

COMMONWEALTH OF KENTUCKY

**EXECUTIVE BRANCH  
ETHICS COMMISSION**



**BIENNIAL REPORT**

**JULY 1, 2011 - JUNE 30, 2013**

*Printed with State Funds*  
2015

EXECUTIVE BRANCH ETHICS COMMISSION

# BIENNIAL REPORT

FISCAL YEARS ENDING JUNE 30, 2012 AND 2013

## COMMISSION MEMBERS

William David Denton  
Chairperson, elected January 28, 2013  
Vice-Chair, May 14, 2012 – January 28, 2013

William G. Francis  
Vice-Chair, elected January 28, 2013

Judge Lewis G. Paisley (Ret.)

Richard L. Masters

Justice Martin E. Johnstone (Ret.)

Ronald L. Green  
(Member through March 28, 2012)

Angela Edwards  
(Member through July 14, 2012)

William L. Knopf  
(Member through July 14, 2012)

## STAFF

John R. Steffen, Executive Director  
Kathryn H. Gabhart, General Counsel  
Jeffrey M. Jett, Investigator  
Debbie Briscoe, Executive Assistant  
Bill Trigg, Staff Assistant  
Jenny May, Administrative Assistant

#3 Fountain Place  
Frankfort, Kentucky 40601  
(502) 564-7954  
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<http://ethics.ky.gov/>

*The Executive Branch Ethics Commission's goal is to promote the ethical conduct of state officials and employees and to ensure proper regulation of executive agency lobbyists and their employers. This report covers the activities of the Ethics Commission during the fiscal years ended June 30, 2012, and June 30, 2013 as required by KRS 11A.110(13). It is intended to serve as a guide to the responsibilities of the Commission and as a record of its major activities and decisions during the biennium.*



COMMONWEALTH OF KENTUCKY  
**EXECUTIVE BRANCH ETHICS COMMISSION**  
<http://ethics.ky.gov/>

W. DAVID DENTON  
CHAIR

WILLIAM G. FRANCIS  
VICE CHAIR

RICHARD L. MASTERS  
JUSTICE MARTIN E. JOHNSTONE (RET.)  
JUDGE SHEILA R. ISAAC (RET.)

KATHRYN H. GABHART  
EXECUTIVE DIRECTOR

MISTY DUGGER JUDY  
GENERAL COUNSEL

#3 FOUNTAIN PLACE  
FRANKFORT, KY 40601  
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FAX: (502)-564-2686

November 16, 2015

To the Legislative Research Commission  
Governor Steve Beshear  
Citizens of the Commonwealth of Kentucky

On behalf of the Kentucky Executive Branch Ethics Commission and its staff, I am pleased to submit the Commission's Biennial Report for the fiscal years ending June 30, 2011 and June 30, 2013. The purpose of our Biennial Report is to summarize the work of the Commission during this two-year period.

The Commission, an independent body of five citizen members from various regions throughout the Commonwealth, is charged with promoting ethical conduct within the Executive Branch of Kentucky's government. The Commission is supported by an experienced and dedicated staff consisting of an Executive Director, General Counsel, Investigator (part-time), Executive Assistant, Administrative Assistant, and Staff Assistant (part-time). In fulfilling its mission, the Commission promotes and enforces the Executive Branch Ethics Code, KRS Chapter 11A, in various ways, including the provision of ethics training to Executive Branch officials, departments and divisions; issuance of ethics opinions for guidance to Executive Branch employees and citizens who deal with Executive Branch agencies; review of financial disclosure statements filed pursuant to the requirements of the Code; and administrative actions. Also, in each legislative session since 1993, the Commission has teamed with legislators to propose amendments which would strengthen and clarify the existing Ethics Code.

As you can see from the report that follows, the Commission has a proven record of successfully carrying out its charge. The Commission is committed to continuing to promote the highest ethical standards among members of the Executive Branch as it has every year since its creation. We respectfully request the continued support of the Commonwealth of Kentucky, its elected officials and its citizens, for it is only with this support that the Commission can continue its important work.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "W. David Denton".

W. David Denton, Chair  
Executive Branch Ethics Commission

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# INTRODUCTION TO THE COMMISSION

## AUTHORITY

The Executive Branch Code of Ethics (code of ethics) created by Kentucky Revised Statutes (KRS) Chapter 11A, effective July 14, 1992, established the ethical standards that govern the conduct of all executive branch employees. The code of ethics was enacted to restore and promote public trust in the administration of the government of the Commonwealth and its employees. It has been amended numerous times in an attempt to improve its application. The Executive Branch Ethics Commission, authorized by KRS 11A.060, is an independent agency of the Commonwealth that is responsible for administering and enforcing the provisions of the code of ethics.

## VISION

Our vision for the future is one in which the leaders of the Commonwealth have integrity and honesty, and serve the people of the Commonwealth in an independent and impartial manner while upholding the public trust in all areas of their public service and private lives.

## MISSION STATEMENT

The mission of the Executive Branch Ethics Commission is to promote the ethical conduct of elected officials, officers and other employees in the executive branch of state government, thereby increasing the public trust in the administration of state government.

### **The Commission seeks to fulfill its mission through:**

- ◆ Education of state employees and lobbyists;
- ◆ Guidance to state employees concerning their ethical conduct, including the issuance of advisory opinions;
- ◆ Investigation of possible violations and enforcement of the provisions of the code of ethics;
- ◆ Financial disclosure by state officers and elected constitutional officials;
- ◆ Regulation of executive agency lobbyists; and
- ◆ Improvements to the code of ethics.

## COMMISSION MEMBERS

The Commission is composed of five members appointed by the Governor to serve four-year terms. Beginning in May 2008, pursuant to Executive Order 2008-454, the Governor, on a rotating basis, appoints one commissioner directly, then appoints one from a list of three names submitted to him by the Attorney General, then appoints one from a list of three names submitted to him by the Auditor of Public Accounts, after which the process repeats itself. The following individuals served on the Commission during the biennium.



### **RONALD L. GREEN**

Governor Ernie Fletcher appointed Mr. Green on July 15, 2007, to replace Cindy Stone, whose term had expired. Mr. Green's term expired July 14, 2011, but he continued to serve until replaced on March 29, 2012. He was elected Vice Chair of the Commission on July 11, 2008, and Chairperson November 8, 2010.

An Attorney in Lexington, Kentucky, Mr. Green is a partner in the firm of Green Chesnut & Hughes PLLC. He earned a degree in Economics at Murray State University and his law degree at the University of Kentucky.



### **ANGELA LOGAN EDWARDS**

Governor Steven L. Beshear appointed Ms. Edwards to replace Rutherford B. Campbell, Jr., who resigned on September 23, 2008. Ms. Edwards served the remainder of the unexpired term ending July 14, 2012. Ms. Edwards was appointed under the requirements of Executive Order 2008-454 from a list of nominees submitted by the Auditor of Public Accounts.

An attorney in Louisville, Kentucky, Ms. Edwards is a partner in the firm of Dinsmore and Shohl, LLP. Ms. Edwards earned a degree in finance at Transylvania University and her law degree at the University of Kentucky.



### **WILLIAM DAVID DENTON**

Governor Steven L. Beshear appointed Mr. Denton on October 29, 2009, to replace Nick Cambron, who resigned on September 10, 2009. Mr. Denton will serve the remainder of the unexpired term ending July 14, 2013. He was elected Vice Chair of the Commission on May 14, 2012, and Chairperson January 28, 2013.

Mr. Denton is the managing partner of the Paducah, Kentucky law firm, Denton & Keuler, LLP. He is a graduate of Murray State University and University of Kentucky, College of Law.

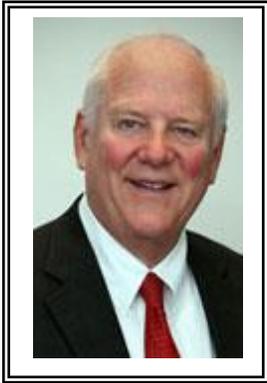
### **WILLIAM L. KNOPF**



Governor Steven L. Beshear appointed Judge Knopf to replace Jeanie Owen Miller, who resigned December 31, 2009. Judge Knopf served the remainder of the unexpired term ending July 14, 2012. He was appointed under the requirements of Executive Order 2008-454 from a list of nominees submitted by the Attorney General.

Judge Knopf is a native of Louisville/Jefferson County. Prior to his retirement, he served on the Kentucky Court of Justice for 27 years in the capacity of District Court Judge, Circuit Court Judge, Kentucky Court of Appeals Judge, and then as a Senior Judge. Prior to the bench, he was an Assistant Commonwealth's Attorney and in the private practice of law. He earned a bachelor degree in business administration from Loyola University New Orleans and a law degree from the Brandeis School of Law at the University of Louisville.

### **WILLIAM G. FRANCIS**



Governor Steven L. Beshear appointed Mr. Francis to replace Gwen Pinson, whose term expired July 14, 2010. Mr. Francis' term will expire July 14, 2014. He was elected Vice Chair of the Commission on January 28, 2013.

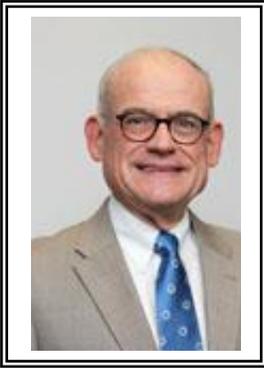
Mr. Francis is a partner in the Prestonsburg law firm of Francis, Kendrick, & Francis. He earned a bachelor's degree in political science at the University of Kentucky, a master's degree in public administration at Eastern Kentucky University, and his law degree at the University of Kentucky College of Law.

### **LEWIS G. PAISLEY**



Governor Steven L. Beshear appointed Judge Paisley on March 29, 2012, to replace Ron Green, whose term expired July 14, 2011. Judge Paisley's term will expire July 14, 2015. He was appointed to the Commission under the provisions of Executive Order 2008-454 from a list of three nominees submitted to the Governor by the Attorney General.

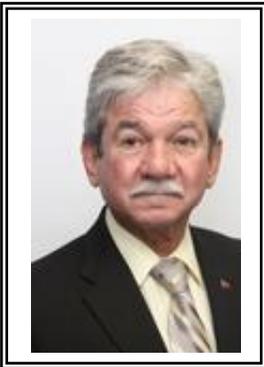
Judge Paisley is Of Counsel to the Lexington law firm of Stoll Keenon Ogden PLLC. He served for 25 years as Fayette District Judge, Fayette Circuit Judge, Judge of the Kentucky Court of Appeals, and as a Senior Judge. Judge Paisley is a graduate of Georgetown College and the University of Kentucky College of Law.



### **RICHARD L. MASTERS**

Governor Steven L. Beshear appointed Mr. Masters on November 1, 2012, to replace William L. Knopf, whose term expired July 14, 2012. Mr. Master's term will expire July 14, 2016.

Mr. Masters is a partner in the Louisville law firm of Masters, Mullins, & Arrington. He earned a bachelor's degree in history and biology from Asbury University and a law degree from the Brandeis School of Law at the University of Louisville.



### **MARTIN E. JOHNSTONE**

Governor Steven L. Beshear appointed Justice Johnstone on November 1, 2012, to replace Angela L. Edwards, whose term expired July 14, 2012. Justice Johnstone's term will expire July 14, 2016. He was appointed to the Commission under the provisions of Executive Order 2008-454 from a list of three nominees submitted to the Governor by the Auditor of Public Accounts.

Justice Johnstone served on the bench for 30 years, first in the capacity of Magistrate Judge, then as District Court Judge, Circuit Court Judge, Kentucky Court of Appeals Judge, and Kentucky Supreme Court Justice. He was the first jurist in Kentucky to serve at all four levels of the Kentucky Court of Justice. Prior to the bench, he served in private practice. Justice Johnstone earned a bachelor's degree in history and government from Western Kentucky University and a law degree from the Brandeis School of Law at the University of Louisville.

## STAFF

The Commission employs a full-time staff who may be contacted by anyone seeking information or advice relating to the code of ethics, or wishing to provide information regarding an alleged violation of the Executive Branch Code of Ethics. The staff provides state employees, executive agency lobbyists and the public with information, guidance and training aimed at promoting ethical conduct of executive branch employees. The following individuals served as staff to the Commission during the biennium.

### EXECUTIVE DIRECTOR

The Executive Director is responsible for all administrative, investigative and legal activity of the Commission, education and training of employees, audit of disclosure statements, development of all publications, as well as the supervision of the staff.

**JOHN STEFFEN**



### GENERAL COUNSEL

The General Counsel advises the Executive Director on legal issues, assists in training and in the administration of the agency, coordinates investigations, handles administrative proceedings and civil litigation, and, in the absence of the Executive Director, assumes the Executive Director's responsibilities.

**KATHRYN H. GABHART**



### INVESTIGATOR

The Investigator is responsible for conducting all preliminary investigations initiated by the Commission.

**JEFFREY JETT**



## **SUPPORT STAFF**

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The support staff manages daily operations of the office and safeguards documents on file with the Commission. They facilitate coordination of the many requests for information and advice that are presented to the staff.

