

SETTLEMENT AGREEMENT

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

WHEREAS, this agreement involves the matter styled *Executive Branch Ethics Commission v. Jason Abney*, Case No. 14-017, Administrative Action No. 14-EBEC-0177;

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

WHEREAS, on May 19, 2014, the Commission alleged facts in an Initiating Order that Jason Abney violated the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b), (c) and (d), KRS 11A.020(2), and KRS 11A.040(2);

WHEREAS, Jason Abney 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; and

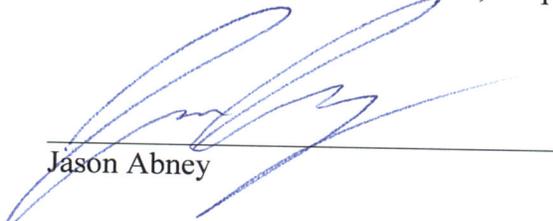
WHEREAS, Jason Abney indicates his desire to resolve all issues in this action by the execution of a Settlement Agreement.

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

1. Jason Abney admits that he committed violations of the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b), (c) and (d), KRS 11A.020(2), and KRS 11A.040(2), as stated in the Appendix A to the Commission's Initiating Order of May 19, 2014, attached hereto and incorporated by reference herein.
2. Jason Abney agrees to pay the Commission a civil penalty of three thousand dollars (\$3,000.00) concurrently with the execution of this Settlement Agreement.
3. Jason Abney agrees that upon a Final Order being issued by the Commission that he waives all rights to any further administrative process or appeal pursuant to KRS 13B.140 thereon.
4. 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. Jason Abney*, Agency Case No. 14-017, Administrative Action No. 14-EBEC-0177.

5. This Settlement Agreement constitutes a public reprimand to Jason Abney, a copy of which will be provided to his former appointing authority pursuant to KRS 11A.100(3)(c).

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



Jason Abney

1-7-15

Date

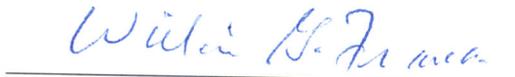
EXECUTIVE BRANCH ETHICS COMMISSION:



Chair, William David Denton

1-30-15

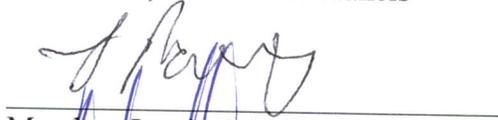
Date



Vice Chair, William G. Francis

1-30-15

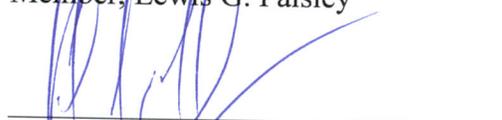
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Member, Lewis G. Paisley

1-30-15

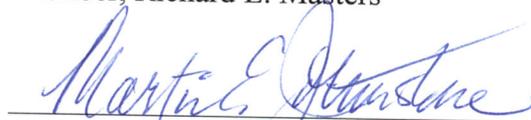
Date



Member, Richard L. Masters

1-30-15

Date



Member, Martin E. Johnstone

1-30-15

Date

**APPENDIX A
CASE NO. 14-017
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

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

COUNT I

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; 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; 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 received, directly or indirectly, an interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

Specifically, on or about October 6, 2011, Abney used a Cabinet ProCard to purchase tools and auto parts from a Middletown, Kentucky, auto parts store totaling approximately \$414.62. On or about June 18, 2012, Abney used a Cabinet ProCard to purchase tools and auto

parts from a Middletown, Kentucky, auto parts store totaling approximately \$320.21. Cabinet policy required that Abney get pre-approval from the Cabinet in order to buy tools with a ProCard. On both occasions, Abney instructed an auto parts store employee to alter the description field of the tools on the store's invoices to reflect that Abney was purchasing auto parts instead of tools. Abney submitted the forged invoices to the Cabinet for payment. Abney did not get permission from the Cabinet to purchase the tools. When asked by Cabinet personnel to produce the tools that he actually purchased, Abney could not produce all of the tools that were purchased.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT II

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; 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; 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 received, directly or indirectly, an interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

