

SETTLEMENT AGREEMENT

This agreement made and entered into between the Executive Branch Ethics Commission (hereinafter the "Commission") and Benjamin T. Kinman.

WHEREAS, this agreement involves the matter styled *Executive Branch Ethics Commission v. Benjamin T. Kinman*, Case No. 14-004;

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 27, 2014, the Commission alleged facts in an Initiating Order that Benjamin T. Kinman violated the Executive Branch Code of Ethics codified at KRS 11A.020(1)(b) and (d);

WHEREAS, Benjamin T. Kinman 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, Benjamin T. Kinman 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 Benjamin T. Kinman agree, pursuant to KRS 11A.100, as follows:

1. Benjamin T. Kinman admits that he committed violations of the Executive Branch Code of Ethics codified at KRS 11A.020(1)(b) and (d), as stated in Appendix A to the Commission's Initiating Order of January 27, 2014, attached hereto and incorporated by reference herein.
2. The Commission agrees to voluntarily dismiss Count IV of the Commission's Initiating Order of January 27, 2014.
3. Benjamin T. Kinman agrees to pay the Commission a civil penalty of two thousand nine hundred and ninety-nine dollars (\$2,999.00) concurrently with the execution of this Settlement Agreement.
4. Benjamin T. Kinman agrees to cooperate fully with the Commission in any further investigations and will submit complete, accurate, and truthful interviews and provide complete, accurate, and truthful testimony in any Commission proceedings in which he may be called as a witness.
5. Benjamin T. Kinman 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.

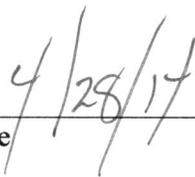
6. The parties further agree that the acceptance of this Settlement Agreement by both parties, and the fulfillment of its express terms, is in full accord and satisfaction of the herein referenced *Executive Branch Ethics Commission v. Benjamin T. Kinman*, Agency Case No. 14-004.

7. This Settlement Agreement constitutes a public reprimand to Benjamin T. Kinman, a copy of which will be provided to his appointing authority pursuant to KRS 11A.100(3)(c).

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



Benjamin T. Kinman

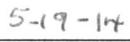


Date

EXECUTIVE BRANCH ETHICS COMMISSION:



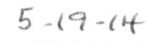
Chair, William David Denton



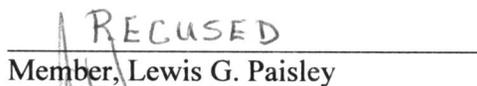
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Vice Chair, William G. Francis



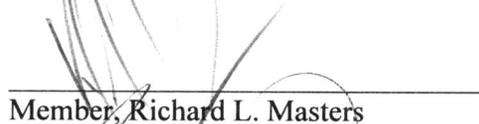
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Member, Lewis G. Paisley



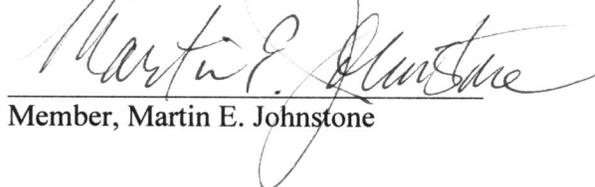
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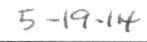
Member, Richard L. Masters



Date



Member, Martin E. Johnstone



Date

**APPENDIX A
CASE NO. 14-004
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Benjamin T. Kinman, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Fish and Wildlife Resources (“Department”), Tourism, Arts and Heritage Cabinet. As such, the Respondent is 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 Benjamin T. Kinman committed the following violations:

COUNT I

Benjamin T. Kinman, during his course of employment as the Deputy Commissioner of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, influenced a public agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, in the winter of 2009 through 2010, Kinman used his position to instruct Department employees, who were working on state time and using Department equipment and vehicles, to pump out the flooded basement or crawl space of then Commissioner Jonathan Gassett’s personal residence.

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

KRS 11A.020(1)(b) and (d) 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.

COUNT II

Benjamin T. Kinman, during his course of employment as the Deputy Commissioner of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, influenced a public agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, in the Spring of 2013, Kinman used his position to have a Department employee, working on state time and using a Department vehicle, deliver fish from the Department's fish hatchery to a private pond located on the personal property of a member of the Kentucky Fish and Wildlife Commission in Somerset, Kentucky. The fish were provided to the Commission member outside of the provisions of any statute or regulation and would not have been made available to members of the general public.

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

KRS 11A.020(1)(b) and (d) 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.

COUNT III

Benjamin T. Kinman, during his course of employment as the Deputy Commissioner of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, influenced a public agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, in the fall of 2012 and the spring of 2013, Kinman used his position, at the request of a member of the Kentucky Fish and Wildlife Commission, to deliver fish from the

Department's fish hatchery to a private pond located in Lawrenceburg, Kentucky, on the personal property of a friend of the Commission member. Kinman delivered the fish himself in the fall of 2012. Kinman instructed Department employees, working on state time and using a Department vehicle, to make the fish delivery in the spring of 2013. The fish were provided to the friend of the Commission member outside of the provisions of any statute or regulation and would not have been made available to members of the general public.

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

KRS 11A.020(1)(b) and (d) 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.

COUNT IV

Benjamin T. Kinman, during his course of employment as the Deputy Commissioner of the Department of Fish and Wildlife Resources, Tourism, Arts and Heritage Cabinet, influenced a public agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, in the Spring of 2013, Kinman used his position, at the request of then Commissioner Jonathan Gassett, to have Department employees acquire a gallon of the controlled chemical Rotenone, that was originally purchased by the Department through a Department contract, from the Department's stores for Gassett's personal use. The Rotenone Gassett used could only be purchased by a certified individual. Neither Kinman nor Gassett maintained the appropriate certification to purchase or use Rotenone at the time.

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

KRS 11A.020(1)(b) and (d) provide:

- (2) 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.

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