used the shop equipment and spare materials to build a flat bottom boat that he later took from the woodshop for his personal use. Akers used Department equipment and materials to build a wine cabinet for his spouse. Akers used Department equipment and materials to repair his personal deer stand,

his personal lawn mowing equipment, and his former spouse's china cabinet.

These facts constitute violations of KRS 11A.020(1)(a), (c), and (d), KRS 11A.020(2).

KRS 11A.020(1)(a), (c), and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family;  
or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.020(2) provides:

- (2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

### **COUNT III**

John F. Akers, during his course of employment as the Maintenance Branch Manager, Engineering Division of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; used his official position to give himself a financial gain and an advantage in derogation of the public interest at large; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; and failed to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest.

Specifically, from 2008-2011, Akers used his position to possess seized antlers that were

sent to the Department's woodshop to be destroyed. Akers used these antlers that were meant for destruction to build turkey calls, coat racks, furniture, and various items using the Department's facilities and equipment. Some of these items Akers kept for his personal use.

These facts constitute violations of KRS 11A.020(1)(a), (c), and (d), KRS 11A.020(2).

KRS 11A.020(1)(a), (c), and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family;  
or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.020(2) provides:

- (2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

#### **COUNT IV**

John F. Akers, during his course of employment as the Maintenance Branch Manager, Engineering Division of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, influenced a public agency in derogation of the state at large; used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, in 2008, Akers used his position to use the Department's facilities, employees, and equipment to perform personal work for other Department employees. Akers instructed a Department employee, working on state time and using a Department vehicle, to

pick up building materials from a business in Lexington, Kentucky, on behalf of then Commissioner Jonathan Gasset. Gasset provided Akers with a personal check to pay for the building materials. Akers then instructed the employee to deliver the building materials to the Department's woodshop, where the materials were stored for a period of weeks to months. The building materials were eventually delivered to Gasset's personal residence for his personal use.

On one occasion, Akers had synthetic marble delivered to the woodshop where he used Department equipment to shape and cut the synthetic marble before delivering the materials to the home of another Department employee to complete a project in the employee's personal residence. On another occasion, Akers used the Department facilities and equipment to assemble a duck cover on another Department employee's personal boat.

These facts constitute violations of KRS 11A.020(1)(b) and (d).

KRS 11A.020(1)(b) and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
  - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large; or
  - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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