Specifically, on or about March 27, 2012, December 28, 2012, and April 12, 2013, Abney instructed an employee of an auto parts store in Middletown, Kentucky, to generate falsified invoices to cover up Abney's previous purchases of tools without Cabinet preapproval and auto parts for his personal vehicle. On the three separate occasions, Abney purchased parts and tools from the auto parts store and then returned to the store a few days later to instruct the store employee to change the description of some of the items or remove the vehicle descriptions from the invoices. On each occurrence, upon Abney's insistence, the store employee would create an invoice showing an imaginary "cash" credit. The employee would then generate a new invoice showing a "cash" purchase. Abney then submitted the altered invoices to the Cabinet for payment. When asked by Cabinet personnel to produce the tools and parts that he actually purchased, Abney could not produce all of the tools and parts that were purchased. Cabinet

personnel found some of the tools in Abney's personal vehicle. Abney could not recall on which vehicles the parts he purchased were installed. However, some of the parts that were actually purchased would have been parts designed for his personal vehicle, a 1996 Jeep Cherokee.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT III

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; 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; 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 received, directly or indirectly, an interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

Specifically, on or about June 4, 2013, Abney used his Cabinet provided ProCard to purchase auto parts from a Middletown, Kentucky, auto parts store for use on his personal vehicle. Included in the purchase were a harmonic balancer assembly, priced at \$40.48, and a clutch kit, priced at \$111.72. In the Cabinet's Visa Information Source ("VIS") system, Abney reported that he installed the harmonic balancer and other parts on a 2002 GMC tandem dump truck. Abney did not include documentation concerning the clutch kit. The harmonic balancer actually purchased by Abney is only designed for particular models of Jeep vehicles, which is consistent with Abney's personal vehicle, a 1996 Jeep Cherokee, and not for use on GMC vehicles. Abney told Cabinet personnel that he installed the clutch kit on a Bandit brush chipper, but it had been sold in auction by the Cabinet four (4) weeks prior to Abney purchasing the clutch kit on June 4, 2013. The clutch kit is designed for models of Dodge trucks and particular Jeep vehicles matching Abney's personal vehicle.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

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

- (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(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT IV

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; 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; 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 received, directly or indirectly, an interest or profit arising from the use or loan of public funds in his hands or to be raised through

any state agency.

Specifically, on or about June 19, 2013, Abney used his Cabinet provided ProCard to purchase auto parts from an auto parts store in Middletown, Kentucky, totaling approximately \$89.54. The original invoice showed a description for parts for a “1996 Jeep Cherokee,” matching Abney’s personal vehicle. The invoice submitted to the Cabinet for payment has the line “1996 Jeep Cherokee” covered with Wite-Out on the front side of the invoice and marked through with a black permanent marker on the back side of the invoice. Abney inputted into the Cabinet’s VIS system that he installed a part purchased on June 19, 2013 into a Cabinet dump truck; however, the part purchased is incompatible with the Cabinet’s dump truck, but is compatible with Abney’s personal vehicle, a 1996 Jeep Cherokee.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT V

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; 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; 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 received, directly or indirectly, an interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

Specifically, on or about June 27, 2013, Abney used his Cabinet provided ProCard to purchase tools from an auto parts store in Middletown, Kentucky, totaling approximately \$1,450.51. Abney has a small purchase limit of \$1000. Abney split the purchase into two transactions; the first transaction was for \$794.40, of which \$725.16 was used to purchase tools, and the second transaction was for \$725.35. Abney instructed the auto parts store employee to change the descriptions of the tools to auto parts. Abney intentionally did not obtain the permission of his Cabinet to purchase the tools. Abney submitted the split and altered invoices to his Cabinet for payment. Abney took the tools purchased on June 27, 2013, to his mother's residence, which is where Cabinet employees located the tools one month after the purchase.

These facts constitute violations of KRS 11A.020(1)(a), (b), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2).

KRS 11A.020(1)(a), (b), (c), and (d), and (2) 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.
- (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(2) provides:

- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

COUNT VI

Jason Abney, during his course of employment as a Transportation Auto/Truck Technician III, assigned to the Jefferson East Maintenance Facility, District Five, Kentucky Transportation Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal interest and his duties in the public interest; used his official position to obtain financial gain for himself; and used his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest.

Specifically, on or about February 16, 2012, August 10, 2012, and July 3, 2013, Abney purchased items from an auto parts store in Middletown, Kentucky, using the Cabinet's discounted pricing, which is not available to the ordinary citizen. Abney instructed an auto parts store employee to give him the Cabinet discount on items that he was purchasing for himself. Furthermore, the invoices show that Abney did not pay sales tax on these purchases.

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

KRS 11A.020(1)(a), (c), and (d):

- (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;

 - (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.

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