

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE NO. 15-001**

**IN RE: MICHAEL MULLINS
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 Michael Mullins (the “Respondent” or “Mullins”), pursuant to KRS 11A.080(1), on November 15, 2013, and expanded its investigation on November 10, 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 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; and 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.

The Commission notified the Respondent of the preliminary investigation by letters dated

November 20, 2013, and November 13, 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 January 30, 2015, 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. Pursuant to KRS 13B.030(2)(b), 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. If the Attorney General's Office cannot provide the requested hearing officer, the Commission will, pursuant to KRS 13B.030(2)(a), employ a hearing officer, contract with another agency for a hearing officer in conjunction with KRS 11A.070, or contract with a private attorney through a personal services contract. The Commission will notify the Respondent or his retained counsel of the designation of a Hearing Officer as soon as possible after the

appointment.

6. 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.

7. All original material shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601, Attention: Debbie Briscoe. A copy of all materials shall be served on the designated Hearing Officer and the Commission's counsels.

8. 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.

9. 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.

10. 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.

11. 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).

12. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

13. 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 30th day of January 2015.

EXECUTIVE BRANCH ETHICS COMMISSION:



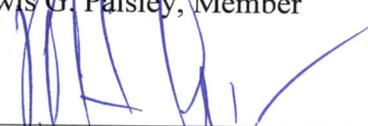
W. David Denton, Chair



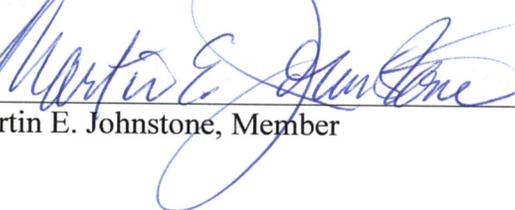
William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 15-001
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Michael Mullins, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Juvenile Justice, Justice and Public Safety 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 Michael Mullins committed the following violations:

COUNT I

Michael Mullins, during his course of employment as a Youth Services Program Supervisor and Juvenile Facilities Superintendent I, Boyd County Juvenile Detention Center, Department of Juvenile Justice, Justice and Public Safety Cabinet, used or attempted to use his influence in matters that involved a substantial conflict between his personal or private interest and his duties in the public interest; used or attempted to use any means to influence a public agency in derogation of the state at large; 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 failed to abstain from action on an official decision because of a conflict of interest.

Specifically, sometime between 2007 through 2011, Mullins participated in a clandestine, sexual relationship with a female co-worker who eventually became Mullins' subordinate employee. Mullins did not inform anyone in his chain of command that he participated in a sexual relationship with his subordinate employee. Beginning in 2009, Mullins supervised this same employee and conducted evaluations on this employee as her evaluator and immediate

supervisor. In 2010, Mullins participated in this employee's evaluations as an evaluator and a "next line" supervisor. In 2010, Mullins also contributed to and signed as "next line" supervisor a Performance Improvement Plan for this employee concerning her ongoing time and attendance issues.

After the female employee ended the sexual relationship with Mullins, Mullins participated as the "next line" supervisor in the employee's evaluations and again participated in issuing a Performance Improvement Plan against the employee. In 2012, despite there being other possible supervisors who could have performed these tasks, Mullins again participated in this employee's evaluations as an evaluator and immediate supervisor as well as her "next line" supervisor, giving the employee the lowest score possible in four categories. In 2013, Mullins participated in this employee's evaluations as a "next line" supervisor.

Despite Mullins ongoing sexual relationship with this employee, Mullins failed to abstain from participation in this employee's evaluations and disciplinary proceedings, and used or attempted to use his position as supervisor to influence his agency's evaluations of this employee. After the employee ended the relationship, Mullins continued to influence his agency's evaluations of this employee, giving her increasingly lower scores on her evaluations.

These facts constitute violations of KRS 11A.020(1)(a) and (b), KRS 11A.020(2), and KRS 11A.030.

KRS 11A.020(1)(a), (b), 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; or
 - (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.

KRS 11A.030 provides:

In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following guidelines:

- (1) Whether a substantial threat to his independence of judgment has been created by his personal or private interest;
- (2) The effect of his participation on public confidence in the integrity of the executive branch;
- (3) Whether his participation is likely to have any significant effect on the disposition of the matter;
- (4) The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or
- (5) Whether the official decision will affect him in a manner differently from the public or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group. A public servant may request an advisory opinion from the Executive Branch Ethics Commission in accordance with the commission's rules of procedure.

(End of document)