

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE NO. 14-003**

**IN RE: JONATHAN GASSETT
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 Jonathan Gassett (the "Respondent"), pursuant to KRS 11A.080(1), on May 20, 2013, and expanded its investigation on September 9, 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, and of the expanded investigation on September 12, 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:



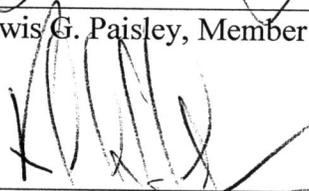
W. David Denton, Chair



William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 14-003
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Jonathan Gassett, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet ("Department"). 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 Jonathan Gassett committed the following violations:

COUNT I

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, in the winter of 2009-2010, Gassett used his position to have Department employees, working on state time and using Department equipment and vehicles, pump out the flooded basement or crawl space of his personal residence.

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

KRS 11A.020(1)(a), (b), (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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (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

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, between 2008 and 2011, Gassett used his position to have Department employees, working on state time and using a Department vehicle, pick up building materials

from a business in Lexington, Kentucky. Gassett provided the employees with a personal check to pay for the building materials. The employees then delivered 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 Gassett's personal residence for his personal use.

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

KRS 11A.020(1)(a), (b), (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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (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

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, between 2006 and 2011, Gasset used his position to have a Department employee, often working on state time and using state resources located in the Department woodshop, perform personal work for him, including having the employee help Gasset repair a dent in Gasset's personal canoe and cutting pieces of countertop with Department equipment to be installed in Gasset's personal residence.

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

KRS 11A.020(1)(a), (b), (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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (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

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, in the Spring of 2013, Gassett used his position to have Department employees acquire a gallon of the controlled chemical rotenone, that was originally purchased by the Department through a Department contract, from the Department's stores for Gassett's personal use. The rotenone Gassett used could only be purchased by a certified individual. Gassett did not maintain the appropriate certification to purchase or use rotenone at the time.

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

KRS 11A.020(1)(a), (b), (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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (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 V

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, in 2009, Gassett used his position to have a Department employee reserve fifteen (15) prints of artwork, valued at \$35 a print, which had been created by a Department employee to be sold for fundraising purposes by the Department. Of the 500 prints created for the fundraiser, Gassett acquired for himself prints numbered 1 through 15 for his own personal use and enjoyment. Gassett did not pay the Department for these prints.

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

KRS 11A.020(1)(a), (b), (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;
- (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
- (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 VI

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, during 2012 and 2013, Gassett used his position to use the Department's account with FedEx to have personal items shipped for his personal interests, including using the Department's FedEx account number to have the skin of an alligator he had killed in Florida delivered to a taxidermist in Georgia.

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

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

- (2) 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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (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 VII

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, in 2012, Gassett used his position to direct a Department employee to leave his work station during regular working hours and to miss a scheduled meeting so that the employee could perform an inspection of a home that Gassett planned to purchase. The employee ended up using his own, personal leave time to perform this personal work for Gassett. The employee was not compensated by Gassett for his services.

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

KRS 11A.020(1)(a), (b), (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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (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 VIII

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, in 2013, Gassett used his position to give the owner of Frankfort Communications, Jimmy Miller, an advantage by allowing Miller to attend a meeting with the executive staff of the Kentucky State Police (“KSP”) and the Department, at which it was discussed the Department’s options in using the KSP communications systems and updating the Department’s radio equipment. Gassett frequently socialized and hunted with Jimmy Miller at Miller’s personal property. No other representatives of prospective vendors or authorized Kenwood dealers were invited to attend the meeting.

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

KRS 11A.020(1)(a), (b), 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;
 - (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.

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 IX

Jonathan Gassett, during his course of employment as the Commissioner 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; influenced a public agency in derogation of the state at large; 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, during 2011 and 2012, Gassett used his position and the relationship that he developed through his position to influence the Kentucky State Police to provide him with KSP guest passes to the Kentucky Derby at Churchill Downs at no charge. The KSP guest passes gave Gassett access to multiple levels of Churchill Downs on Derby Day. Gassett used these passes for his personal pleasure and not during the course of his regular duties as Commissioner. These passes are not made available by KSP to the general public.

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

KRS 11A.020(1)(a), (b), (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;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

- (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.

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