

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE 16-008**

**IN RE: TIMOTHY LONGMEYER  
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 Timothy Longmeyer (the "Respondent"), pursuant to KRS 11A.080(1), on April 19, 2016.

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 its investigation upon whether the Respondent violated the Ethic's Code by using or attempting 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; using or attempting to use any means to influence a public agency in derogation of the state at large; using his official position or office to obtain financial gain for himself or any members of the public servant's family; using or attempting 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; failing to 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; failing to abstain from action on an official decision in which he had a conflict of

interest; disclosing or using confidential information acquired in the course of his official duties to further his own economic interests; knowingly receiving an interest or profit arising from the use or loan of public funds; knowingly accepting compensation other than that provided by law for public servants for performance of his official duties; accepting gift(s) in violation of the ethics code; and failing to comply with the financial disclosure requirement of the ethics code.

The Commission notified the Respondent of the preliminary investigation by letter dated April 27, 2016. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on November 14, 2016, 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 Misty Dugger Judy, General Counsel, and Kathryn H. Gabhart, 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 14th day of November 2016.

**EXECUTIVE BRANCH ETHICS COMMISSION:**



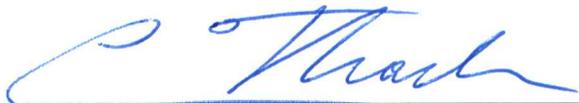
W. David Denton, Chair



William G. Francis, Vice-Chair

Absent

Sheila R. Isaac, Member



Christopher L. Thacker, Member



Theresa Fritz Camoriano, Member

**APPENDIX A  
CASE NO. 16-008  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Timothy Longmeyer, was at all relevant times an employee of the Commonwealth of Kentucky, serving as the Secretary of the Personnel Cabinet, (also referred to herein as "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 Timothy Longmeyer (referred to herein as "Longmeyer"), committed the following violations:

**COUNTS I - XLI**

Longmeyer, during the course of his employment as Secretary of the Personnel Cabinet, used or attempted to use his influence in a matter which 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 public interest at large; used his official position or office to obtain financial gain for himself; used or attempted to use his official position to secure or create privileges for himself or others 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; failed to abstain from action on an official decision in which he had a personal or private interest; disclosed or used confidential information acquired in the course of his official duties, received an interest or profit arising from the use or loan of public funds; accepted compensation other

than that provided by law for public servants for performance of his official duties; and accepted gifts in violation of the ethics code.

Specifically, during the course of his employment as Secretary of the Personnel Cabinet, and while responsible for the administration and oversight of the Kentucky Employees Health Plan, Longmeyer used his position to secure cash and other benefits through a kickback scheme. Longmeyer influenced Humana and Anthem to employ the services of a private consultant, (hereinafter “Consultant”), who in turn agreed to funnel certain payments to Longmeyer from the compensation received for his services. In most instances, the Consultant provided cash directly to Longmeyer. In other instances, Longmeyer directed the Consultant to use the cash to fund illegal conduit contributions to certain political campaigns.

Between November 21, 2014 and October 9, 2015, Longmeyer accepted 41 payments from the Consultant in exchange for ensuring that Humana and Anthem retained the Consultant’s services and then ensured that Humana and Anthem received compensation, from state funds, for their payments to the Consultant. Each payment listed below represents a separate count within this Initiating Order in which Longmeyer received kickback payments from the Consultant:

<b>Count</b>	<b>Approximate Date</b>	<b>Amount</b>	<b>Form</b>
1	11/21/2014	\$ 7,000.00	Cash
2	11/28/2014	\$ 3,500.00	Cash
3	12/5/2014	\$ 3,500.00	Cash
4	12/8/2014	\$ 3,500.00	Cash
5	12/18/2014	\$ 3,500.00	Cash
6	12/18/2014	\$ 10,500.00	Cash
7	12/19/2014	\$ 10,500.00	Cash
8	12/24/2014	\$ 3,500.00	Cash
9	1/4/2015	\$ 3,500.00	Cash
10	1/8/2015	\$ 3,500.00	Cash
11	1/16/2015	\$ 3,500.00	Cash
12	1/21/2015	\$ 3,500.00	Cash
13	1/26/2015	\$ 3,500.00	Cash
14	2/6/2015	\$ 3,500.00	Cash

15	2/13/2015	\$ 3,500.00	Cash
16	2/20/2015	\$ 14,000.00	Cash
17	2/27/2015	\$ 6,000.00	Cash
19	2/27/2015	\$ 5,000.00	Cash
20	3/6/2015	\$ 5,000.00	Cash
21	3/6/2015	\$ 2,000.00	Conduit Campaign Contribution
22	3/12/2015	\$ 5,000.00	Cash
23	3/12/2015	\$ 1,000.00	Conduit Campaign Contribution
24	3/18/2015	\$ 5,000.00	Cash
25	3/26/2015	\$ 5,000.00	Cash
26	4/2/2015	\$ 5,000.00	Cash
27	4/17/2015	\$ 5,000.00	Cash
28	4/17/2015	\$ 5,000.00	Cash
29	4/24/2015	\$ 5,000.00	Cash
30	4/30/2015	\$ 5,000.00	Cash
31	5/5/2015	\$ 5,000.00	Cash
32	5/18/2015	\$ 5,000.00	Cash
33	5/24/2015	\$ 5,000.00	Cash
34	5/28/2015	\$ 3,000.00	Conduit Campaign Contribution
35	5/28/2015	\$ 5,000.00	Cash
36	6/8/2015	\$ 5,000.00	Cash
37	6/12/2015	\$ 5,000.00	Cash
38	6/19/2015	\$ 5,000.00	Cash
40	10/2/2015	\$ 5,000.00	Cash
41	10/9/2015	\$ 17,500.00	Cash

