

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE 07-108**

**IN RE: BASIL TURBYFILL  
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 Basil Turbyfill (the "Respondent"), pursuant to KRS 11A.080(1), on September 2, 2005.

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 following possible violations of the Ethics Code in the course of its investigation:

1. The Respondent's possible use of his official position to give others an advantage in obtaining jobs within the classified (merit) system in derogation of the public interest at large;
2. The Respondent's possible involvement in personnel matters that posed a conflict between his private interest and his duties in the public interest; and
3. The Respondent's possible attempt to influence a public agency in personnel matters in derogation of the state at large.

The Commission notified the Respondent of the preliminary investigation by letter dated September 8, 2005. During the course of the investigation, the Commission found probable

cause to believe that violations of KRS Chapter 11A had occurred and voted on June 1, 2007, 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. All material submitted to the Commission shall be addressed to the Executive Branch Ethics Commission, The Vest-Lindsey House, 401 Wapping Street, Frankfort, Kentucky 40601. The Commission is represented by John R. Steffen, General Counsel, who may be contacted through the Commission's office at (502) 564-7954.
4. 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.
5. 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.

6. 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.

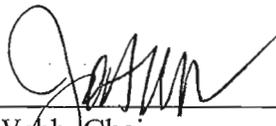
7. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

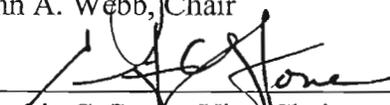
8. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

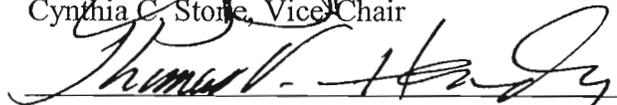
9. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

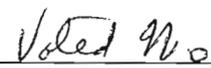
So ordered this 1<sup>st</sup> day of June, 2007.

**EXECUTIVE BRANCH ETHICS COMMISSION:**

  
\_\_\_\_\_  
John A. Webb, Chair

  
\_\_\_\_\_  
Cynthia C. Stone, Vice Chair

  
\_\_\_\_\_  
Thomas V. Handy

  
\_\_\_\_\_  
J. Quentin Wesley

  
\_\_\_\_\_  
OPPOSED - REFUSED TO SIGN  
E. Patrick Moores

**APPENDIX A  
CASE NO. 07-108  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Basil Turbyfill, was at all times relevant an employee of the Commonwealth of Kentucky, serving as the Deputy Secretary of the Finance and Administration Cabinet or as Director of the Governor's Office of Personnel and Efficiency. The Respondent was subject to the jurisdiction of the Commission at all relevant times. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Turbyfill committed the following violations:

**COUNT I**

Turbyfill violated KRS 11A.020(1)(a), (b), and (c) by using or attempting to use his official position and influence by instructing the Executive Director of the Governor's Office for Local Development ("GOLD") to "get rid" of some of GOLD's higher paid merit employees on the basis of their political contributions. Such action presented a substantial conflict between Turbyfill's personal political interests and his duty in the public interest in disregard of the statutes and regulations governing the merit hiring system.

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

...

(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.

## COUNT II

Turbyfill violated KRS 11A.020(1)(a), (b), and (d) by placing private political interests above his duties as an employee of the Commonwealth of Kentucky when he attempted to influence officials in the Office of Human Resource Management, Cabinet for Health and Family Services to give employment advantages to certain individuals by instructing the officials to speed up the “personnel initiative” process of placing individuals recommended by legislators, county judges and others who supported the Governor in merit positions based on the source of recommendation and the applicant’s political support of the Governor rather than on the applicant’s qualifications, referencing the Transportation Cabinet’s method of doing so as an example for them to follow. Such action presented a substantial conflict between Turbyfill’s personal political interests and his duty in the public interest in disregard of the statutes and regulations governing the merit hiring system.

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

## COUNT III

Turbyfill violated KRS 11A.020(1)(b) and (d) by using or attempting to use his official position to influence a public agency and to give advantages to certain individuals in derogation of the public interest at large by directing personnel of various agencies to hire merit system applicants based on private political interests rather than qualifications or agency personnel

preference with disregard to personnel statutes or regulations governing the merit system hiring procedures.

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

(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;

...

(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.

#### **COUNT IV**

Turbyfill violated KRS 11A.020(1)(a) by placing private political interests above his duties as an employee of the Commonwealth of Kentucky when, as the effective director of the “personnel initiative,” he aided and abetted the hiring, appointment, promotion, demotion, or transfer of individuals based on political considerations rather than qualifications. Such action presented a substantial conflict between Turbyfill’s personal political interests and his duties in the public interest.

KRS 11A.020(1)(a) 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;

**(End of document)**