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EXECUTIVE BRANCH
ETHICS COMMISSION

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II

ENTERED
AUG 28 2013
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

CIVIL ACTION NOs. 12-CI-00758 and 12-CI-759
CONSOLIDATED INTO 12-CI-00758

JOYCE PARKER and
JULIE SHIELDS — **PETITIONERS**

vs.

KENTUCKY EXECUTIVE BRANCH
ETHICS COMMISSION — **RESPONDENT**

OPINION AND ORDER

This matter is before the Court upon Petitioners' Consolidated Appeals from Final Orders of Respondent, Kentucky Executive Branch Ethics Commission. Upon review of the parties' briefs and papers, and after being sufficiently advised, this Court hereby **ADOPTS** the *Opinion and Order* entered March 5, 2013 by Franklin Circuit Court, Division I, in Civil Action Nos. 12-CI-0512, 0760 and 0996 (Consolidated into 12-CI-0512) and **REVERSES** the Final Orders.

STATEMENT OF FACTS

I. Procedural History

The Court will go through the factual background of this case with respect to each of the Petitioners in further detail below, but the relevant facts are not in dispute. Each Petitioner is a Property Valuation Administrator (hereinafter "PVA") duly elected by the voters of the county in which she resides. In 2007, Respondent, Kentucky Executive Branch Ethics Commission (hereinafter "Commission"), initiated investigations into Petitioners' office hiring and promotion practices. Following these investigations, in

September 2008, Petitioners were charged with "using [her] official position or office to obtain financial gain for a member of [her] family," in violation of KRS 11A.020(1)(c). Petitioners' charges were based on either the promotion of a family member already employed in her PVA Office or the hiring of a family member to work in her PVA Office. The Commission's allegations against each Petitioner fail to identify any specific instance of misconduct by Petitioners' family members, to state that Petitioner's family members were ill-qualified for their positions or that the family members failed to put in an honest day's work for an honest day's pay.

Petitioners were found to have violated the Ethics Code based on the Commission's findings of hiring or promoting relatives. Petitioners appealed to the Franklin Circuit Court, which summarily disposed of Petitioners' appeals, finding that KRS Chapter 11A did not apply to local elected officials. The case was appealed to the Kentucky Court of Appeals, which reversed the Franklin Circuit Court in 2010. Having already investigated Petitioners, the Commission reinitiated the administrative proceedings against them and re-issued Final Orders against Petitioners for violation of KRS 11A.020(1)(c). Both Petitioners appealed from the Commission's Final Orders, which were entered on May 14, 2012. After Petitioners' respective appeals were consolidated by Agreed Order entered November 1, 2012, the parties briefed the issues in the case and submitted the matter for decision.

a. Joyce Parker

Petitioner, Joyce Parker (hereinafter "Parker"), is the duly elected PVA in Laurel County, Kentucky. Parker has occupied her elected position since her appointment to it on September 20, 2004. In June 2006, Parker recommended her daughter, Christis

Garland for appointment to a seasonal full-time position to be paid with locally generated "OX" funds. Parker's daughter was subsequently hired as a full-time Secretary in the Laurel County PVA Office.

b. Julie Shields

Petitioner, Julie Shields (hereinafter "Shields"), is the duly elected PVA in Taylor County, Kentucky. Shields started working in the Taylor County PVA Office in 1985. She was elected to her current position as Taylor County PVA in 1989 and has held that position since her election. In 1990, Shields recommended that her husband, Martin Shields, be appointed as a deputy in the Taylor County PVA Office. Mr. Shields has worked in the Taylor County PVA Office since 1990, and in 2007 he was appointed Chief Deputy.

ANALYSIS

Three similar cases were consolidated and submitted for decision before Franklin Circuit Court Judge Phillip J. Shepherd earlier this year. In a well-reasoned *Opinion and Order* entered March 5, 2013, Judge Shepherd concluded that the Commission acted arbitrarily and outside the scope of its authority in finding Petitioners in violation of KRS Chapter 11A's nepotism provision. Judge Shepherd was clear: "[t]he language of KRS 11A.020(1)(c) as it is currently worded, and as it was originally interpreted by the Commission, does not support the Commission's final Orders entered against Petitioners." Because this Court agrees with the analysis and conclusion of Judge Shepherd's *Opinion and Order*, this Court hereby **ADOPTS** and **INCORPORATES** that decision in its present *Opinion and Order* and **REVERSES** the Final Orders of the Commission.