

## SETTLEMENT AGREEMENT

This agreement made and entered into between the Executive Branch Ethics Commission (hereinafter the "Commission") and Gerri Mesmer.

WHEREAS, this agreement involves the matter styled *Executive Branch Ethics Commission v. Gerri Mesmer*, Case No. 16-001;

WHEREAS, the Commission is designated by statute as the agency responsible for enforcing the Executive Branch Code of Ethics, KRS Chapter 11A;

WHEREAS, on January 11, 2016, the Commission alleged facts in an Initiating Order that Gerri Mesmer violated the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b) and (d);

WHEREAS, Gerri Mesmer was at all relevant times mentioned in the Initiating Order a "public servant" as defined in KRS 11A.010(9) and thus subject to the Executive Branch Code of Ethics;

WHEREAS, the facts alleged in the Initiating Order relate in full or part to facts alleged in *Commonwealth vs. Gerri Mesmer, Jefferson Circuit II, 12-CR-3780*;

WHEREAS, Gerri Mesmer pled guilty to one count of Unlawful transaction with a Minor Second Degree to resolve *Commonwealth vs. Gerri Mesmer, Jefferson Circuit II, 12-CR-3780*;

WHEREAS, the Order Granting Pretrial Diversion in *Commonwealth vs. Gerri Mesmer, Jefferson Circuit II, 12-CR-3780*, prohibited Gerri Mesmer from working with juveniles and required her to do the following: pay \$1,000 to Kosair Charities, pay probation supervision and drug testing fees totaling \$2,100 during her five-year probationary period, and pay for SOTP treatment.

WHEREAS, Gerri Mesmer voluntarily resigned from her employment with the Executive Branch of the Commonwealth, and

WHEREAS, Gerri Mesmer indicates her desire to resolve all issues in this action by the execution of a Settlement Agreement.

NOW, THEREFORE, in settlement of the above allegations, the Commission and Gerri Mesmer agree, pursuant to KRS 11A.100, as follows:

1. Gerri Mesmer admits that she committed violations of the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b) and (d), as stated in the Appendix A to the Commission's Initiating Order of January 11, 2016, attached hereto

and incorporated by reference herein, subject to the following provisions of this Settlement Agreement.

2. The Commission agrees to amend Count I of the Initiating Order issued January 11, 2016 to read as follows:

Gerri Mesmer, during her course of employment as a Social Service Clinician I, Westport Group Home, Department of Juvenile Justice (“Department”), Justice and Public Safety Cabinet, used or attempted to use her influence in a matter which involved a substantial conflict between her personal or private interest and her duties in the public interest; used or attempt to use any means to influence a public agency in derogation of the state at large; and used or attempted to use her official position to secure or create privileges, exemptions, advantages, or treatment for herself or others in derogation of the public interest at large.

Specifically, during 2012, Mesmer used her position as a Social Service Clinician at the Westport Group Home, and her access to juvenile male offenders, to engage in inappropriate interactions with at least one juvenile under her supervision. Mesmer did so to fulfill her own prurient interests, which conflicted with her duties in the public interest. Mesmer also used her position and access to juvenile offenders to violate the Department’s policies.

These facts constitute a violation of KRS 11A.020(1)(a), (b), and (d), which provide as follows:

- (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;

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- (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.

3. The Commission agrees to amend Count II of the Initiating Order issued January 11, 2016 to read as follows:

Gerri Mesmer, during her course of employment as a Social Services Clinician with the Westport Group Home, Department of Juvenile Justice, ("Department"), Justice and Public Safety Cabinet, used or attempted to use her influence in a matter which involves a substantial conflict between her personal or private interest and her duties in the public interest; used her official position to use or attempt to use any means to influence her agency in derogation of the state at large; and used or attempted to use her official position to secure or create privileges, exemptions, advantages, or treatment for herself or others in derogation of the public interest at large.

Specifically, while working as a Social Service Clinician at the Westport Group Home during 2012, Mesmer provided a male juvenile offender under her supervision with items of value, including Xbox game console, Xbox video games, food items, and cash money at the same time that she was attempting to or engaging in inappropriate interactions with the male juvenile offender. Mesmer provided these items of value to the juvenile in violation of the Department's policies and used her position and access to the juvenile to do so.

These facts constitute a violation of KRS 11A.020(1)(a), (b), and (d), which provide as follows:

- (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;
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  - (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.

4. Gerri Mesmer agrees to pay the Commission a civil penalty of three thousand five hundred dollars (\$3,500.00) offset on a dollar-for-dollar basis by the amount she has paid to Kosair Charities of \$1,000, and amount paid for probation supervision and drug testing fees totaling \$2,100, for a remaining balance amount of \$400 to be submitted to the Commission on or before January 1, 2017.

5. Gerri Mesmer agrees to not seek employment with the Executive Branch of the Commonwealth of Kentucky for five (5) years from the date of approval of this Settlement Agreement by the Commission;

6. Gerri Mesmer agrees that upon a Final Order being issued by the Commission that she waives all rights to any further administrative process or appeal pursuant to KRS 13B.140 thereon.

7. The parties further agree that the acceptance of this Settlement Agreement by both parties, and the fulfillment of its express terms, is in full accord and satisfaction of the herein referenced *Executive Branch Ethics Commission v. Gerri Mesmer*, Case No. 16-001.

8. This Settlement Agreement constitutes a public reprimand to Gerri Mesmer, a copy of which will be provided to her appointing authority pursuant to KRS 11A.100(3)(c).

IN WITNESS THEREOF, the parties have caused this agreement to be executed:

  
Gerri Mesmer

10/29/16  
Date

**EXECUTIVE BRANCH ETHICS COMMISSION:**

  
W. David Denton, Chair

11-14-16  
Date

  
William G. Francis, Vice-Chair

11-14-16  
Date

Absent  
Sheila R. Isaac, Member

11-14-16  
Date

  
Christopher L. Thacker, Member

11-14-16  
Date

  
Theresa Fritz Camoriano, Member

11-14-16  
Date