COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 08-24

IN RE: BILLY CARR
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 Billy Carr (the "Respondent"), pursuant to KRS 11A.080(1), on September 26, 2008.

The Respondent was a "public servant" as defined in KRS 11A.010(9) through November 30, 2007, 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 failing to file a 2007 Statement of Financial Disclosure filed with the Commission for the portion of the year that he was employed by the Environmental and Public Protection Cabinet.

The Commission notified the Respondent of the preliminary investigation by letter dated September 29, 2008. 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, 2008, 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, #3 Fountain Place, Frankfort, Kentucky 40601. The Commission is represented by Dana Cox Nickles, 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 14th day of November, 2008.

EXECUTIVE BRANCH ETHICS COMMISSION:

Gwen R. Pinson, Chair

Ronald Green, Vice-Chair

J. Quentin Wesley

Jeanie Owen Miller

Angela Edwards

APPENDIX A
CASE NO. 08-24
INITIATING ORDER

ALLEGATION OF VIOLATIONS

The Respondent, Billy Carr, was an employee of the Commonwealth of Kentucky through November 30, 2007, serving in the Environmental and Public Protection Cabinet. 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 Billy Carr committed the following violation:

COUNT I

That Billy Carr, an "officer" as defined in KRS 11A.010(7), in violation of KRS 11A.050(1)(b), failed to file a 2007 Statement of Financial Disclosure within the time period required by statute for the portion of calendar year 2007 during which he was employed by the Environmental and Public Protection Cabinet as a Division Director II.

KRS 11A.050 (1) provides:

> Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each candidate shall file a statement of financial disclosure with the commission, as follows:
>
> (a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (g) who occupies his position during any portion of a calendar year shall file the statement for that portion of the calendar year he occupied the position on or before April 15 of the following year, whether or not he remains an officer or public servant as listed in KRS 11A.010(9)(a) to (g).
>
> (b) Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (g). The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (g).

(c) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.

KRS 11A.010(7) defines "officer" as follows:

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

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