The **Executive Assistant** manages advisory opinion requests as well as processes all personnel matters for the Commission staff and its members. This position acts as Clerk of the Administrative Proceedings process and maintains all legal records related to the Commission. The Executive Assistant serves as Secretary for Commission meetings, which includes preparation of the agenda, the minutes following the meetings, and any correspondence relative to the actions of the Commission. The Executive Assistant coordinates the training component of the Commission by registering participants, preparing training materials, and maintaining the training participant database

**DEBBIE BRISCOE**



**JENNY MAY**

The **Administrative Assistant** manages the process for registration and reporting for executive agency lobbying which includes maintaining the database for executive agency lobbyists and their employers. This position prepares statistical information and oversees the publication of the Commission's Biennial Report. Other duties include handling purchases and billings for the agency, serving as records retention liaison, updating the agency's website and publications, and responding to open records requests, orders for printed materials and general inquiries regarding the Commission and its work.



**BILL TRIGG**

The **Staff Assistant** administers the statement of financial disclosure filing process and related database for constitutional officers and other government officials. He also assists the Executive Assistant and Administrative Assistant as needed.



**LIVINGSTON TAYLOR ETHICS AWARD**

Livingston Taylor, a former investigative reporter for the Courier-Journal, served as the Commission's first chairman from 1992-1995. Mr. Taylor was responsible for the early direction of the Commission and donated a considerable amount of time and effort in leading the Commission. Mr. Taylor declined any compensation for his efforts. He set the tone for the Commission with his concern that the Commission be politically independent and show no favoritism. His substantial contribution to promoting the ethical conduct of executive branch employees will long be remembered. The Executive Branch Ethics Commission and the Commonwealth of Kentucky are better off because of his volunteer service.

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State employees are often only recognized for inappropriate behavior. Thus, the Commission wishes to offer some positive reinforcement through this award by recognizing those who work hard and ethically for the taxpayers of Kentucky.



In his position, Secretary Vance oversees the Department of Financial Institutions, Department of Insurance, Department of Housing, Buildings, and Construction, Kentucky Horse Racing Commission, Alcoholic Beverage Control, Department of Charitable Gaming, Board of Tax Appeals, and Board of Claims/Crime Victims Compensation Board.

Secretary Vance was recognized by the Executive Branch Ethics Commission for demonstrating the highest level of ethical standards in both management philosophy and daily operations. As the Secretary of the Public Protection Cabinet, he required all Public Protection Cabinet employees to attend Executive Branch Ethics training in 2012; he initiated an internal evaluation training which includes a segment on counseling, coaching, and disciplining an employee for a range of behaviors, including ethical decision-making; and he initiated a cabinet wide off-duty employment policy that exceeds the requirements of the Executive Branch Code of Ethics. Furthermore, according to his nomination, Secretary Vance’s motto is “do the right thing”. It is therefore only fitting that he received this award.

Secretary Vance is a native of Grant County and earned his business and law degrees at the University of Kentucky. He also is a graduate of the Stonier Graduate School of Banking at Rutgers University and the Executive Banking Institute at the University of Louisville. Currently of Maysville, Vance has spent most of his career in banking, serving as chairman or senior officer of a number of banking institutions across Kentucky as well as Ohio and Indiana. He also has worked as an agricultural lender for Farm Credit Services, a trust examiner for the Comptroller of the Currency, and a stockbroker for Bache & Company. He has further served as president of the Maysville-Mason County Chamber of Commerce and board chairman of the Kentucky Bankers Association School of Banking.

# BUDGET

## TWO-YEAR BUDGET ANALYSIS

The Commission's budget and expenditures for fiscal years 2011-12 and 2012-13 in detail below.

	<u>FISCAL YEAR</u>		<u>TOTAL FOR</u>
	<b>2011-12</b>	<b>2012-13</b>	<b>BIENNIUM</b>
<b>ALLOTMENTS</b>			
General Fund	\$496,200	\$439,200	\$916,200
Agency Fund	60,875	63,809	117,081
Balance Forward	<u>90,309</u>	<u>77,809</u>	<u>168,118</u>
<b>TOTAL</b>	<b><u>\$620,384</u></b>	<b><u>\$580,818</u></b>	<b><u>\$1,201,194</u></b>
<b>EXPENDITURES</b>			
Personnel Costs	\$453,899	\$464,383	\$918,282
Operating Expenses	68,676	61,427	130,103
Grants, Loans & Benefits	0	0	0
Capital Outlay	<u>0</u>	<u>0</u>	<u>0</u>
<b>TOTAL</b>	<b><u>\$522,575</u></b>	<b><u>\$525,810</u></b>	<b><u>\$1,048,385</u></b>
<b>ALLOTMENT OVER EXPENDITURES</b>			
Reverted to general fund	\$ 0	\$ 0	\$ 0
Retained in agency fund	<u>97,809</u>	<u>55,008</u>	<u>152,817</u>
<b>TOTAL</b>	<b><u>\$ 97,809</u></b>	<b><u>\$ 55,008</u></b>	<b><u>\$ 152,817</u></b>

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<b>REVENUE FROM EMPLOYERS OF EXECUTIVE AGENCY LOBBYISTS</b>			<b>TOTALS</b>
	<b>2011-2012</b>	<b>2012-2013</b>	<b>All Years</b>
<b>EMPLOYER REGISTRATION FEES (AGENCY FUND REVENUE)</b>	\$68,625	\$72,500	\$138,125
<b>LOBBYISTS FINES (GENERAL FUND REVENUE)</b>	\$0	\$0	\$0
<b>TOTAL COLLECTED</b>	<b>\$68,625</b>	<b>\$72,500</b>	<b>\$138,125</b>

<b>REVENUE FROM CIVIL PENALTIES ISSUED</b>			<b>TOTALS</b>
	<b>2011-2012</b>	<b>2012-2013</b>	<b>All Years</b>
<b>FINES FROM CURRENT AND FORMER EMPLOYEES (GENERAL FUND)</b>	\$50,900	\$36,700	\$87,600
<b>TOTAL COLLECTED</b>	<b>\$37,900<sup>1</sup></b>	<b>\$36,700</b>	<b>\$74,600</b>

<sup>1</sup> Kentucky Executive Branch Ethics Commission v. Wooten, 465 S.W.3d 453 (2015): Vacated Commission's Final Orders in five matters eliminating \$13,000 in civil penalties.

## EDUCATION

The Commission continues to believe that its primary goal is to educate employees in an effort to improve honesty and integrity in state government. Through education, the Commission seeks to prevent rather than punish ethics violations. Employee education is a multi-faceted effort consisting of responses to inquiries, training classes, a web site, agency ethics officers, publications, and newsletter articles.

### INQUIRIES

The Commission considers and responds to all inquiries from persons requesting information or advice on any aspect of the code of ethics. Such inquiries are made in person, by mail, through e-mail, or by telephone. Commission staff resolves the majority of these requests after reviewing the statutes and advisory opinions. In some instances, the staff recommends that advice be sought from the Commission through its advisory opinion process (see page 15).

The staff of the Commission meets individually with state officials, employees, and lobbyists to provide information or explanation concerning the code of ethics. The staff also provides guidance by telephone and e-mail on a daily basis in response to state official, employee, and citizen inquiries.

During fiscal year 2011-2012, the staff provided advice to approximately 636 individuals and to approximately 598 persons during fiscal year 2012-2013. The following table shows, by subject matter, the approximate number of recorded inquiries received during the biennium.

SUBJECT MATTER	NUMBER OF INQUIRIES	
	2011-12	2012-13
Advisory Opinions	10	8
Boards and Commissions	12	15
Campaign Activity	6	9
Complaints	20	14
Conflict of Interest	75	57
Executive Agency Lobbying	276	274
Financial Disclosure	57	33
General Information	21	35
Gifts	57	40
Investigations	15	11
Jurisdiction	9	8
Legislation	5	18
Litigation	1	0
Open Records	0	11
Outside Employment	26	21
Post-employment	19	22
Request for Material	11	13
Training	16	9
<b>TOTAL</b>	<b>636</b>	<b>598</b>

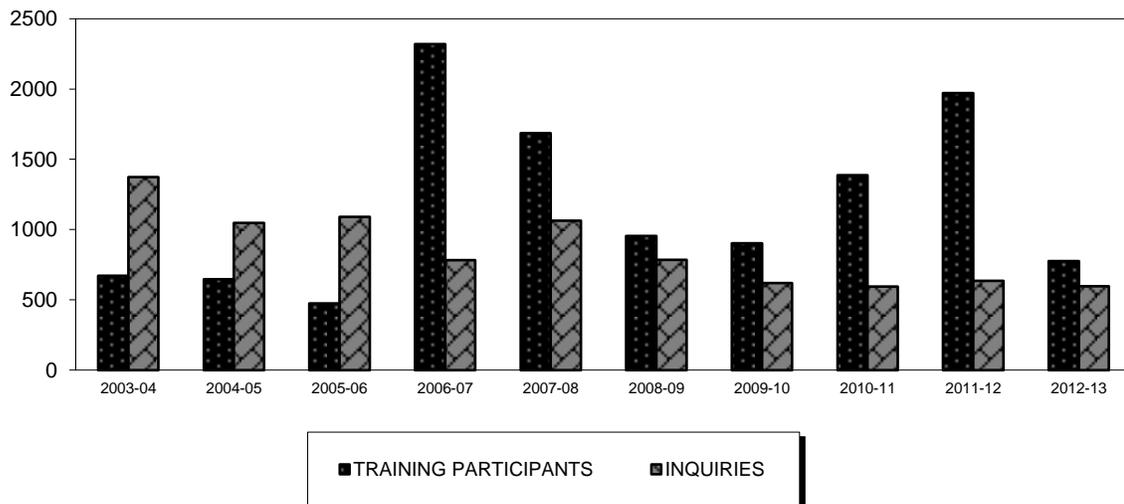
## TRAINING CLASSES

The Executive Branch Ethics Commission offers ethics classes on a quarterly basis to executive branch employees, and also provides ethics classes to individual state agencies, executive agency lobbyists, and members of executive branch regulatory and policy-making boards and commissions upon request. Online training classes are also offered through the Governmental Services Center.

NUMBER OF:	2011-12	2012-13	TOTAL
Training Classes Provided for State Agencies	67	22	89
Training Classes Provided to Boards and Commissions	38	7	45
Training Classes Provided as ongoing on-line course	1	1	2
Training Classes Provided to Ethics Officers	0	1	1
Training Classes Provided for Lobbyist/Other Organizations	2	2	4
<b>TOTAL TRAINING CLASSES</b>	<b>108</b>	<b>33</b>	<b>141</b>

<u>Total Number of Participants Trained</u>	
2011-2012	1,973
2012-2013	776
<b>Total</b>	<b>2,749</b>

### Comparison of Contacts 2001-2013



## WEBSITE

The Commission's home page can be found at <http://ethics.ky.gov/>. The web site provides information on Commission members and staff, advisory opinions, lobbying, training, post-employment laws, ethics officers, financial disclosure, and administrative actions. Many of the publications produced by the Commission are available to the general public from the website including the employee *Guide to the Executive Branch Code of Ethics*, as well as the text of the Executive Branch Code of Ethics, KRS Chapter 11A, Title 9 of the Administrative Regulations and Executive Orders 2008-454 and 2009-882.

During the biennium, the Commission worked with Ky.Gov to develop a payment application for the \$125 registration fee required from all employers and real parties in interest who have engaged executive agency lobbyists. Beginning with the July 1, 2012 reporting period, employers and real parties in interest are now able to pay their fees online using a credit card or electronic check payment by accessing the app from the Commission's website. Ky. Gov also developed an administration application allowing Commission staff to access and record all payments made thru the Commission's website helping to streamline the payment, recording, and collection of registration fees.

The screenshot shows the Ethics Commission Home website in a Windows Internet Explorer browser window. The browser's address bar displays the URL <http://ethics.ky.gov/Pages/default.aspx>. The website header features the Executive Branch Ethics Commission logo, which includes a scale of justice and the text "EXECUTIVE BRANCH ETHICS COMMISSION" and "COMMONWEALTH OF KENTUCKY". Below the header, the page is organized into several sections:

- Home**: The main heading for the page.
- Authority**: A section explaining the Commission's enabling statute, [Kentucky Revised Statute Chapter 11A](#), and its amendment, [Executive Order 2009-882](#).
- Next Meeting**: A section announcing a meeting on **Friday, December 2, 2011 10:00 A.M.**, with a cut-off date for submitting advisory opinion requests on **Friday November 18, 2011**.
- Upcoming Ethics Training**: A section announcing a training session on **Tuesday, October 18, 2011 9:30 - 11:30 a.m.** at the Transportation Cabinet Conference Center, Room C-118.
- Contact Information**: A section listing **John R. Steffen, Executive Director** of the Executive Branch Ethics Commission, located at #3 Fountain Place.

The browser's taskbar at the bottom shows several open applications, including Microsoft Office, Internet Explorer, and a document titled "Document10". The system clock indicates the time is 11:03 AM.

## ETHICS OFFICERS

Ethics officers act as liaisons between their staffs and the Commission. The Commission furnishes ethics officers with copies of all advisory opinions and publications of the Commission. The ethics officers are responsible for disseminating such information to their staffs. Additionally, the ethics officers coordinate approvals of outside employment for employees. Ethics officers further assist the staff of the Executive Branch Ethics Commission with ensuring officers and elected officials file the financial disclosure statements as required by law. During the biennium, 95 ethics officers received training on their role as ethics officers.

