

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 14-016**

**IN RE: KEVIN BOOKER
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 Kevin Booker (the "Respondent"), pursuant to KRS 11A.080(1), on July 30, 2013.

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 had sufficient probable cause to believe the Respondent violated provisions of KRS Chapter 11A, the Executive Branch Code of Ethics (also referred to herein as the "Ethics Code").

The Commission focused its investigation upon the Respondent's possible violation of the Ethics Code by influencing a public agency in derogation of the state at large; using his official position or office to obtain financial gain for himself; using his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; 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; and failing to notify his appointing authority of his outside employment.

The Commission notified the Respondent of the preliminary investigation by letter dated July 31, 2013. 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. 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. 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. The Commission is represented by Kathryn H. Gabhart, General Counsel, and John R. Steffen, Executive Director and co-Counsel. They may be contacted through the Commission's office at (502) 564-7954.
6. 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.
7. 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.

8. 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.

9. 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.

10. 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).

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

12. 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.

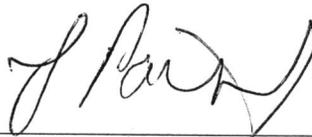
EXECUTIVE BRANCH ETHICS COMMISSION:



W. David Denton, Chair



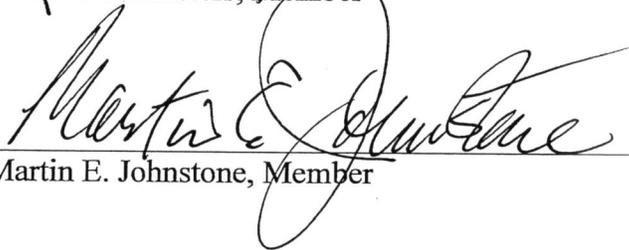
William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 14-016
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Kevin Booker, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Labor Cabinet, Department of Workers Claims, Division of Security and Compliance. 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 Kevin Booker committed the following violations:

COUNT I

Kevin Booker, during his course of employment as a Workers' Compensation Coverage and Compliance Investigator II, in the Enforcement Section, Compliance Branch, Division of Security and Compliance, Department of Workers Claims, Labor Cabinet, influenced a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; and 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.

Specifically, during 2012 and 2013, Booker, while on state time, worked another job for a private employer in Louisville, Kentucky. During the stated period of time, Booker worked approximately 70 hours for this private employer during hours that he presented that he was performing duties on behalf of the Labor Cabinet in locations throughout the state. Booker, whose job duties included investigation of workers claims, would inform his supervisor that he

was performing his job duties in various cities and counties throughout the state, but at the same time would be working for the private employer in Louisville, Kentucky. Booker, in order to perform this outside employment for the private employer, failed to fulfill his assigned job duties for the Labor Cabinet.

These facts constitute violations of KRS 11A.020(1)(b), (c), and (d), and KRS 11A.020(2).

KRS 11A.020(1)(b), (c), and (d), and (2) 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;

(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.

(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 II

Kevin Booker, during his course of employment as a Workers' Compensation Coverage and Compliance Investigator II, in the Enforcement Section, Compliance Branch, Division of Security and Compliance, Department of Workers Claims, Labor Cabinet, influenced a public agency in derogation of the state at large; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest; 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 notify his appointing authority of his outside employment.

Specifically, during 2012 and 2013, Booker failed to request approval to work for a private employer in Louisville, Kentucky, for work that was outside of his state employment for the Labor Cabinet. Booker worked for this private employer for approximately sixteen (16) months, spanning from January 2012 through at least May 2013, while also a public servant working for the Labor Cabinet. During this time, on or about March 19, 2013, the Labor Cabinet's management reminded Booker of his obligation to seek approval from his appointing authority for outside employment. Not only did Booker continue to fail to seek approval for the work for the private employer after being reminded of his obligation to do so by his agency, but, on or about April 8, 2013, requested approval to perform work for yet another outside private employer.

These facts constitute violations of KRS 11A.020(1)(b) and (d), and (2).

KRS 11A.020(1)(b) and (d), and (2) 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;

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.

(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(10) provides:

- (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

COUNT III

Kevin Booker, during his course of employment as a Workers' Compensation Coverage and Compliance Investigator II, in the Enforcement Section, Compliance Branch, Division of Security and Compliance, Department of Workers Claims, Labor Cabinet, influenced a public agency in derogation of the state at large; used his official position to obtain financial gain for himself; used his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest; and 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.

Specifically, during 2012 and 2013, Booker falsified his timesheets he submitted to his Cabinet to show that he was performing work for the Cabinet when he was actually performing work for a private employer. In doing so, Booker collected pay for time he falsely reported on his timesheets.

These facts constitute violations of KRS 11A.020(1)(b), (c), and (d), and (2).

KRS 11A.020(1)(b), (c), and (d), and (2) 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;
- (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.

- (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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