

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 14-024**

**IN RE: JOSEPH L. CULVER
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 Joseph L. Culver (the "Respondent"), 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 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.

The Commission notified the Respondent of the preliminary investigation by letter dated August 1, 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 September 15, 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 15th day of September 2014.

EXECUTIVE BRANCH ETHICS COMMISSION:



W. David Denton, Chair



William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard B. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 14-024
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Joseph L. Culver, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Kentucky National Guard, Department of Military Affairs (“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 Joseph L. Culver committed the following violations:

COUNT I

Joseph L. Culver, during his course of employment as the Deputy Adjutant General, Kentucky National Guard, Department of Military Affairs, used or attempted to use his influence in any 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; 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 10, 2012, Culver, who was the Deputy Adjutant General of the Kentucky National Guard, and also served as the Commander of the 38th Infantry Division of the Indiana National Guard, directed a Kentucky National Guard pilot to prepare to fly him to his duty station at the 38th Infantry Division’s headquarters in Indianapolis, Indiana, for Culver’s inactive duty training on Saturday, February 11, 2012. On or about February 11, 2012, Culver used the Kentucky National Guard helicopter, to which he has access and use of for his duties as the Kentucky Deputy Adjutant General, to fly from Louisville, Kentucky, to inactive duty training in Indianapolis, Indiana, with a return flight to Louisville on the same day. National

Guard policy requires soldiers to travel to inactive duty training at their own expense.

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

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.

COUNT II

Joseph L. Culver, during his course of employment as the Deputy Adjutant General, Kentucky National Guard, Department of Military Affairs, used or attempted to use his influence in any 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; and used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest.

Specifically, during October through November 2011 and in April through May 2012, Culver, who was the Deputy Adjutant General of the Kentucky National Guard and also served as the Commander of the 38th Infantry Division of the Indiana National Guard, used on several occasions a Kentucky National Guard vehicle, to which he had access and use of for his duties as the Kentucky Deputy Adjutant General, to drive from Louisville, Kentucky, to inactive duty training in Indianapolis, Indiana, despite National Guard policy that soldiers must travel to inactive duty

training at their own expense.

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

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.

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