## PUBLICATIONS

As part of the Commission's educational emphasis, several publications explaining the various components of the code of ethics have been produced and are regularly updated. These items have been distributed to each state agency and are available for distribution to each employee upon request.

<b>PUBLICATION</b>	<b>LATEST DATE OF PUBLICATION/REVISION</b>
<i>Acceptance of Gifts</i> (brochure)	July 2000
<i>Executive Agency Lobbying Handbook</i>	January 2007
<i>Leaving State Government?</i> (brochure)	February 2005
<i>Guide to the Executive Branch Code of Ethics</i> (booklet)	September 2012
<i>Advisory Opinions (1992 – 2010)</i> (bound by year)	November 2011
<i>Executive Branch Ethics Commission</i> (General Information brochure)	April 2011
<i>Ethical Guidelines for Members of Boards &amp; Commissions</i> (brochure)	September 2009
<i>Ethics Officer Training Guide</i> (booklet)	September 2012

## ADVISORY OPINIONS

The Commission is directed by statute to issue written advisory opinions. If an employee, agency head or member of the general public is unclear about a provision in the code of ethics, or if a situation is not specifically addressed in the code, an advisory opinion may be requested, in writing, from the Commission.

If the Commission determines that the matter has been addressed in a previous advisory opinion, it will issue advice in an “informal reply.” Informal replies are responses (advisory letter, e-mail, or telephone call) rendered by the Ethics Commission’s Executive Director or General Counsel. Frequently, employees may have questions or situations that require a swift reply. An advisory letter is limited to issues previously addressed by the Commission by issuance of a formal advisory opinion.

If the Commission determines that the matter has not been addressed in a previous advisory opinion, it will issue a new opinion to the requestor. In addition, the Commission may issue advisory opinions upon its own motion. Advisory opinions issued by the Commission are based on the code of ethics, agency regulations and past Commission decisions. Because the Executive Branch Ethics Commission is the regulatory body authorized to interpret the code of ethics, the advisory opinions issued by the Commission are enforceable. Such opinions are public record and provide guidance to other employees with similar questions. Copies of written advisory opinions are distributed electronically and by paper copy to state agencies via ethics officers, employees and members of the general public who request them. Advisory opinions are also available on the Commission’s website <http://ethics.ky.gov/>.

### ADVISORY OPINIONS ISSUED JULY 1, 2011- JUNE 30, 2013

The Commission issued 10 advisory opinions during the 2011-2012 fiscal year, and 8 during the 2012-2013 fiscal year. Additionally, the Commission issued 19 advisory letters during fiscal year 2011-2012 and 9 during fiscal year 2012- 2013. See below the advisory opinions issued by primary topic. Following are the summaries of the advisory opinions issued.

#### ADVISORY OPINIONS, BY PRIMARY TOPIC

<u>Topic</u>	<u>Number Issued</u>
General Conflicts of Interest.....	4
Gifts/Travel Expenses.....	8
Outside Employment/Self-Employment.....	3
Lobbying.....	1
Endorsement .....	2
<b>TOTAL</b>	<b><u>18</u></b>

## **SUMMARY OF OPINIONS**

**July 1, 2011 - June 30, 2013**

### **July 1, 2011- June 30, 2012**

**Advisory Opinion 11-01:** NUMBER VOIDED

**Advisory Opinion 11-02:** It is a conflict of interest for an appointed Commissioner of the Kentucky Real Estate Commission to simultaneously serve in leadership positions for the Kentucky Association of Realtors and the Greater Louisville Association of Realtors.

**Advisory Opinion 11-05:** The Secretary of State is prohibited from accepting a gift worth up to \$500 from the Kentucky League of Cities (KLC) for service as the previous President of KLC prior to her appointment as Secretary of State because the Secretary of State regulates KLC.

**Advisory Opinion 11-06:** A business owned by the brother of the Chair of the Louisville and Southern Indiana Bridges Authority does not create a conflict of interest as long as the Chair continues to make all necessary disclosures and recuses himself appropriately.

**Advisory Opinion 11-07:** Addresses several questions related to endorsement and partnership activities between the Kentucky Retirement Systems (KRS) and the Kentucky Public Retirees Organization, a non-profit organization comprised of retired public employees.

**Advisory Opinion 11-08:** Service by a mayor on the Kentucky Public Transportation Infrastructure Authority does not interfere with ability to accept campaign contributions for re-election while serving as a member of the authority.

**Advisory Opinion 12-01:** The Kentucky Housing Corporation (“KHC”) may implement an employee incentive program providing cash awards to employees who offer suggestions to improve productivity and services as long as certain restrictions are followed. Additionally, KHC may implement a vacation leave buy-back program, if properly implemented.

**Advisory Opinion 12-02:** A conflict of interest would be created if the appointed Executive Director of the Kentucky Horse Racing Commission (“KHRC”) and his wife remain involved in the horse racing industry through their ownership and joint operation of a stable that is a thoroughbred boarding, breaking, training, and racing facility with operations in Kentucky, Florida, and New York. Additionally, as long as conflicts of interest are avoided the Executive Director of the KHRC or his wife may remain involved in activities in Kentucky either not related to the horse racing industry or not involving licensees of the KHRC. The Executive Director of the KHRC or his wife may remain involved in the horse racing industry outside of Kentucky as long as conflicts of interest are avoided.

**Advisory Opinion 12-03:** The State Apiarist (a.k.a. the “State Beekeeper”) may teach a class on bee-keeping for compensation as long as teaching such a class is not part of the State Apiarist’s official duties, and he avoids any conflict of interest. The State Apiarist may not teach a class on bee-keeping as an employee of his wife’s bee-keeping supply store if the State Apiarist is involved in decision-making or recommendations concerning the business in his official capacity.

**Advisory Opinion 12-04:** An agency or public servant is prohibited from accepting travel expenses, or reimbursement of travel expenses, in whole or in part, from any arm, division, affiliate, subsidiary, franchise, or other segment of a business with which the agency does business, either directly or indirectly or, which could be attempting to influence the actions of the agency or public servant.

**July 1, 2012 - June 30, 2013**

**Advisory Opinion 12-05:** Reconsideration of A.O. 03-13. Except under specific circumstances addressed herein, regulatory board inspectors who are employed in the profession they regulate are prohibited from conducting inspections in the county in which they own or work in a business they regulate. The Commission declined to amend Advisory Opinion 03-13.

**Advisory Opinion 12-06:** Under certain conditions, the Kentucky Heritage Council may accept financial assistance in the form of reimbursement for the cost of its employees to attend and conduct training sessions, to attend state and national conferences, and to pay for incidental expenses (brochures, training materials) necessary to conduct quarterly conferences from an organization that is not regulated by or doing business with the agency.

**Advisory Opinion 12-07:** Employees of agencies may not accept monetary or tangible items exceeding \$25 in value as part of an agency awards program without the prior approval of the Commission where the source of the award is a person or business that is regulated or does business with the agency, or the awards could be considered additional compensation for the performance of the employee's official duties. The Commission will consider granting its prior approval of an agency awards program if specific and appropriate criteria are established.

**Advisory Opinion 13-02:** As a result of several recent investigations, the Commission wishes to advise public servants regarding their obligation to refuse to comply with orders of such a nature that anyone of ordinary sense and understanding would recognize as being contrary to the Executive Branch Code of Ethics and the need to report such misconduct to the Executive Branch Ethics Commission.

**Advisory Opinion 13-03:** When a 501(c)(3) charitable nonprofit organization exists solely for the purpose of supporting an executive branch agency, the staff of that agency may, with certain limitations, participate in temporary fundraising activities on behalf of the non-profit organization and provide administrative support to the organization, subject to the approval and oversight of agency management. Further, the agency and the nonprofit organization may enter into a written agreement to establish the parameters of such support of the nonprofit organization by the agency.

**Advisory Opinion 13-04:** According to the Executive Branch Code of Ethics, "executive agency lobbying" occurs when, after initial contact with a private firm to express interest in a new business relationship is initiated by the staff of an executive branch agency rather than by the staff of the private firm, the private firm chooses to respond to the executive branch agency's expressed interest in the new business relationship.

**SUMMARY OF EXCEPTIONS TO KRS 11A.045**  
**July 1, 2011-June 30, 2013**

**July 1, 2011-July 30, 2012**

**Gift Exception 2011-2 (Advisory Opinion 11-04):** The Department of Criminal Justice Training may accept training machines from associations that represent cities and counties since the Department has no direct regulatory relationship with the associations and the associations have no incentive to influence the Department.

**July 1, 2012-July 30, 2013**

**Gift Exception No. 2013-01 (Advisory Opinion 13-01):** This opinion authorizes a gifts exception to allow a Kentucky Retirement Systems employee, whose wife was diagnosed with lymphoma, to accept donations from employees of vendors of the Kentucky Retirement Systems to aid in her treatment.

These summaries are designed to provide examples of decisions of actual inquiries of the Commission. Key points may have been deleted in the interest of brevity. Each opinion is available in its entirety upon request from the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky, 40601, (502) 564-7954, or on the Commission's website at <http://ethics.ky.gov/>.

## **FINANCIAL DISCLOSURE**

One of the Commission's principal responsibilities is to administer the financial disclosure provisions of the statute. State elected officials and appointed officers in the executive branch of state government are required by statute to file a statement of financial disclosure with the Commission no later than April 15 for the previous calendar year or within 30 days of termination of employment. Candidates for executive branch state offices are required to file a disclosure statement no later than February 15 of an election year. Statements of Financial Disclosure are open to the public for inspection.

Failure to file a disclosure statement in a timely manner is punishable by withholding of the employee's salary until the statement is filed. The following information is required to be disclosed on the statement:

- ◆ Name and address, both residential and business;
- ◆ Title of position or office in state government;
- ◆ Other occupations of filer or spouse;
- ◆ Positions held by filer or spouse in any business, partnership, or corporation for profit;
- ◆ Names and addresses of all businesses in which the filer, spouse, or dependent children had an interest of \$10,000 or 5% ownership interest or more;
- ◆ Sources of gross income exceeding \$1,000 of the filer or spouse including the nature of the business;
- ◆ Sources of retainers received by the filer or spouse relating to matters of the state agency for which the filer works or serves in a decision-making capacity;
- ◆ Any representation or intervention for compensation by the filer or spouse before a state agency for which the filer works or serves in a decision making capacity;
- ◆ All positions of a fiduciary nature in a business;
- ◆ Real property in which the filer, spouse or dependent children has an interest of \$10,000 or more;
- ◆ Sources of gifts or gratuities with a retail value of more than \$200 to the filer, spouse or dependent children; and
- ◆ Creditors owed more than \$10,000.

## **ELECTRONIC FORMS**

Employees may download a blank Statement of Financial Disclosure form from the Commission's web site at <http://ethics.ky.gov/> and complete the blank Statement of Financial Disclosure form electronically, print a paper copy and forward it with an original signature to the Commission. Paper forms are provided upon request.

The following statistics compare the disclosure statement filings for calendar years 2011 and 2012.

### FINANCIAL DISCLOSURE STATEMENTS

	CALENDAR YEAR 2011		CALENDAR YEAR 2012	
	#	<u>% of Total</u>	#	<u>% of Total</u>
Statements Filed Timely	1169	90%	1166	89%
Active Officers Filed Late/ Salary Withheld*	69/0	5.3%	70/0	5%
Former Officers Filed Late**	58	45%	74	56%
Former Officers Investigated for Failure to File Timely	0		1	
Former Officers Investigated for Failure to File Complete	0		0	
<b>TOTAL REQUIRED FILINGS</b>	1296		1311	

\*Officers who file late ARE subject to salary withholding; however, because of the two-week delay in processing payrolls, the officers were able to file prior to any actual withholding taking place.

\*\*These were filed before Commission action was recommended.

### AUDITS

Upon receipt of the Statements of Financial Disclosure, each is reviewed to determine whether it is complete and the instructions have been followed. The Commission is required by statute to audit the Statements to detect information that might suggest a conflict of interest or other impropriety. If such is detected, staff may refer Statements to the Commission and investigations may be initiated.

### MONTHLY NOTICES

The Commission has worked with the Personnel Cabinet to initiate a process whereby the Personnel Cabinet notifies the Commission on a monthly basis of officers who have left their positions during the previous month. This enables the Commission staff to remind the former officers of the 30-day filing requirement for those leaving during the calendar year. This process has proven very helpful in reducing the number of former officers who file late, thereby reducing the need for further action by the Commission. The process was instrumental in producing 128 filings during or shortly after CY 2011 and 138 filings during or shortly after CY 2012.

# **INVESTIGATIONS, ADMINISTRATIVE PROCEEDINGS AND LITIGATION**

## **COMPLAINTS**

A citizen of the Commonwealth may submit a complaint signed under penalty of perjury alleging a violation of KRS Chapter 11A. The provisions of KRS 11A.080 require the Commission to investigate such a complaint. In addition, the Commission may initiate a preliminary investigation of an alleged violation upon its own motion based on information obtained from various sources such as information received by Commission staff, a referral from another state agency, or a media story.

