

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE NO. 14-025**

**IN RE: KELLY SHORTRIDGE
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 Kelly Shortridge (the "Respondent" or "Shortridge"), pursuant to KRS 11A.080(1), on July 30, 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, 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 matters 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 or a family member a financial gain; using his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others 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; and knowingly accepting gifts or gratuities,

including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from a person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses.

The Commission notified the Respondent of the preliminary investigation by letter dated July 31, 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 November 10, 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 10th day of November 2014.

EXECUTIVE BRANCH ETHICS COMMISSION:



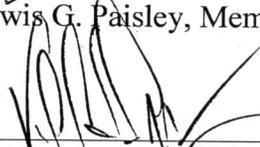
W. David Denton, Chair



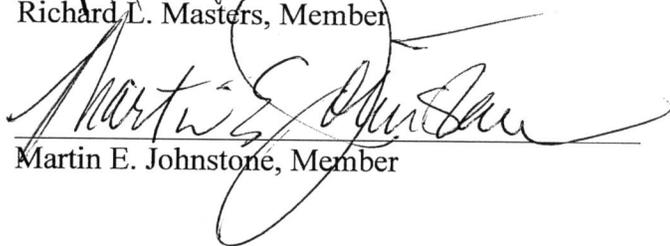
William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 14-025
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Kelly Shortridge, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Natural Resources, 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 Kelly Shortridge committed the following violations:

COUNT I

Kelly Shortridge, during his course of employment as a Environmental Inspector III, Department of Natural Resources, Public Protection Cabinet, used his influence in matters 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 or a family member a financial gain; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others 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 2009 through 2012, Shortridge failed to perform his duties as a mine inspector for mining operations owned by an individual who was providing Shortridge with monetary payments in the form of bribes totaling approximately \$46,000 to induce Shortridge not to issue citations against the mining operations for failure to abide by the surface mine

reclamation laws and regulations governing the mining operations assigned to Shortridge for inspection.

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

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

Kelly Shortridge, during his course of employment as a Environmental Inspector III, Department of Natural Resources, Public Protection Cabinet, knowingly accepted gifts or gratuities, totaling a value greater than twenty-five dollars (\$25) in a single calendar year, from a person or business that does business with, is regulated by, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises.

Specifically, between 2009 through 2012, Shortridge received monetary payments in the form of bribes totaling approximately \$46,000 in exchange for failing to perform his duties as a

mine inspector for mining operations that were regulated by the Department of Natural Resources.

These facts constitute violations of KRS 11A.0045(1).

KRS 11A.045 provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

COUNT III

Kelly Shortridge, during his course of employment as a Environmental Inspector III, Department of Natural Resources, Public Protection Cabinet, used his influence in matters 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 or a family member a financial gain; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others 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, at some time during 2012, after Shortridge was no longer inspecting the mine of the surface mine owner who had been paying Shortridge for failing to properly regulate his mine, Shortridge sent a message to the mine owner stating that if the mine owner did not pay Shortridge an additional amount of money that Shortridge would use his professional influence

in his agency to cause reclamation violations or regulatory actions to be issued against the mine owner business that could have resulted in financial penalties in excess of \$25,000.

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 (b) 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

Kelly Shortridge, during his course of employment as a Environmental Inspector III, Department of Natural Resources, Public Protection Cabinet, used his influence in matters that involved a substantial conflict between his personal or private interest and his duties in 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, on or about August 21, 2013, Shortridge participated in an interview with the investigator of the Commission. Shortridge claimed that any moneys he received from the mine operator were donations to a non-profit little league organization in which Shortridge participated. Shortridge claimed that he did not receive any funds personally from the mine operator. Shortridge presented false statements to the investigator subverting the Commission's investigation of the allegations.

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

KRS 11A.020(1)(a) and (b) 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;

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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