

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 14-017**

**IN RE: JASON ABNEY
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 Jason Abney (the “Respondent”), pursuant to KRS 11A.080(1), on July 27, 2014.

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 had 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 or attempting to use his influence in any matter which involves a substantial conflict between his personal interest and his duties in the public interest; by influencing a public agency in derogation of the state at large; using his official position or office to obtain financial gain for himself; 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 is using his official position to further his professional or private interest; and receiving, directly or indirectly, any 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 January 31, 2014. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on May 19, 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.

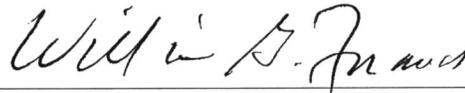
12. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 19th day of May 2014.

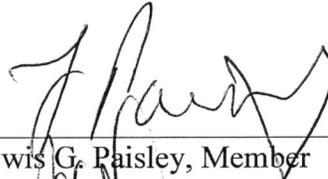
EXECUTIVE BRANCH ETHICS COMMISSION:



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. 14-017
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Jason Abney, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Kentucky Transportation Cabinet (“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 Jason Abney committed the following violations:

COUNT I

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; influenced a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; 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; and received, 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.

Specifically, on or about October 6, 2011, Abney used a Cabinet ProCard to purchase tools and auto parts from a Middletown, Kentucky, auto parts store totaling approximately \$414.62. On or about June 18, 2012, Abney used a Cabinet ProCard to purchase tools and auto

parts from a Middletown, Kentucky, auto parts store totaling approximately \$320.21. Cabinet policy required that Abney get pre-approval from the Cabinet in order to buy tools with a ProCard. On both occasions, Abney instructed an auto parts store employee to alter the description field of the tools on the store's invoices to reflect that Abney was purchasing auto parts instead of tools. Abney submitted the forged invoices to the Cabinet for payment. Abney did not get permission from the Cabinet to purchase the tools. When asked by Cabinet personnel to produce the tools that he actually purchased, Abney could not produce all of the tools that were purchased.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.

- (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.

KRS 11A.040(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT II

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; influenced a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; 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; and received, 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.

Specifically, on or about March 27, 2012, December 28, 2012, and April 12, 2013, Abney instructed an employee of an auto parts store in Middletown, Kentucky, to generate falsified invoices to cover up Abney's previous purchases of tools without Cabinet preapproval and auto parts for his personal vehicle. On the three separate occasions, Abney purchased parts and tools from the auto parts store and then returned to the store a few days later to instruct the store employee to change the description of some of the items or remove the vehicle descriptions from the invoices. On each occurrence, upon Abney's insistence, the store employee would create an invoice showing an imaginary "cash" credit. The employee would then generate a new invoice showing a "cash" purchase. Abney then submitted the altered invoices to the Cabinet for payment. When asked by Cabinet personnel to produce the tools and parts that he actually purchased, Abney could not produce all of the tools and parts that were purchased. Cabinet

personnel found some of the tools in Abney's personal vehicle. Abney could not recall on which vehicles the parts he purchased were installed. However, some of the parts that were actually purchased would have been parts designed for his personal vehicle, a 1996 Jeep Cherokee.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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.

KRS 11A.040(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT III

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; influenced

a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; 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; and received, 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.

Specifically, on or about June 4, 2013, Abney used his Cabinet provided ProCard to purchase auto parts from a Middletown, Kentucky, auto parts store for use on his personal vehicle. Included in the purchase were a harmonic balancer assembly, priced at \$40.48, and a clutch kit, priced at \$111.72. In the Cabinet's Visa Information Source ("VIS") system, Abney reported that he installed the harmonic balancer and other parts on a 2002 GMC tandem dump truck. Abney did not include documentation concerning the clutch kit. The harmonic balancer actually purchased by Abney is only designed for particular models of Jeep vehicles, which is consistent with Abney's personal vehicle, a 1996 Jeep Cherokee, and not for use on GMC vehicles. Abney told Cabinet personnel that he installed the clutch kit on a Bandit brush chipper, but it had been sold in auction by the Cabinet four (4) weeks prior to Abney purchasing the clutch kit on June 4, 2013. The clutch kit is designed for models of Dodge trucks and particular Jeep vehicles matching Abney's personal vehicle.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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.

KRS 11A.040(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT IV

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; influenced a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; 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; and received, 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.

Specifically, on or about June 19, 2013, Abney used his Cabinet provided ProCard to purchase auto parts from an auto parts store in Middletown, Kentucky, totaling approximately \$89.54. The original invoice showed a description for parts for a “1996 Jeep Cherokee,” matching Abney’s personal vehicle. The invoice submitted to the Cabinet for payment has the line “1996 Jeep Cherokee” covered with Wite-Out on the front side of the invoice and marked through with a black permanent marker on the back side of the invoice. Abney inputted into the Cabinet’s VIS system that he installed a part purchased on June 19, 2013 into a Cabinet dump truck; however, the part purchased is incompatible with the Cabinet’s dump truck, but is compatible with Abney’s personal vehicle, a 1996 Jeep Cherokee.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.

- (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.

KRS 11A.040(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT V

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; influenced a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; 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; and received, 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.

Specifically, on or about June 27, 2013, Abney used his Cabinet provided ProCard to purchase tools from an auto parts store in Middletown, Kentucky, totaling approximately \$1,450.51. Abney has a small purchase limit of \$1000. Abney split the purchase into two transactions; the first transaction was for \$794.40, of which \$725.16 was used to purchase tools, and the second transaction was for \$725.35. Abney instructed the auto parts store employee to change the descriptions of the tools to auto parts. Abney intentionally did not obtain the permission of his Cabinet to purchase the tools. Abney submitted the split and altered invoices to his Cabinet for payment. Abney took the tools purchased on June 27, 2013, to his mother's residence, which is where Cabinet employees located the tools one month after the purchase.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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.

KRS 11A.040(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT VI

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; used his official position to obtain financial gain for himself; and used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest.

Specifically, on or about February 16, 2012, August 10, 2012, and July 3, 2013, Abney purchased items from an auto parts store in Middletown, Kentucky, using the Cabinet's discounted pricing, which is not available to the ordinary citizen. Abney instructed an auto parts store employee to give him the Cabinet discount on items that he was purchasing for himself. Furthermore, the invoices show that Abney did not pay sales tax on these purchases.

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

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

- (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.

(End of document)