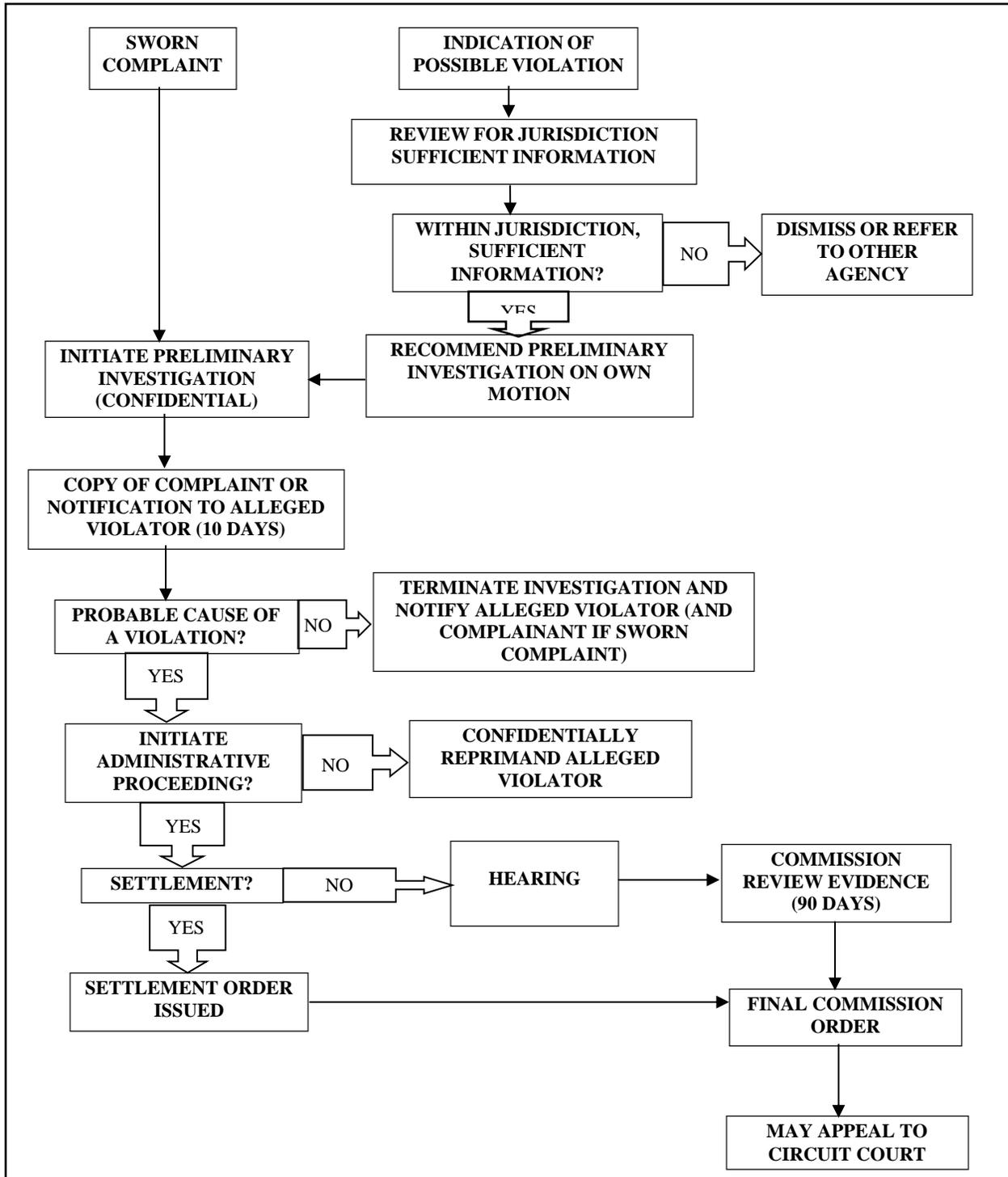
## **INVESTIGATIONS**

Investigations are conducted by the Commission staff, referred to another agency, or conducted jointly with another agency. Within ten days of the commencement of a preliminary investigation, a copy of the sworn complaint (if applicable) and a statement of the applicable law are forwarded to the alleged violator. Likewise, if the preliminary investigation is initiated upon the Commission's own motion, the alleged violator must be notified within ten days. Commission records and proceedings relating to a preliminary investigation are confidential until the Commission makes a final determination, unless the alleged violator confirms the existence of the investigation. The Commission may then publicly confirm the existence of the investigation, and, in its discretion, make public any documents issued.

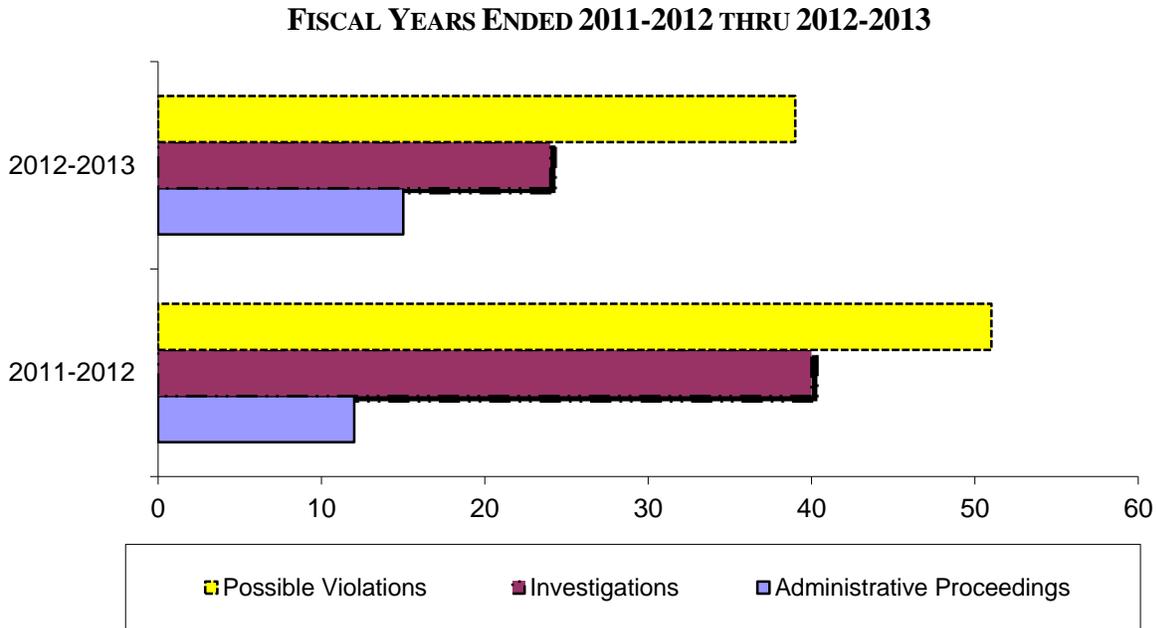
If the Commission determines, as a result of a preliminary investigation, that the facts are not sufficient to find probable cause of a violation of the code of ethics, the Commission must terminate the investigation and notify the complainant, if any, and the alleged violator in writing. The Commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance. If the alleged violator publicly discloses the existence of the action by the Commission, the Commission may confirm its action, and, in its discretion, make public any documents issued to the alleged violator.

## INVESTIGATIVE FLOW CHART

The following flow chart illustrates the Commission's investigative process.



If the Commission finds, during a preliminary investigation, that probable cause of a violation has occurred, the Commission may: 1) due to mitigating circumstances such as no significant loss to the state, lack of significant economic gain to the alleged violator, or lack of significant impact on public confidence in government, issue to the alleged violator a confidential reprimand and provide a copy of the reprimand to the alleged violator's appointing authority; or, 2) initiate an administrative proceeding to determine whether there has been a violation.



### **ADMINISTRATIVE PROCEEDINGS**

The provisions of KRS Chapter 13B apply to all Commission administrative hearings. If, during an administrative hearing, the Commission finds clear and convincing proof of a violation of the code of ethics, it may require the violator to cease and desist the violation, require the violator to file any required report or statement, publicly reprimand the violator, recommend the appointing authority suspend or remove the violator from office or employment, and/or impose a civil penalty of not more than \$5,000 per each violation. (Collected civil penalties are deposited into the General Fund.) In addition, any violation that has substantially influenced action taken by any state agency in a matter shall be grounds for voiding, rescinding or canceling the action based on the interests of the state and innocent third persons. The Commission must refer to the Attorney General for prosecution any violations of KRS 11A.040. Final action by the Commission may be appealed to the Circuit Court upon petition of any party in interest.

## STATISTICS

	<u>2011--2012</u>	<u>2012--2013</u>
Possible Violations Reviewed	51	39
Investigations Initiated	40	24
Investigations Terminated	14	6
Confidential Reprimands	2	5
Administrative Proceedings Initiated	12	15
Cases Referred To Other Agencies	4	5
Employees Penalized	23	11
Investigations Active at Fiscal Year End	7	9

## DISPOSITION OF INVESTIGATIONS

Informal complaints received by the staff were researched and either brought to the Commission, referred to another agency, or dismissed for lack of jurisdiction. Of the preliminary investigations initiated, either during this biennium or the previous one, 20 did not have sufficient facts to constitute a violation of the code of ethics; however, many alleged violators were sent information to ensure future compliance with the code of ethics. Seven investigations showed probable cause of a violation; however, due to mitigating circumstances, the alleged violators were confidentially reprimanded during the biennium. Seven investigations remained active as of June 30, 2012, and nine investigations remained active as of June 30, 2013. In 27 other investigations, the Commission found probable cause of violations and issued initiating orders for administrative proceedings during the biennium. These proceedings, along with proceedings that were still active at the beginning of the biennium, are detailed as follows:

## ADMINISTRATIVE ACTIONS JULY 1, 2011 THROUGH JUNE 30, 2013

### *Executive Branch Ethics Commission v. Bradford S. Bailey*, Case Number: 08-013

**Allegation:** That a Property Valuation Administrator ("PVA") in Barren County violated KRS 11A.020(1)(c) by using his official position or office to obtain financial gain for a member of his family. Specifically, the Barren County PVA, Brad Bailey, violated the Executive Branch Code of Ethics by using his official position as PVA to hire his daughter to work for him in the Barren County PVA office, thereby giving his daughter the financial gain employment provides.

**Conclusion:** In a Settlement Agreement, the Barren County PVA agreed to pay a \$2,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order.

***Executive Branch Ethics Commission v. Philip Mobley*** , Case Number: 08-014

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**Allegation:** That the Clay County Property Valuation Administrator ("PVA") violated KRS 11A.020(1)(c) by using his official position or office to obtain financial gain for a member of her family. Specifically the Clay County PVA violated the Executive Branch Code of Ethics by using his official position as PVA to hire his wife to work for him in the Clay County PVA office, thereby giving his wife the financial gain employment provides.

**Conclusion:** The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order, the Commission adopted the hearing officer's Recommended Order, ordering Mobley to cease and desist any further violation of KRS 11A.020(1)(c) such as granting his wife any discretionary promotions or pay increases; to post a copy of KRS 11A.020 prominently in a public place in his office as a reminder of the law; and to pay a civil penalty of \$2,000.

***Executive Branch Ethics Commission v. Renee True***, Case Number: 08-015

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**Allegation:** That the former Fayette County Property Valuation Administrator ("PVA") violated KRS 11A.020(1)(c) by using her official position or office to obtain financial gain for a member of her family. Specifically the former Fayette County PVA violated the Executive Branch Code of Ethics by using her former position as PVA to hire her mother to work for her in the Fayette County PVA office, thereby giving her mother the financial gain employment provides.

**Conclusion:** In a Settlement Agreement, the former Fayette County PVA agreed to pay a \$2,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order.

***Executive Branch Ethics Commission v. Roger Tomes*** , Case Number: 08-016

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**Allegation:** That a Property Valuation Administrator (PVA) of Grayson County violated KRS11A.020(1)(c) by using his official position or office to obtain financial gain for a member of his family; specifically using his official position to hire his son to work for him in the Grayson County PVA office, thereby giving his son the financial gain employment provides.

**Conclusion:** In a Settlement Agreement, the PVA admitted to violating KRS11A.020(1)(c) as alleged, agreed to pay a \$1,000 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission v. Felicia Wooten***, Case Number: 08-017

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**Allegation:** That the Harlan County Property Valuation Administrator ("PVA") violated KRS 11A.020(1)(c) by using her official position or office to obtain financial gain for a member of her family. Specifically, Wooten violated the Executive Branch Code of Ethics by using her official position as PVA to promote her son to a higher paid position within the Harlan County PVA office, thereby giving her son the financial gain that came with this advancement.

**Conclusion:** The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order, the Commission adopted the hearing officer's Recommended Order, ordering Wooten to cease and desist any further violation of KRS 11A.020(1)(c) in hiring or promotion actions and pay no penalty. Wooten appealed the Final Order in Franklin Circuit Court. The Franklin Circuit Court reversed the Final Order of the Commission. The Court of Appeals affirmed the Franklin

Circuit Court Order. The Supreme Court denied discretionary review.

