

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE NO. 15-013**

**IN RE: LEWIS YOUNG  
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 Lewis Young (the “Respondent” or “Young”), pursuant to KRS 11A.080(1), on March 23, 2015.

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, 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 using his influence in matters that involved a substantial conflict between his personal or private interest and his duties in the public interest; influencing a public agency in derogation of the state at large; using his official position to give himself or a family member a financial gain; using his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others 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 was using his official position to further his professional or private interest; knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy,

in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises; and without the approval of his appointing authority, 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.

The Commission notified the Respondent of the preliminary investigation by letter dated April 2, 2015. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on July 24, 2015, 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 Kathryn H. Gabhart, Interim Executive Director and General Counsel of the Executive Branch Ethics Commission. She 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 counsel.

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.

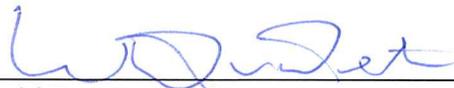
11. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

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

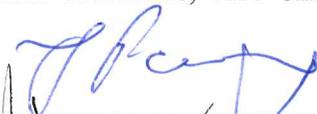
13. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

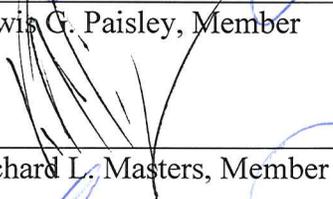
So ordered this 24th day of July 2015.

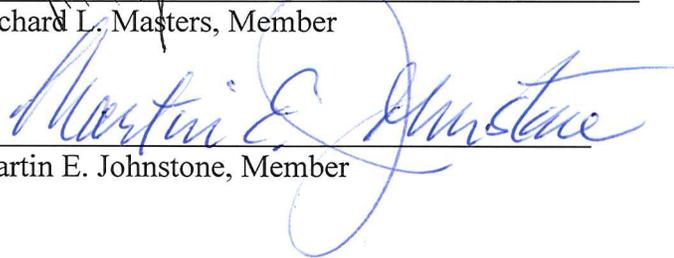
**EXECUTIVE BRANCH ETHICS COMMISSION:**

  
\_\_\_\_\_  
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. 15-013  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Lewis Young, was at all relevant times an employee of the Commonwealth of Kentucky, serving in District 5, Kentucky Transportation Cabinet ( the “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 Lewis Young committed the following violations:

**COUNT I**

Lewis Young, during his course of employment as a Transportation Engineering Technologist III, District 5, Kentucky Transportation Cabinet, used or attempted 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; used or attempted to use any means to influence a public agency in derogation of the state at large; used his official position to give himself a financial gain; 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 his employment with the Cabinet, Young has engaged in soliciting money ranging in amounts from \$20 to \$150 from employees working for a subcontractor of the Cabinet over which he was supervising as an inspector. Young would eventually pay back the employees after he had used and enjoyed the funds. Young used his position and influence with the Cabinet to influence the employees of the subcontractor to give him the funds with full

knowledge that Young could influence the Cabinet to shut down the project, force the subcontractor to redo work on a project, or extend the project.

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

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

## **COUNT II**

Lewis Young, during his course of employment as a Transportation Engineering Technologist III, District 5, Kentucky Transportation Cabinet, used or attempted 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; used or attempted to use any means to influence a public agency in derogation of the state at large; used his official position to give himself a financial gain; 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 his employment with the Cabinet, Young has engaged in sleeping while on the job. Oftentimes, Young would wake up from his naps and force the subcontractor to redo work on a project over which Young was serving as the inspector for the Cabinet. Young would report a full day of work on his timesheet when he was using work time to fulfill his personal interests of sleeping. Young's false reporting of his sleeping time as regular work hours on his timesheets resulted in Young receiving compensation for time that he did not fulfill his job duties or work for the Cabinet.

Young used his position to influence his Cabinet to force a subcontract to redo work that he failed to witness being performed because he was sleeping. Further, Young influenced the Cabinet to compensate him for time that he did not work resulting in his receipt of financial gain and benefits in derogation of the state and the public interest. By Young falsely reporting his work time on his timesheets, Young failed to avoid conduct that would lead the general public to conclude that he was using his official position to further his private interest.

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

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

### **COUNT III**

Lewis Young, during his course of employment as a Transportation Engineering Technologist III, District 5, Kentucky Transportation Cabinet, knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises; and without the approval of his appointing authority, 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.

Specifically, from approximately January through December 2014, Young performed outside employment with a business that does business with the Cabinet without informing his supervisor or appointing authority and without receiving permission from the Cabinet to do so. While working for this business, Young received compensation from the business resulting from a contract with the Cabinet.

These facts constitute violations of KRS 11A.040(4) and (10).

KRS 11A.040(4) provides:

- (4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded,

or granted by the agency by which he is employed or which he supervises. . .

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.
  - (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
  - (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.
  - (c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

**(End of document)**