COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE NO. 11-010

IN RE: ROBERT HABIG
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 Robert Habig (the "Respondent"), pursuant to KRS 11A.080(1), on September 19, 2011.

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 (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 official position to give members of his family and friends a financial gain and an advantage in derogation of the public interest at large; using his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest; and accepting a gift 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, or is attempting to influence the actions of the agency in which the Respondent is employed or which he supervises.

The Commission notified the Respondent of the preliminary investigation by

letter dated September 26, 2011. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on December 2, 2011, 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 that 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.

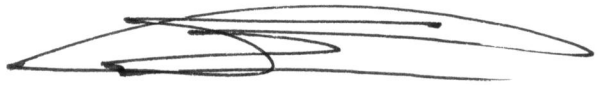
9. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

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 2nd day of December 2011.

EXECUTIVE BRANCH ETHICS COMMISSION:



Ronald L. Green, Chair

Angela G. Edwards

Angela Edwards, Vice-Chair

W. David Denton, Member

William L. Knopf, Member

William G. Francis, Member

APPENDIX A
CASE NO. 11-010
INITIATING ORDER

ALLEGATION OF VIOLATIONS

The Respondent, Robert Habig, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Tourism, Arts and Heritage Cabinet for the Department of Parks. 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 Robert Habig committed the following violations:

COUNT I

Robert Habig, during his course of employment as a Business Manager with the Tourism, Arts and Heritage Cabinet for the Department of Parks, used his official position to obtain financial gain for others, to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest at large, and to accept gifts totaling a value greater than twenty-five dollars ($25) in a single calendar year from a person or business that does business with or is attempting to influence the actions of the agency in which the Respondent is employed or which he supervises.

Specifically, during the spring of 2011, Habig, along with his family, used a pontoon boat owned by State Dock Marina Ventures, LLC ("State Dock"), which has a lease agreement with the Department of Parks to lease the Lake Cumberland marina, without paying a rental fee. The actual rental rate for this type of pontoon boat from State Dock is approximately $119 to $299, depending on the season, the size of the pontoon boat, and the length of the rental time. On August 4, 2011, Habig, along with his family, used a ski boat owned by State Dock without

paying a rental fee for approximately one hour. The full-day rental fee for a ski boat from State Dock is approximately $329 to $529 depending on the size of the boat and the season.

These facts constitute violations of KRS 11A.020(1)(c) and (d) and KRS 11A.045(1).

KRS 11A.020(1)(c) and (d) provide:

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

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