***Executive Branch Ethics Commission v. Vicky Reynolds***, Case Number: 08-018

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**Allegation:** That the Hart County Property Valuation Administrator ("PVA") violated KRS 11A.020(1)(c) by using her official position to obtain financial gain for a member of her family. Specifically the Hart County PVA violated the Executive Branch Code of Ethics by using her official position as PVA to hire her mother to work for her in the Hart County PVA office, thereby giving her mother the financial gain employment provides.

**Conclusion:** In a Settlement Agreement, the Hart County PVA agreed to pay a \$2,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order.

***Executive Branch Ethics Commission v. Joyce Parker***, Case Number: 08-019

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**Allegation:** That while serving as the Property Valuation Administrator of Laurel County, Parker violated KRS 11A.020(1)(c) by using her official position or office to obtain financial gain for a member of her family. Specifically, Parker violated the Executive Branch Code of Ethics by using her official position as PVA to hire her daughter to work for her in the Laurel County PVA office, thereby giving her daughter the financial gain employment provides.

**Conclusion:** The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order, the Commission adopted the hearing officer's Recommended Order, ordering Parker to henceforth obey KRS 11A.020(1)(c) in hiring or promotion actions; to post a copy of KRS 11A.020 prominently in a public place in her office as a reminder of the law; and to pay a civil penalty in the amount of \$2000. Parker appealed the Final Order in Franklin Circuit Court. The Franklin Circuit Court reversed the Final Order of the Commission. The Court of Appeals affirmed the Franklin Circuit Court Order. The Supreme Court denied discretionary review.

***Executive Branch Ethics Commission v. James Wooton***, Case Number: 08-020

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**Allegation:** That Wooton, Leslie County Property Valuation Administrator violated KRS 11A.020(1)(c) by using his official position or office to obtain financial gain for a member of his family. Specifically, Wooton violated the Executive Branch Code of Ethics by hiring his daughter on several occasions to work for him in the Leslie County PVA office, thereby giving his daughter the financial gain employment provides.

**Conclusion:** In a Final Order issued by the Commission, Wooton was found to have violated KRS 11A.020(1)(c) by using his official position or office to obtain financial gain for a member of his family. The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order the Commission adopted the hearing officer's Recommended Order, ordering Wooton to henceforth obey KRS 11A.020(1)(c) in hiring or promotion actions; to post a copy of KRS 11A.020 prominently in a public place in his office; and to pay a civil penalty in the amount of \$4,000. Wooton appealed the Final Order in Franklin Circuit Court. The Franklin Circuit Court reversed the Final Order of the Commission. The Court of Appeals affirmed the Franklin Circuit Court Order. The Supreme Court denied discretionary review.

***Executive Branch Ethics Commission v. Ron G. Winters***, Case Number: 08-021

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**Allegation:** That Winters, while serving as the Property Valuation Administrator of Oldham County, was found to have violated KRS 11A.020(1)(c) by using his official position or office to obtain financial gain for a member of his family. Specifically, Winters violated the Executive Branch Code of Ethics by using his official position as PVA to hire his wife to work for him in the Oldham County PVA office, ultimately promoting her to be his Chief Deputy, thereby giving his wife the financial gain employment provides.

**Conclusion:** In a Final Order issued by the Commission, Winters was found to have violated KRS 11A.020(1)(c). The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order, the Commission adopted the hearing officer's Recommended Order, ordering Winters to henceforth obey KRS 11A.020(1)(c) in hiring or promotion actions; to post a copy of KRS 11A.020 prominently in a public place in his office as a reminder of the law; and to pay a civil penalty in the amount of \$5000. Winters appealed the Final Order in Franklin Circuit Court. The Franklin Circuit Court reversed the Final Order of the Commission. The Court of Appeals affirmed the Franklin Circuit Court Order. The Supreme Court denied discretionary review.

***Executive Branch Ethics Commission v. Betty Atkinson***, Case Number: 08-022

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**Allegation:** That the Powell County Property Valuation Administrator ("PVA") violated KRS 11A.020(1)(c) by using her official position or office to obtain financial gain for a member of her family. Specifically Atkinson violated the Executive Branch Code of Ethics by using her official position as PVA to hire her daughter to work for her in the Powell County PVA office, ultimately promoting her to be her Chief Deputy, thereby giving her daughter the financial gain employment provides.

**Conclusion:** In a Final Order issued by the Ethics Commission, Atkinson, was found to have violated KRS 11A.020(1)(c). The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order, the Commission adopted the hearing officer's Recommended Order, ordering Atkinson to pay a civil penalty in the amount of \$2000. Atkinson is no longer employed by the Commonwealth of Kentucky.

***Executive Branch Ethics Commission v. Julie Shields***, Case Number: 08-023

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**Allegation:** That while serving as the Property Valuation Administrator of Taylor County Shields violated KRS 11A.020(1)(c) by using her official position or office to obtain financial gain for a member of her family. Specifically, Shields violated the Executive Branch Code of Ethics by using her position as PVA to hire her husband to work for her in the Taylor County PVA office as her Chief Deputy, thereby giving her husband the financial gain employment provides.

**Conclusion:** The Final Order followed a full evidentiary hearing and the issuance of a Recommended Order by an impartial hearing officer assigned to the case. In the Final Order, the Commission adopted the hearing officer's Recommended Order, ordering Shields to henceforth obey KRS 11A.020(1)(c) in hiring or promotion actions; to post a copy of KRS 11A.020 prominently in a public place in her office as a reminder of the law; and to pay a civil penalty in the amount of \$4000. Shields appealed the Final Order in Franklin Circuit Court. The Franklin Circuit Court reversed the Final Order of the Commission. The Court of Appeals affirmed the

Franklin Circuit Court Order. The Supreme Court denied discretionary review.

***Executive Branch Ethics Commission vs. Moses Young***, Case Number: 10-006

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**Allegation:** That during his course of employment with the Office of Inspector General, Division of Health Care Facilities and Services, Cabinet for Health and Family Services, Moses Young violated KRS 11A.045(1), which restricts a public servant from receiving anything over \$25 in value from a person or business regulated by his own agency, by living rent free in a residence owned by a corporation regulated by his agency. He obtained this financial gain for himself by using his official position to secure or create advantages for that corporation by means of providing inside agency information and instructions to an individual affiliated with the corporation. In doing so, Young violated KRS 11A.020(1)(c) and (d), which prohibits the use of one's official position to obtain financial or other advantages for oneself. Young also violated KRS 11A.040(1) by knowingly disclosing and using confidential information acquired in the course of his official duties to further his own economic interest when he provided inside agency information and instructions and obtained favorable treatment with regard to administrative actions of the Cabinet for Health and Family Services for the individual affiliated with the corporation regulated by his agency.

**Conclusion:** In a Settlement Agreement, Young admitted that he violated KRS 11A.020(1)(c) and (d), KRS 11A.040(1), and KRS 11A.045(1) as alleged, agreed to pay a \$5,000 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission v. Terry Farmer***, Case Number: 10-007

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**Allegation:** That while serving as a Transportation Engineer II for the Department of Highways, Kentucky Transportation Cabinet, Farmer violated the Executive Branch Code of Ethics by using his official position in an attempt to improperly influence the maintenance, repair, or replacement of a culvert which provides drainage to property in which he and his mother have a personal and financial interest; and by providing confidential agency documents, either directly or through his mother, to a law firm to be used in litigation against the state. Farmer obtained the documents through his official position.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission vs. Patrick Yates***, Case Number: 11-001

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**Allegation:** That during his course of employment with the Department of Highways, Transportation Cabinet, Patrick Yates violated KRS 11A.020(1)(c) and (d) by using his official position to obtain financial gain for himself and to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest at large by means of misappropriating public funds. Specifically, Yates used a state credit card to obtain fuel for non-state owned vehicles at a total cost of \$758.10, for which he received half of the cost of the fuel in cash from the operators of the vehicles.

**Conclusion:** In a Final Order the Commission adopted the Recommended Order of Default Judgment issued by the hearing officer assigned to the case, finding that Yates violated KRS 11A.020(1)(c) and (d) as charged, and ordered that Yates receive a public reprimand and pay a \$5,000 penalty.

***Executive Branch Ethics Commission v. Natalie Jensen***, Case Number: 11-003

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**Allegation:** That during the course of her employment with the Kentucky Department for Energy Development and Independence Natalie Jensen violated KRS 11A.020(1)(c) and (d) by using her official position to obtain financial gain for herself and to secure or create privileges, exemptions, advantages, or treatment for herself in derogation of the public interest at large by misappropriating public funds by means of executing, for her personal benefit, three checks totaling \$2,250.00 on the account of the Governor's Conference on the Environment, a bank account entrusted to her in her official position. In cashing these checks for her personal gain, Jensen also violated KRS 11A.040(2) by knowingly receiving interest or profit arising from the use or loan of public funds in her hands.

**Conclusion:** In a Settlement Agreement, Jensen admitted that she violated KRS 11A.020(1)(c) and (d) and KRS 11A.040(2) as alleged, but that she did so by executing and cashing only one such check for her personal benefit in the amount of \$1000.00. In the Settlement Agreement, Jensen also agreed to pay a \$1,500 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission vs. George "Chris" Juilfs***, Case Number: 11-005

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**Allegation:** That during his course of employment as an Environmental Inspector III with the Division for Air Quality, Department for Environmental Protection, Energy and Environment Cabinet, Juilfs violated KRS 11A.020(1)(c) and (d) by grossly misusing state equipment for his own personal interest and the interest of others. Specifically, he used his state vehicle to transport individuals who were not state employees, used his state vehicle for his own personal reasons, and allowed an individual who was not a state employee to use his state-issued cellphone on multiple occasions.

**Conclusion:** In a Settlement Agreement the employee admitted to violating KRS 11A.020(1)(c) and (d), agreed to pay a \$1,000 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission v. Tim Hibbard***, Case Number: 11-006

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**Allegation:** That during his course of employment with the Department of Parks in the Tourism, Arts and Heritage Cabinet, Timothy Hibbard violated KRS 11A.020(1)(c) and (d) by using his official position to obtain financial gain for others and to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest at large. Specifically, Hibbard provided exceptionally discounted rates to General Butler State Resort Park Lodge to his family members and friends on five separate occasions during 2009 and 2010 that resulted in total lost revenue for the Lodge of \$698.55. Such discounted rates were not allowed by any existing policies of the Lodge, the Department of Parks, or the Tourism, Arts and Heritage Cabinet.

**Conclusion:** In a Settlement Agreement, Hibbard admitted that he violated KRS 11A.020(1)(c) and (d) as alleged, agreed to pay a \$1,000 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission vs. Paula Daniels-Music***, Case Number: 11-007

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**Allegation:** That during her course of employment with the Department for Medicaid Services, Cabinet for Health and Family Services, Paula Daniels-Music violated KRS 11A.020(1)(a) by using her official position to influence matters that involved a substantial conflict of interest

between her personal and private interests and her duties in the public interest. Specifically, Daniels-Music failed to abstain from working on matters involving a provider regulated by her agency on which she knew that her husband and mother, employees of the provider, were involved. In addition, immediately after leaving the employment of the Department for Medicaid Services, Cabinet for Health and Family Services, Daniels-Music violated KRS 11A.040(9) by representing a business before her former state agency on matters in which she was directly involved during her state employment. Specifically, Daniels-Music left employment with the state and immediately began representing the above-referenced provider on all matters involving her former agency, including specific matters with which she had been directly involved as an employee of the Department for Medicaid Services.

**Conclusion:** In a Settlement Agreement, Daniels-Music admitted that she violated KRS 11A.020(1)(a) and KRS 11A.040(9) as alleged, agreed to pay a \$2,000 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission vs. John T. "Tom" Boone***, Case Number: 11-008

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**Allegation:** That during the course of his employment as a Plumbing Inspector Reviewer with the Division of Plumbing, Department of Housing, Buildings and Construction, Public Protection Cabinet, Boone violated KRS 11A.020(1)(c) and (d) by using his official position to obtain free classroom space on at least 35 separate days for the purpose of teaching plumbing code classes in his private capacity, used copies of materials developed by his Division as course materials for teaching the Kentucky State Plumbing Code in his private capacity, and used his official position to obtain the free use of a copier to make copies of the course materials obtained from his Division for students in his private class. He further violated KRS 11A.020(1)(c) and (d) by teaching plumbing code courses on multiple occasions despite being told by his supervisor that employees of his Division were not to teach plumbing code classes on their own because all plumbing code classes were to be taught by the Division through a participating college. After suggesting that students attending his privately-provided classes make a \$350 to \$375 "donation" per student to him, the employee collected approximately \$13,000 in "donations" for teaching his plumbing code classes between December 15, 2008 and October 15, 2010. The employee also violated KRS 11A.020(1)(a) by conducting a plumbing inspection in his official capacity for a company from which he had received \$3,850 in "donations" for conducting plumbing code classes in his private capacity for its employees. The employee also conducted plumbing inspections in his official capacity for another company whose employees had paid him for conducting plumbing code classes in his private capacity.

