

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE NO. 14-007**

**IN RE: CLIFTON E. BROWN  
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 Clifton E. Brown (the “Respondent”), pursuant to KRS 11A.080(1), on November 15, 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; 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; in order to further

his own economic interests, disclosing or using confidential information acquired in the course of his official duties; and receiving, directly or indirectly, an interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

The Commission notified the Respondent of the preliminary investigation by letter dated November 20, 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:**



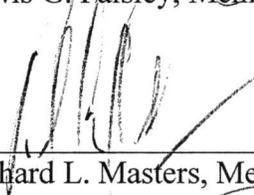
W. David Denton, Chair



William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A  
CASE NO. 14-007  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Clifton E. Brown, was at all relevant times an employee of the Commonwealth of Kentucky, serving the Kentucky Horse Racing Commission (“KHRC”), in the Public Protection 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 Clifton E. Brown committed the following violations:

**COUNT I**

Clifton E. Brown, during his course of employment as a Licensing Administrator, Division of Licensing, for the Kentucky Horse Racing Commission, Public Protection 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 2012 and 2013, Brown used his position as a license administrator to hold for long periods of time cash that he collected through his regular duties as a License Administrator. The KHRC’s policy included a requirement that License Administrators deposit all cash and checks collected through the administration of licenses at the various racetracks on a daily basis. Brown would hold onto the cash and checks collected through his duties for several

weeks at a time. Further defying the KHRC policy, Brown would frequently perform “split” deposits of the cash and checks collected during the same time period, depositing the checks on one day, but failing to deposit the cash from the same time period until weeks later. Brown used his position to violate the KHRC’s policy so that he could maintain possession of said cash for his own use and enjoyment for several weeks at a time before finally depositing said cash.

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**

Clifton E. Brown, during his course of employment as a Licensing Administrator, Division of Licensing, for the Kentucky Horse Racing Commission, Public Protection Cabinet, 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; 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 2012 and 2013, Brown, while on state time and frequently using state resources, would perform activities related to gambling. Brown would use the complimentary racing forms, which were provided to KHRC by the racetracks for the purposes of determining potential licensees, for his own interests of researching and “handicapping” potential bets. Brown would frequently place bets while working at the racetracks as a License Administrator. While on state time, Brown would use his personal computer to research potential bets related to horse racing and other sporting events. Activities related to gambling were not part of his job duties as a License Administrator.

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

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

- (1) No public servant, by himself or through others, shall knowingly:
  - (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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