

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE 14-014**

**IN RE: RICK GORTNEY  
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 Rick Gortney (the “Respondent”), pursuant to KRS 11A.080(1), on March 21, 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 there was probable cause to believe the Respondent violated provisions of KRS Chapter 11A (also referred to herein as the “Ethics Code”).

The Commission focused upon the Respondent’s possible violation of the Ethics Code by using his official position with the Kentucky Transportation Cabinet to use or attempt to use any means to influence his agency in derogation of the state at large; to give himself financial gain and advantages and privileges for himself in derogation of the state at large; failing to avoid 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 receiving, directly or indirectly, 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 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 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. 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.
2. 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.
3. A Hearing Officer will be designated by the Administrative Hearings Branch of the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.
4. The Commission is represented by Kathryn H. Gabhart, General Counsel, and John R. Steffen, Executive Director. They may be contacted through the Commission's office at (502) 564-7954.
5. 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 at the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.
6. 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.

7. 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 which will be used at the hearing and any exculpatory information in the Commission's possession.

8. 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.

9. 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).

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

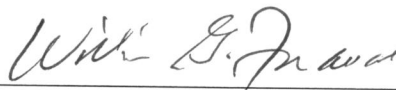
11. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 19th day of May 2014.

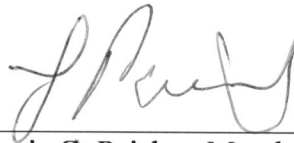
**EXECUTIVE BRANCH ETHICS COMMISSION:**



W. David Denton, Chair

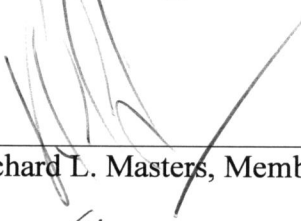


William G. Francis, Vice-Chair



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Lewis G. Paisley, Member



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Richard L. Masters, Member



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Martin E. Johnstone, Member

**APPENDIX A  
CASE NO. 14-012  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Rick Gortney, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Kentucky Transportation Cabinet (also referred to herein as “the 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 Rick Gortney committed the following violation:

**COUNT I**

That Rick Gortney, former Transportation Engineering Technologist III with the Kentucky Transportation Cabinet, used his official position to use or attempt to use any means to influence his agency in derogation of the state at large; to give himself financial gain and advantages and privileges for himself in derogation of the state at large; failed to avoid 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 received, directly or indirectly, interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

Specifically, Gortney, used his position to sell property owned by the Cabinet to his brother-in-law for his own personal financial benefit or gain. The property included a trailer that had been purchased for use by the Cabinet as office space, which was slated to be sold at auction. Instead of selling the trailer at auction, Gortney sold the trailer directly to his brother-in-law, who wrote a \$2000 personal check to Gortney. Gortney cashed the check and kept the proceeds of the sale.

These facts constitute a violation of KRS 11A.020(1), KRS 11A.020(2), and KRS 11A.040(2).

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

- (1) No public servant, by himself or through others, shall knowingly:
  - (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.

KRS 11A.040(2) provides:

- (2) A public servant shall not knowingly receive, 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.

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