**Conclusion:** In a Settlement Agreement, the employee admitted violating KRS 11A.020(1)(a), (c), and (d), agreed to pay a \$5000 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission vs. Eddie Moore***, Case Number: 11-009

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**Allegation:** That during the course of his employment as a Resort Park Manager, III Lake Cumberland State Resort Park with the Department of Parks, Tourism, Arts and Heritage Cabinet, Moore violated KRS 11A.020(1)(c) and (d) as well as KRS 11A.045(1) by using his official position to obtain financial gain for himself and others in derogation of the public interest at large, and by accepting gifts totaling a value greater than twenty-five dollars (\$25) in a single calendar year from a person or business that does business with or is attempting to influence the actions of the agency in which he is employed or which he supervises. Specifically Moore rented a 7

bedroom houseboat on two occasions for the use of himself and his family and friends for a substantially reduced rate from a private company holding the lease agreement with the Department of Parks to lease the Lake Cumberland Marina. Further on at least three occasions, Moore, along with his family, used a ski boat owned by the same private company without paying a rental fee.

**Conclusion:** In a Settlement Agreement, Moore admitted he violated KRS 11A.020(1)(c) and (d) as well as KRS 11A.045(1) and agreed to pay a \$1,500 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission v. Robert Habig***, Case Number: 11-010

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**Allegation:** That an employee with the Department of Parks, Tourism, Arts and Heritage Cabinet violated KRS 11A.020(1)(c) and (d), as well as KRS 11A.045(1) by using his official position to obtain financial gain for others, to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest at large, and by accepting gifts totaling a value greater than \$25 in a single calendar year from a person or business that does business with or attempting to influence the actions of the agency in which he is employed or which he supervises. Specifically Habig, the business manager at Lake Cumberland State Resort Park, along with his family, used a pontoon boat and a ski boat owned by State Dock Marina Ventures, LLC (“State Dock”) without paying a rental fee. State Dock has a lease agreement with the Department of Parks to lease the Lake Cumberland marina. The actual rental rate for the pontoon boat from State Dock is approximately \$119 to \$299, depending on the season, the size of the pontoon boat, and the length of the rental time; the rental fee for a ski boat from State Dock is approximately \$329 to \$529 depending on the size of the boat and the season.

**Conclusion:** In a Settlement Agreement the employee admitted violating KRS 11A.020(1)(c) and (d), as well as KRS 11A.045(1) as alleged, agreed to pay a \$500 civil penalty, received a public reprimand and waived any right to appeal.

***Executive Branch Ethics Commission v. Danita Fentress-Laird***, Case Number: 11-011

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**Allegation:** That an employee in the Department of Agriculture, Office of Strategic Planning and Administration violated KRS 11A.020(1)(c) and (d), (2), and (3) by using her official position to give herself a financial gain and an advantage in derogation of the public interest at large; using her official position to secure or create privileges, exemptions, advantages, or treatment for herself 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 she was using her official position to further her professional or private interest; and failing to abstain from action on an official decision in which she had a personal or private interest and failing to notify her superior in writing of her reasons for abstaining so that her superior could have an impartial third party make the decision. Specifically, Fentress-Laird used her position to influence her superiors to allow her to create an assistant director classified, merit position within her own division, then took the following actions to ensure she was placed in the position herself: contacted the Department of Personnel to establish the new position and drafted the position description and job duties; applied as a candidate for the position after assigning her subordinate with the job of conducting the interviews; and created the interview questions and possible acceptable answers for her subordinate to use during the interview process. When her

subordinate reported to Fentress-Laird her recommendation for the best candidate for the position, which was in fact Fentress-Laird, Fentress-Laird reported that recommendation to the Commissioner of Agriculture and directed her subordinate to establish through the Personnel Cabinet the pay grade for her new position as assistant director.

**Conclusion:** In a Settlement Agreement the employee admitted violating KRS 11A.020(1)(c) and (d), (2), and (3) as alleged, agreed to pay a \$1,500 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission v. Bradley Lowe*** , Case Number: 11-012

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**Allegation:** That an employee with the Department of Fish and Wildlife Resources violated KRS 11A.020(1)(a) and (d) by using or attempting to use his influence in matters that involved a substantial conflict between his personal or private interest and his duties in the public interest and by using his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest at large. Specifically, Lowe used his official position as a conservation officer by brandishing his conservation officer badge and using his status as a law enforcement officer to falsely claim that he was involved in an official undercover investigation to secure entry for his fifteen year old daughter into an Alcoholic Beverage Control regulated establishment for patrons 21 years of age and older. He continued to brandish his badge to order drinks for his daughter while in the Lexington establishment.

**Conclusion:** In a Settlement Agreement the employee admitted violating KRS 11A.020(1)(a) and (d) as alleged, agreed to pay a \$2,500 civil penalty, received a public reprimand, and waived any right to appeal.

***Executive Branch Ethics Commission v. Billie Johnson***, Case Number: 12-001

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**Allegation:** That the Assistant Director with the Division of Highway Safety Programs, Department of Transportation, violated KRS 11A.020(1)(c) and (d) and KRS 11A.045 by using her official position to obtain financial gain for others; to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest at large; and by knowingly accepting gifts totaling a value greater than twenty-five dollars (\$25) in a single calendar year from an entity that does business with the agency in which the public servant is employed. Specifically, during June of 2009, Johnson acquired and gave credentials to six friends, acquaintances, and family members to a race that the Division of Highway Safety Programs was sponsoring at the Kentucky Motor Speedway held on July 18, 2009. The credentials were received during the course of her employment and gave her friends and family members access to areas of the Kentucky Motor Speedway to which the general public could not gain access. Neither Johnson nor her friends and family members paid any amount for the credentials. The actual cost of a general admission ticket to the race was \$20 per ticket but the credentials have no face value because the general public does not have access to or the opportunity to buy the credentials, therefore the value is indeterminate.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission v. Boyd Sigler***, Case Number: 12-002

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**Allegation:** That the Director of the Division of Highway Safety Programs, Kentucky Transportation Cabinet, violated KRS 11A.020(1)(c) and (d) and KRS 11A.045 by using his

official position to obtain financial gain for himself and members of his family; to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large; and by knowingly accepting gifts totaling a value greater than twenty-five dollars (\$25) in a single calendar year from an entity that does business with the agency in which the public servant is employed. Specifically, Sigler violated the Executive Branch Code of Ethics by using his official position to gain access for himself and a family member to sections of the Kentucky Motor Speedway that were not accessible by the public so that he and his family member could meet with a well-known singer and actress. Sigler received information from officials of the time and date of the celebrity's appearance; when he arrived at the designated time, he was given a ride on a golf cart to non-public areas of the Speedway; he was allowed access to a suite overlooking the race in which to await the celebrity; and he was given private access to the celebrity to gain her signature for his family member.

**Conclusion:** In a Settlement Agreement approved by the Commission, the employee admitted to violating KRS 11A.020(1)(c) and (d) and KRS 11A.045 as alleged, agreed to pay a \$400 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order. Sigler is no longer employed by the Commonwealth of Kentucky.

***Executive Branch Ethics Commission v. Dennis Sharon***, Case Number: 12-003

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**Allegation:** That a Conservation Officer with the Department of Fish and Wildlife Resources violated KRS 11A.020(1)(a), (b), (c) and (d), KRS 11A.020(2), KRS 11A.020(3), and KRS 11A.040(1) by using his influence in a matter 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 a financial gain and an advantage in derogation of the public interest at large; using his official position to secure or create privileges, exemptions, advantages, or treatment for himself 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, failing to abstain from an official decision in which he had or may have had a personal or private interest, and knowingly using confidential information acquired in the course of his official duties in order to further his own economic interests. Specifically, in April of 2007, Sharon participated in the multi-state law enforcement operation called "Skid Roe" concerning the commercial fishing of paddlefish in restricted waters, during which Sharon was assigned the task of serving a warrant. On or about April 23, 2007, Sharon served a warrant on the Albert Collins residence and seized cash and property related to Mr. Collins' commercial paddlefish fishing operation. On or about October 15, 2008, Sharon received a Resident Roe Bearing Harvester's Permit and Resident Commercial Fishing License from the Kentucky Department of Fish and Wildlife Resources. As documented on his Daily Roe Bearing Fish Harvester's Transaction Report, from approximately November 10, 2008, through February 22, 2010, Sharon reported participating in commercial fishing activities in which he sold approximately 464 pounds of paddlefish roe to Albert Collins. In January of 2008, Sharon met with Steve Kinder, a commercial fisherman, at the boat ramp in Carrolton, Kentucky, at the confluence of the Kentucky River and the Ohio River. Kinder and Sharon discussed Kinder's desire to fish the area during the following fishing season. Kinder asked Sharon to provide him

with the exact measurements of the restricted area, pursuant to 301 KAR 1:155, Section 3(2)(b). On or about April 25, 2008, at the confluence of the Kentucky and Ohio Rivers, Kinder observed two commercial fishermen already in the spot. The fishermen told Kinder that Dennis Sharon directed them to fish in the area in question. In November of 2008, at the start of the commercial fishing season, Kinder discovered Sharon conducting commercial fishing activities in the same location in which Kinder told Sharon he was planning to begin fishing. Sharon used information gained during his official duties while speaking with Steve Kinder in confidence about the benefits of commercial fishing in waters at the confluence of the Kentucky and Ohio Rivers to benefit other fishermen and himself to further his own economic interests. On or about April 13 and November 18 of 2009 and January 14, March 5, April 1, 2, 5, 6 and 7 of 2010, Dennis Sharon and his designated helper Kenneth Burns were observed conducting commercial fishing activities on the Ohio River within 50 yards of the mouth of the Kentucky River, in violation of 301 KAR 1:155, Section 3(2)(b), despite attesting on his Resident Roe Bearing Harvester's Permit applications that the requirements of 301 KAR 1:155 are binding upon him and anyone he designated as a helper. By attesting on his application before the Department that he would follow 301 KAR 1:155 and failing to follow or enforce the requirements of that regulation, Sharon failed to avoid 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. Such activities provided Sharon with the financial gain and benefit of fishing a restricted area that was not otherwise accessible by other commercial fishermen. Further, Sharon used his influence as a conservation officer to protect the activities of his designated helper, Kenneth Burns, allowing Burns the benefit and financial gain of fishing in waters that were otherwise restricted from other commercial fishermen. Sharon conducted these illegal activities despite his requirement as a law enforcement officer to uphold the law and his requirement as a conservation officer to enforce fish and wildlife laws and regulations. Sharon was able to conduct these illegal activities in a prolonged and open manner because he was known in the community as a law enforcement officer and used his influence as a conservation officer over the community and his Department to protect his activities as a commercial fisherman in restricted waters, which was a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest. On or about March 5, 2010, conservation officers from the Indiana Department of Natural Resources ("DNR") seized gill nets found in restricted waters at the confluence of the Kentucky and Ohio rivers in Carrollton, Kentucky, equipped with expired 2009 commercial fishing tags belonging to Dennis Sharon. That same day, at a meeting in Boone County, Kentucky, Indiana DNR Conservation Officers Lt. Tony Stoll and Maj. Felix Hensley confronted Dennis Sharon in front of his commanding officers, Sgt. Greg Davis and Capt. Bobby Newman. Sharon proceeded to inform the officers that he had obtained a valid 2010 Commercial Fishing License, but refused to show it to the officers. Sharon did not apply for a 2010 Commercial Fishing license until March 8, 2010. Further, when asked by the officers whether he had any other nets set in the waters of the Ohio River in addition to the nets the officers seized at the mouth of the Kentucky River, Sharon answered in the negative. However, Indiana DNR officers later seized a net with expired 2009 commercial fishing tags that belonged to Dennis Sharon within fifty (50) yards of the mouth of the Little Kentucky River. Sharon was charged criminally for these offenses in Switzerland County, Indiana on March 2, 2012. Furthermore, Sharon reported on his Monthly Report of Commercial Fish Harvest in Kentucky for the month of March 2010 that he did not have commercial gill nets in any waters

in Kentucky from March 1st through the 27th. However, the Indiana Officers seized gill nets belonging to Sharon placed in the Kentucky and Little Kentucky Rivers on March 5, 2010. Sharon failed to avoid 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 when he lied to the Indiana and Kentucky officers about having a valid commercial license and more nets in the water. Such activities were also an attempt by Sharon to use his influence on the Kentucky and Indiana officers to protect his financial gain and benefit from fishing a restricted area that was not otherwise accessible by other commercial fishermen, which was a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest. On or about April 6, 2010, Dennis Sharon was informed by his commanding officer, Sgt. Greg Davis, of the measurement of the restricted areas around the confluence of the Kentucky and Ohio Rivers and was provided a map including the coordinates of the restricted fishing areas. Later that day, Sharon was observed measuring and moving his commercial fishing nets, leaving his nets within the restricted zone. Again on or about April 7, 2010, Sharon was observed measuring and moving his commercial fishing nets, leaving his nets in restricted waters. This conduct shows how Sharon failed to avoid 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. Such activities were also an attempt by Sharon to use his influence as a Kentucky conservation officer to protect his financial gain and benefit from fishing a restricted area that was not otherwise accessible by other commercial fishermen, which was a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest. On or about April 7, 2010, conservation officers from the Indiana Department of Natural Resources (“DNR”) stopped Dennis Sharon for commercially fishing in restricted waters and seized gill nets as well as over 12 lbs of paddlefish roe found in restricted waters at the confluence of the Kentucky and Ohio Rivers in Carrollton, Kentucky. During this encounter, Indiana DNR Conservation Officers Sgt. John Cannarella, Corp. Steve Kinne, and Corey Norrod confronted Dennis Sharon about his commercial fishing in restricted waters. Sharon proceeded to inform the officers that he had been given permission by his commanding officers to fish in the restricted area and that he would have his agency defend him in court. Sharon was charged criminally for this conduct in Switzerland County, Indiana on March 2, 2012. Sharon failed to avoid 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. Such activities were also an attempt by Sharon to use his influence on Indiana officers to protect his financial gain and benefit from fishing a restricted area that was not otherwise accessible by other commercial fishermen, which was a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest. On or about March 22, 2011, Dennis Sharon, without permission or the knowledge of his supervisors, while in uniform and driving his commissioned vehicle, left his assigned county of Gallatin in District 5 and travelled to Oldham County in District 3, to meet with Oldham County Attorney, John Carter, to influence the prosecution of David Cottrell, a commercial fisherman. On March 22, 2011, Sharon was working on state time and claimed 7.5 of regular hours on his official timesheet. Based on a citation brought by Indiana DNR Officers Steve Kinne and Corey Norrod, David Cottrell was charged with failure to maintain the required number of commercial fishing tags on his gill nets placed in the Ohio River. David Cottrell and Sharon both sell fish roe to Jessica Schigur, the Fish Roe Buyer whom Dennis Sharon has sold fish roe to from approximately November 20, 2010, to the present. Sharon told