These facts constitute violations of KRS 11A.020(1)(a), (b), (c) and (d); KRS 11A.020(2); KRS 11A.020(3); KRS 11A.030; KRS 11A.040(1), (2) and (5); and KRS 11A.045(1).

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

- (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.

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.020(3) provides:

- (3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

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.

KRS 11A.040(1), (2) and (5) provides:

- (1) A public servant, in order to further his own economic

interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

(2) A public servant shall not knowingly receive, indirectly 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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(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

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KRS 11A.045(1) 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 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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## COUNT XLII

Longmeyer, during the course of his employment as Secretary of the Personnel Cabinet, 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 properly file a Statement of Financial Disclosure with the Executive Branch Ethics Commission for the 2014 calendar year.

Specifically, during the course of his employment as Secretary of the Personnel Cabinet,

Longmeyer failed to file a timely and complete Statement of Financial Disclosure within the time period required by statute for the 2014 calendar year. In particular, Longmeyer failed to disclose the name and address of any source of gross income exceeding \$1000 from any one source, failed to disclose the source of retainers received by him relating to matters of the Cabinet, failed to disclose any representation or intervention for compensation by him for any person or business before the Cabinet, and failed to disclose sources of gifts of money or property with a retail value exceeding \$200 from sources other than his family.

These facts constitute a violation of KRS 11A.020(2) and KRS 11A.050(3)(f), (g), (h), and (k).

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.050(3)(f), (g), (h), and (k) provides:

(3) The statement shall include the following information for the preceding calendar year:

(f) The name and address of any source of gross income exceeding one thousand dollars (\$1000) from any one (1) source to the filer, his spouse, or dependent child, as well as information concerning the nature of the business, and the form of the income.

(g) Sources of retainers received by the filer or his spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would service in a decision-making capacity, including each source's name and address;

(h) Any representation or intervention for compensation by the filer or his spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;

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(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his spouse, or dependent children except those from a member of the filer's family;

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### COUNT XLIII

Longmeyer, during the course of his employment as Secretary of the Personnel Cabinet, 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 properly file a Statement of Financial Disclosure with the Executive Branch Ethics Commission for the 2015 calendar year.

Specifically, during the course of his employment as Secretary of the Personnel Cabinet, Longmeyer failed to file a timely and complete Statement of Financial Disclosure within the time period required by statute for the 2015 calendar year. In particular, Longmeyer failed to disclose the name and address of any source of gross income exceeding \$1000 from any one source, failed to disclose the source of retainers received by him relating to matters of the Cabinet, failed to disclose any representation or intervention for compensation by him for any person or business before the Cabinet, and failed to disclose sources of gifts of money or property with a retail value exceeding \$200 from sources other than his family.

These facts constitute a violation of KRS 11A.020(2) and KRS 11A.050(3)(f), (g), (h), and (k).

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.050(3)(f), (g), (h), and (k) provides:

(3) The statement shall include the following information for the preceding calendar year:

(f) The name and address of any source of gross income exceeding one thousand dollars (\$1000) from any one (1) source to the filer, his spouse, or dependent child, as well as information concerning the nature of the business, and the form of the income.

(g) Sources of retainers received by the filer or his spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would service in a decision-making capacity, including each source's name and address;

(h) Any representation or intervention for compensation by the filer or his spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;

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(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his spouse, or dependent children except those from a member of the filer's family;

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#### COUNT XLIV

Longmeyer, during the course of his employment as the Secretary of the Personnel Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; used his position to influence an agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, between 2011 and 2015, while on state time, Longmeyer directed a subordinate employee to solicit financial contributions for gubernatorial campaigns from

Personnel Cabinet employees under Longmeyer's supervision. These requests for contributions were made in the workplace, during working hours, and a portion of the contributions were collected in the workplace. These facts constitute violations of KRS 11A.020(1)(a), (b) and (d), and KRS 11A.020(2).

KRS 11A.020(1)(a), (b) and (d) provide:

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

(a) Use his influence in a matter that 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; or

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(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.

#### **COUNT XLV**

Longmeyer, during the course of his employment as the Secretary of the Personnel Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; used his position to influence an agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, between 2012 and 2014, Longmeyer, directed a subordinate employee of the

Personnel Cabinet to solicit financial contributions for a local judicial campaign from other Personnel Cabinet employees under Longmeyer's supervision. These requests for contributions were made in the workplace, during working hours, and a portion of the contributions made were collected in the workplace. These facts constitute violations of KRS 11A.020(1)(a), (b) and (d), and KRS 11A.020(2).

KRS 11A.020(1)(a), (b) and (d) provide:

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

(a) Use his influence in a matter that 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; or

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(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.

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