COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE NO. 14-019

IN RE: MICHELLE M. JONES
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 Michelle M. Jones (the "Respondent" or "Jones"), pursuant to KRS 11A.080(1), on July 14, 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 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 her influence in matters that involved a substantial conflict between her personal or private interest and her duties in the public interest; influencing a public agency in derogation of the state at large; using her official position to give her family member financial gain; using her official position to secure or create privileges, exemptions, advantages, or treatment for 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 she was using her official position to further her professional or private interest; knowingly receiving, directly or indirectly, an interest or profit arising

from the use or loan of public funds in her hands to be raised through any state agency; knowingly acting as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with herself, or with any business in which she or a member of her family has any interest greater than five percent (5%) of the total value thereof; knowingly herself or through any business in which she owns or controls an interest of more than five percent (5%), or by any other person for her use or benefit or on her account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which she is employed or which she supervises; and failing to notify her appointing authority of her outside employment.

The Commission notified the Respondent of the preliminary investigation by letter dated March 21, 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 July 14, 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 her 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 she 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 her own behalf. If

the Respondent subpoenas witnesses, she 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, she 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~~ 14th day of ~~May~~ July 2014.

EXECUTIVE BRANCH ETHICS COMMISSION:

W. David Denton, Chair

William G. Francis, Vice-Chair

Lewis G. Paisley, Member

Absent

Richard L. Masters, Member

Martin E. Johnstone, Member

APPENDIX A
CASE NO. 14-019
INITIATING ORDER

ALLEGATION OF VIOLATIONS

The Respondent, Michelle M. Jones, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Cabinet for Health and Family Services. 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 Michelle M. Jones committed the following violations:

COUNT I

Michelle M. Jones, during her course of employment as the Family Services Office Supervisor, Department for Community Based Services for the Two Rivers Service Region, Cabinet for Health and Family Services, used her influence in matters that involved a substantial conflict between her personal or private interest and her duties in the public interest; influenced a public agency in derogation of the state at large; used her official position to give her family member financial gain; used her official position to secure or create privileges, exemptions, advantages, or treatment for others 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 she was using her official position to further her professional or private interest; and knowingly acted as a representative or agent for the Cabinet for Health and Family Services in the transaction of business or regulatory action with a business in which a member of her family had an interest greater than five percent (5%) of the total value thereof.

Specifically, during fiscal years 2012 and 2013, Jones used her position to represent her agency in negotiating transactions to have her agency do business with a business owned and

operated by her husband to provide promotional products for events held by her Department for a program that she coordinated as part of her regular job duties.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(3).

.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(3) provides:

> (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

COUNT II

Michelle M. Jones, during her course of employment as the Family Services Office Supervisor, Department for Community Based Services for the Two Rivers Service Region, Cabinet for Health and Family Services, used her influence in matters that involved a substantial conflict between her personal or private interest and her duties in the public interest; influenced a

public agency in derogation of the state at large; used her official position to give her family member financial gain; used her official position to secure or create privileges, exemptions, advantages, or treatment for others 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 she was using her official position to further her professional or private interest; knowingly received, directly or indirectly, an interest or profit arising from the use or loan of public funds in her hands to be raised through any state agency; and knowingly herself or through any business in which she owns or controls an interest of more than five percent (5%), or by any other person for her use or benefit or on her account, undertook, executed, held, and negotiated, in whole or in part, a contract and agreement entered into, awarded, or granted by an agency by which she is employed or which she supervises.

Specifically, during fiscal years 2012 and 2013, Jones used her position to ensure that her agency did business with a business owned and operated by her husband and for which she was listed as a manager on the business' Articles of Incorporation filed with the Secretary of State's office. Jones ensured that funds from a grant, which she coordinated as part of her regular job duties, were used to fund the agency's purchases from her husband's business. Jones directly benefitted from the financial gain to her household income these transactions provided.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2) and (4).

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) and (4) provide:

(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.

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(4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340.

COUNT III

Michelle M. Jones, during her course of employment as the Family Services Office Supervisor, Department for Community Based Services for the Two Rivers Service Region, Cabinet for Health and Family Services, failed to notify her appointing authority of her outside employment.

On or about January 19, 2011, Jones agreed to be listed on the Articles of Incorporation filed with the Secretary of State's Office for her husband's business as the "manager" for the business while she was a full-time employee of the Cabinet for Health and Family Services and without the approval of her appointing authority. Jones was listed on the business filings for her husband's business until April of 2014.

These facts constitute a violation of KRS 11A.040(10).

KRS 11A.040(10) provides:

> (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
>
> (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
>
> (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.
>
> (c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

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