Mr. Carter that the offenses for which Mr. Cottrell had been charged were not offenses that the Kentucky Department of Fish and Wildlife Resources was interested in prosecuting. By attempting to influence the prosecution of David Cottrell, Sharon failed to avoid 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 in commercial fishing by helping out another commercial fisherman related to his fish roe buyer. Such activities were also an attempt by Sharon to represent the interests of the Kentucky Department of Fish and Wildlife Resources in a way that would also protect his and other commercial fishermen's financial gain and benefit him by influencing the enforcement of commercial fishing laws and regulations to suit his private interests. Finally, Sharon was attempting to influence a matter that involved the same Indiana DNR officers who charged him with commercial fishing law violations, which is a substantial conflict between his personal or private interest and his duties in the public interest. On or about April 17, 2011, Dennis Sharon told Barrett Brewer, the conservation officer assigned to Oldham County, to not get involved with the prosecution of David Cottrell in Oldham County for the commercial fishing violation from March 2011. Sharon told Officer Brewer that that he, Dennis Sharon, was handling the matter and that Officer Brewer need not get involved. Sharon told Brewer that the case against David Cottrell should not be prosecuted. By attempting to influence Officer Brewer to not get involved with the prosecution of David Cottrell, Sharon failed to avoid 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 in commercial fishing by helping out another commercial fisherman related to his fish roe buyer. Such activities were also an attempt by Sharon to influence Officer Brewer and the Kentucky Department of Fish and Wildlife Resources in a way that would also protect his and another commercial fisherman's financial gain and benefit him by influencing the enforcement of commercial fishing laws and regulations to suit his private interests. Finally, Sharon was attempting to influence a matter that involved the same Indiana DNR officers who charged him with commercial fishing law violations, which is a substantial conflict between his personal or private interest and his duties in the public interest. On or about October 21, 2008, Sharon applied for a commercial fishing license and Roe Bearing Harvesters Permit with the Department. Sharon's supervisors instructed him that he was not to participate in official duties or enforcement activities in the counties in which he conducted commercial fishing and to avoid commercial fishing activities in his assigned county of Gallatin County, which was consistent with the Department's policy. From November 2008 through April 2010, Sharon was observed on multiple occasions by the public and law enforcement officers participating in commercial fishing activities in Carroll County, Kentucky. From October 2008 through present, Sharon has issued approximately 24 citations in Carroll County, Kentucky, approximately 7 of which involve fishing related violations. By participating in commercial fishing activities in Carroll County and issuing citations in Carroll County, Sharon failed to avoid 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 failed to abstain from an official decision in which he had or may have had a personal or private interest. On or about April 2, 2011, while in uniform and in his commissioned vehicle, Sharon confronted two commercial fishermen at Point Park in Carrolton, Kentucky, for placing nets too closely to his commercial fishing nets located at the confluence of the Kentucky and Ohio Rivers and threatened to write them citations for the conduct and confiscate their nets so that they could not fish in the location any longer.

**Conclusion:** In a Settlement Agreement approved by the Commission, Sharon agreed to pay a \$10,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order. Sharon is no longer employed by the Commonwealth of Kentucky.

***Executive Branch Ethics Commission v. Dallas E. Kelly***, Case Number: 12-004

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**Allegation:** That while employed as an Environmental Inspector III, Division of Mine Reclamation and Enforcement, Department of Natural Resources Kelly violated KRS 11A.020(1)(b), (c), and (d) by using or attempting to use any means to influence a public agency in derogation of the state at large, using his official position to obtain financial gain for himself or any members of his family, and using or attempting to use his position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large. Specifically Kelly falsified timesheets, vehicle logs, and mine reports, claiming to have performed inspections that he had not performed; completed a mine report with inaccuracies that influenced his public agency in derogation of the state; and failed to fulfill his job duties while receiving compensation.

**Conclusion:** In a Settlement Agreement, Kelly admitted that his conduct violated the Executive Branch Code of Ethics, agreed to pay a \$500 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by means of an Agreed Final Order. Kelly is no longer employed by the Commonwealth of Kentucky.

***Executive Branch Ethics Commission v. Michael Cooper***, Case Number: 12-005

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**Allegation:** That while employed as the Commissioner of the Department of Tourism, in the Tourism, Arts, and Heritage Cabinet, Cooper violated KRS 11A.020(1)(c) and (d) by using his official position or office to obtain financial gain for himself or members of his family and to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large. Specifically Cooper travelled to London, England, without notice to or prior approval of his agency, and participated in events organized by GOSH PR, an entity with which his Cabinet maintained an ongoing contract. During his London visit, GOSH PR paid for meals, taxi cabs and other activities for Cooper. After he returned from the trip, Cooper informed his agency that the trip to London was for personal reasons; however, he later approved an invoice submitted by GOSH PR for reimbursement by his agency of the expenses incurred by GOSH PR on Cooper's behalf. In addition, during Cooper's tenure as Commissioner, he generally failed to follow personnel rules for reporting travel expenses, charged personal items to a state-issued credit card without informing his agency, conducted personal business while on approved state travel, booked more expensive flights in order to combine business and pleasure travel, and showed an overall failure to keep the documentation necessary for reimbursement for business travel.

**Conclusion:** In the Settlement Agreement, Cooper admitted that his conduct violated the Executive Branch Code of Ethics, agreed to pay a \$2,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order. Cooper is no longer employed by the Commonwealth of Kentucky.

***Executive Branch Ethics Commission v. Margaret "Geri" Murphy***, Case Number: 12-006

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**Allegation:** That a Social Service Clerk I in the Department for Community Based Services

violated KRS 11A.020(1)(b) and (d) by using or attempting to use any means to influence a public agency in derogation of the state at large and using her official position to secure or create privileges, exemptions, advantages, or treatment for herself in derogation of the public interest at large. Specifically, from April 2006 - October 2010, Murphy falsified reports claiming to have performed investigations into the abuse and neglect of children that she had not performed, completed reports with inaccuracies that influenced her public agency and other law enforcement agencies in derogation of the state, and failed to fulfill her job duties while receiving wages and benefits.

**Conclusion:** In a Settlement Agreement approved by the Commission, Murphy admitted to violating KRS 11A.020(1)(b) and (d), agreed to pay a \$1,750 civil penalty after she is released from prison, agreed to never again seek employment in any position within any branch of the government of the Commonwealth of Kentucky, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Additionally, for this same conduct, Murphy was charged in Anderson Criminal Court with nine counts of Tampering with Public Records, pled guilty to all counts and was sentenced to five years in prison. She remains incarcerated.

***Executive Branch Ethics Commission v. Michael Fitzgerald***, Case Number: 12-006\*

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**Allegation:** That an Agriculture Marketing Supervisor over the Organic Program with the Department of Agriculture violated KRS 11A.020(1)(a), (b), (c) and (d) and KRS 11A.020(2) by using his influence in a matter 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 a financial gain and an advantage in derogation of the public interest at large; using his official position to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest, and 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. Specifically, during January, February and March 2012, Fitzgerald used his state-issued email account and Department letterhead to endorse a private company to provide organic certification inspections and services to out-of-state organic product producers for which the Department chose to no longer provide such services on January 17, 2012. Fitzgerald used this private company to certify his private organic farm located in Henry County, Kentucky. Fitzgerald also used his endorsement of this private company to support his solicitation of said producers for his business of conducting private inspections and to generate business for the private company for which he sought to serve as an independent contractor. During 2010, 2011, and 2012, Fitzgerald, during time he was working for the Department, used his state-issued email account and state-issued cell phone to solicit and to arrange dates and times that he would perform inspections for out-of-state organic product producers. During 2010 through 2011, Fitzgerald, performed inspections at the locations of out-of-state organic product producers, which was outside of his regular job duties, while collecting a private fee, while often times on state time and driving a state vehicle. During 2010 through 2011, Fitzgerald used a state vehicle for no apparent work-related reason. Fitzgerald cited on the vehicle sign out logs that he was taking a state vehicle to perform “inspections,” but performed no corresponding inspections either for out-of-state or in-state organic product producers and did not create any corresponding inspection records indicating that he had conducted such

inspections during that year. Fitzgerald also cited using the state vehicle to perform specific in-state inspections that were never actually performed and no record was generated to indicate an inspection was ever conducted. During 2010 and 2011, Fitzgerald performed private inspections for out-of-state organic product producers who had also requested to be certified by the Organic Program for which he was responsible, but Fitzgerald failed to ensure that these same producers' applications received the appropriate first review, final review or certificate, which was part of his job duties with the Department. During 2010 and 2011, Fitzgerald conducted the first review, final review, and signed the certificate for organic product producers despite having the responsibility as supervisor of the Organic Program to ensure that at least two individuals performed such functions as required by the federal rules applicable to the organic certification. Fitzgerald also performed the private inspections for these producers and accepted fees for performing the inspections. During 2010 and 2011, Fitzgerald submitted inspection reports to the Organic Program for private inspections that he claimed to have performed and had garnered a fee for performing for out-of-state organic product producers that he had not actually performed, could not have physically completed in the time allotted, or for which he performed insufficient and incomplete inspection reports. Fitzgerald's deficient inspection reports for the out-of-state producers influenced his Department to issue certificates to producers that might not have otherwise received certification had proper inspections been completed in derogation of the public interest. During 2010 and 2011, Fitzgerald either forged or ensured the forgery of the signature of his supervisor on certificates that were issued to out-of-state organic product producers certified by the Organic Program, for which he maintained responsibility, in matters in which he had also performed the private inspections for a fee. In 2011, Fitzgerald sold hay from his personal organic farm to an organic product producer certified under the Department's Organic Program, for which he maintained responsibility, and to which he had issued a Notice of Noncompliance a few months prior.

**Conclusion:** In a Settlement Agreement approved by the Commission Fitzgerald admitted violating KRS 11A.020(1)(a), (b), (c) and (d) and KRS 11A.020(2), agreed to pay a \$10,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order. Fitzgerald is no longer employed by the Commonwealth of Kentucky.

***Executive Branch Ethics Commission v. Schyler Olt***, Case Number: 12-007

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**Allegation:** That the former General Counsel with the Kentucky Retirement Systems violated KRS 11A.050(1), (2), and (3) by failing to properly file the Statement of Financial Disclosure with the Executive Branch Ethics Commission. Specifically, Olt, as an "officer" as defined in KRS 11A.010(7), failed to file a completed 2011 Statement of Financial Disclosure within the time period required by statute for the portion of calendar year 2011 during which he was employed by the Kentucky Retirement Systems as a General Counsel.

**Conclusion:** In a Settlement Agreement approved by the Commission, Olt admitted to violating 11A.050(1), (2), and (3), agreed to pay a \$100 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order. Olt also filed the required Statement of Financial Disclosure.

***Executive Branch Ethics Commission v. Mark A. Jackson***, Case Number: 12-008

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**Allegation:** That a former Special Assistant with the Department of Agriculture violated the

Executive Branch Code of Ethics by failing to file a completed 2011 Statement of Financial Disclosure within the time period required by statute for the portion of calendar year 2011 during which he was employed by the Department of Agriculture.

**Conclusion:** In a Settlement Agreement, Jackson agreed to pay a \$100 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

***Executive Branch Ethics Commission v. Charles Geveden, Sr.***, Case Number: 12-009

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**Allegation:** That during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, he violated the Code of Ethics by using his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest; and used his position to influence an agency in derogation of the state at large. Specifically Geveden admitted that he contacted multiple subordinate employees of departments within the Justice and Public Safety Cabinet to influence these individuals to make donations in support of Governor Steve Beshear's 2011 re-election campaign. During these conversations, Geveden referred to the individual employee's position and provided a specific dollar amount for the employee to donate in support of the campaign. Geveden stated to these individuals that this dollar amount was based upon their employment position or the salary that they received as employees within the Justice and Public Safety Cabinet. He contacted these subordinate employees on their privately-listed home phone numbers and personal cell phone numbers to which he gained access through the personnel files and internal agency documents maintained at the Justice and Public Safety Cabinet. Geveden also admitted that, while on state time, he entered the office of a subordinate employee and asked the subordinate to solicit campaign contributions from certain individual employees who were under the subordinate's supervision. During this encounter, Geveden attempted to provide the subordinate with a list of the employees Geveden wanted him to solicit. This list included the individual employees' salaries and the amounts of their expected campaign donations.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission v. Richie Farmer***, Case Number: 13-001

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**Allegation:** That Farmer, the former Commissioner of Agriculture, violated the Executive Branch Ethics Code by means of the following misconduct: 1) Influencing the creation of non-merit positions with no specific job duties and placing his friends in these positions, then making use of some of these state employees to perform personal errands for him during work hours; as well as influencing the placement of individuals into higher paying non-merit positions while commandeering the duties and responsibilities of lesser paying merit positions for these non-merits, then oftentimes letting the individuals in the non-merit positions fail to perform their assigned duties. 2) Using his influence to interfere with the hiring of merit employees, often in contravention to the recommendations of the appropriate staff and the interview panels, frequently influencing the Kentucky Department of Agriculture ("KDA") to hire individuals with political or personal connections to himself without regard to the individual's merit. 3) Enabling individual employees to claim work time without the employees actually performing work-related activities for the KDA. 4) Using KDA employees,

often on state time and using state resources, to chauffeur him and his family to doctors' appointments, personal shopping trips, and hunting trips, even once directing KDA employees to chauffeur the family dog from the Kentucky State Fair to Farmer's home in Frankfort; and also using KDA employees, often on state time and using state resources, to perform personal work for him at his personal residence, including building a basketball court and retaining wall in his back yard, moving furniture to and from his personal residence, doing landscaping and yard work, cleaning his garage, and laying tile and building shelves. 5) Using state time and resources to have the KDA provide his extended family with hotel rooms while attending the Kentucky State Fair, and using his position to influence KDA employees to fraudulently reserve those hotel rooms in the names of KDA employees he knew would not be utilizing the rooms in order for his extended family to occupy those rooms. 6) Using his position to abuse a state contract by giving tickets to the Kentucky High School Athletic Association's Sweet Sixteen Basketball Tournament ("Sweet Sixteen"), which were provided to the KDA pursuant to the contract, to his extended family members. 7) Using state time and resources to have the KDA provide his extended family with hotel rooms to attend the Sweet Sixteen tournament. 8) Soliciting donations, or directing KDA staff to do so, for the Southern Association of State Departments of Agriculture ("SASDA") conference to be held in Kentucky in 2008 from entities that the KDA regulated or with which it had a business relationship, as well as from entities that represented groups that the KDA regulated. 9) Using his position to influence employees within the KDA to spend state funds comingled with solicited funds from outside entities for the 2008 SASDA conference to purchase excessive and lavish gifts for visiting Agriculture Commissioners and himself in derogation of the public interest and the state at large; and using his position to influence employees within the KDA to also spend those funds to take the visiting Agriculture Commissioners' wives on shopping trips to Fayette Mall, giving them \$50 gift cards as spending money, on a children's program for only Farmer's children in which KDA employees took Farmer's children to a water park and other activities for the entire conference, on a trip totaling in excess of \$30,000 to Millionaire's Row at Churchill Downs for gambling on races named for the visiting Agriculture Commissioners, and on opulent meals and entertainment all in derogation of the state interest. 10) Using his position to influence employees within KDA to spend exorbitant amounts of state funds comingled with solicited funds from outside entities on gifts for the 2008 SASDA conference, forcing these employees to take desperate measures to find supplemental funds to pay for the SASDA conference in derogation of the state interest. The measures taken by these employees included charging the KDA for employee registrations to the conference for employees who did not actually attend the conference, granting money to a commodity group with the requirement that the commodity group use the majority of the grant money to pay for SASDA expenses incurred by KDA, and to continue soliciting funds for SASDA from outside groups months after the SASDA conference occurred. 11) Using his position to take personal possession of four firearms and carry cases, which were purchased with state funds and funds donated for the 2008 SASDA conference, that were meant as gifts for visiting Agriculture Commissioners either who did not ultimately attend the SASDA conference or who declined to accept the gift. 12) Directing KDA staff to use state resources and funds donated for the 2008 SASDA conference to order eight extra firearms and carry cases, in excess of the 17 firearms and cases ordered as gifts for visiting Agriculture Commissioners, then taking possession of these extra firearms for his own personal benefit. 13) Directing KDA staff to use state resources and funds donated for the 2008 SASDA conference to order approximately 35 extra Case knives, in

excess of the 17 knives ordered as gifts for visiting Agriculture Commissioners, then taking possession of these extra knives for his own personal benefit. 14) Directing KDA staff to use state resources and funds donated for the 2008 SASDA conference to order approximately 33 extra cigar boxes, in excess of the 17 cigar boxes ordered as gifts for visiting Agriculture Commissioners, then taking possession of these extra cigar boxes for his own personal benefit. 15) Directing KDA staff to use state resources and funds donated for the 2008 SASDA conference to purchase excessive amounts of food, candy, alcohol, and other items over and above the amount of items necessary for the registered attendants at the SASDA conference, and, after the conference ended, directing the staff to relinquish these extra items to his spouse who took possession of these items for Farmer's personal benefit; and doing the same for items, including alcohol, solicited from and donated directly by outside entities for the 2008 SASDA conference. 16) Using state time and resources to provide his extended family members with hotel rooms at the hotel where SASDA was held and waiving registration fees for his family members to participate in the conference. 17) Using his position to acquire, for his personal use, the hotel rewards points for a conference held by KDA that were accrued by the KDA from the rooms occupied by employees and out-of-state travelers to the conference. 18) Directing KDA staff, after the SASDA conference, to use state resources and donated funds devoted for the SASDA conference to purchase approximately 111 extra watches, in excess of the approximately 64 watches ordered as gifts for KDA employees who worked on the conference, then taking possession of these extra watches for his own personal benefit. 19) Using his position to influence a Kentucky Proud vendor, who was making wooden hats as gifts for the visiting Agriculture Commissioners attending the SASDA Conference, to make additional hats, valued at \$600 each, for free for his family members and himself, as well as wooden bowls for his family members, promising the hat maker that Farmer would give the hat maker special treatment within the Gubernatorial administration in return. 20) Using his position, on two different occasions, to direct a KDA employee to use donated and purchased Kentucky Proud items to make over a dozen total gift baskets for Farmer's personal benefit. Farmer directed the employee to relinquish these gift baskets to his former spouse. The employee was required to use state time and resources, as well as her personal funds, to make these gift baskets for Farmer. On the second occasion, the KDA submitted to Farmer an invoice for the cost of the gift baskets, which Farmer never paid to the KDA. 21) Using his position to direct a KDA employee to use a state Procurement Card ("ProCard") to purchase a refrigerator that he gave to his former spouse to use at her workplace outside of state government. 22) Using his position on multiple occasions to direct KDA employees to use state funds to purchase in excess of 50 shirts for his own personal benefit from a KDA vendor. 23) Using his position to direct KDA employees to deliver to his home three laptop computers that had been purchased by the KDA for the use of three KDA employees. Farmer gave these computers to his family for their personal use and benefit. 24) Using his position to direct KDA employees to purchase filing cabinets in excess of \$600 with locks, which were delivered to his home. These filing cabinets were never returned to the KDA after Farmer's term in office was complete. 25) Receiving gifts such as a wooden cowboy hat with the Kentucky Proud Logo, valued at \$1200-\$1500, and a firearm, priced at \$449, from attending the 2008 SASDA conference in Kentucky, as well as a wooden "UK" baseball cap, valued at \$1200-\$1500, and wooden hat stand with "32" engraving, valued at \$250, from a Kentucky Proud vendor, which Farmer failed to report on Statements of Financial Disclosure filed with the Executive Branch Ethics Commission. 26) Receiving complimentary tickets for various functions through his

position as Commissioner, including, but not limited to, tickets to the Kentucky Oaks and Derby, the Sweet Sixteen tournament, and events held at the Kentucky Exposition Center. Farmer oftentimes sold these tickets for an amount greatly exceeding the face value of the ticket, and in the case of the Derby tickets, received in excess of \$1000 for these tickets. Farmer failed to report receiving these sources of income beyond his salary as Commissioner on his Statements of Financial Disclosure filed with the Executive Branch Ethics Commission during each of his eight years in office. 27) Failing to file a timely and complete his 2011 Statement of Financial Disclosure within the time period required by statute for calendar year 2011 during which he served as the Commissioner of Agriculture. 28) Interfering with the KDA's grant-giving process by instructing KDA employees to award the remainder of outstanding grant money to a grantee, which was a business managed by a former University of Kentucky basketball player, that was not performing according to the terms of the grant agreement. 29) Using his position to influence a private business to give him two all-terrain vehicles for his personal use and one all-terrain vehicle for his father's personal use in exchange for the promise of grant money from the KDA. 30) Using his position to attempt to influence KDA employees to grant a for-profit business state funds in the form of grant money as compensation for three all-terrain vehicles that the business had given Farmer for his and his father's personal use. 31) Using his position to influence his agency to use \$20,000 in Kentucky Proud funds to sponsor a racing team owned by a member of his family. 32) Using his position to influence KDA management personnel to give an employee, who was a KDA inspector and an extended family member of Farmer, a vehicle without a GPS unit despite the employee's supervisor showing Farmer evidence that this employee had tampered with his GPS unit on multiple occasions and was using the vehicle for his personal business and otherwise failing to perform his job duties. 33) Submitting to the Kentucky Registry of Election Finance ("the Registry"), in response to an audit being conducted by the Registry of Farmer's campaign account for his second bid for Commissioner, copies of receipts that were not his own, but were incurred by his sister who was a current employee of the Registry, which had been used by Farmer to gain reimbursement for himself from his campaign account in derogation of the state at large. The receipts were for gas and food expenses incurred by Farmer's sister on her personal time and not by Farmer for any campaign-related expenses. 34) Submitting to the Registry, in response to an audit being conducted by the Registry of Farmer's campaign account for his second bid for Commissioner, a letter, that he knew had been drafted by his sister who was a current employee of the Registry, which was misleading concerning the legitimacy of his campaign reimbursements and in derogation of the state at large. 35) Influencing the KDA to hire an individual with whom he had an ongoing intimate relationship and place her under his direct supervision. This individual was placed into a position with a significantly higher salary than the previous holder of the position. Farmer allowed this individual to claim work time without the individual actually performing work-related activities for the KDA. Farmer allowed this individual to continue to falsely claim work time over a six-week interval over the objection of management within the KDA. Farmer directed management to sign timesheets for this individual even though Farmer and management had knowledge that she was not performing state work during the time claimed on her timesheets and was not present at her assigned work station for long intervals during which she claimed state time on her timesheets.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission v. Bruce Harper***, Case Number: 13-002

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**Allegation:** While employed as the Director of Outreach and Development, Kentucky Department of Agriculture, Harper used his official position to solicit donations for the Southern Association of State Departments of Agriculture ("SASDA") conference to be held in Kentucky in 2008 from entities that Agriculture regulated, did business with, or represented groups that Agriculture regulated, that he interfered with the enforcement and penalty procedures of the Office of the State Veterinarian by instructing Agriculture employees to probate a \$200 fine to zero for a farmer who had violated the dead animal disposal laws; and that he attempted to interfere with the enforcement and penalty procedures of the Division of Regulation and Inspection, Grain Regulation Branch, on behalf of a grain dealer that was a political contributor. Specifically Harper instructed an Agriculture employee to hold a \$3,000 penalty check submitted by a grain dealer, even though the grain dealer had already entered into an Agreed Order of Settlement to pay a fine of \$3,000 for violating Kentucky's grain law. Harper instructed the employee not to deposit the check, the normal course of business upon receiving a penalty check, but to hold the check until he could come to the Grain Regulation Branch offices and take possession of the check, with the intention of circumventing the check's deposit.

**Conclusion:** In a Settlement Agreement approved by the Commission, Harper agreed to pay a \$4,500 Civil Penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order.

***Executive Branch Ethics Commission v. Chris Parsons***, Case Number: 13-003

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**Allegation:** While employed as an Agricultural Inspector I, Office of State Veterinarian, Kentucky Department of Agriculture, Parsons violated the Executive Branch Code of Ethics by claiming work time on his timesheets for time spent allegedly observing stockyard sales and performing inspections while consistently failing to appear at these stockyards, thereby collecting pay for time that he falsely reported on his timesheets; and when management reassigned his work station to Frankfort so as to closely monitor his work activities, Parsons failed to appear in Frankfort but claimed work time on his timesheets and did not otherwise perform any work-related activities for the Department, yet used his state-issued fuel card to purchase fuel on six occasions during that time period for personal use. Parsons also admitted that while employed as an Agricultural Inspector I, Weights and Measures Branch, Division of Regulation and Inspection, Kentucky Department of Agriculture, he violated the Executive Branch Code of Ethics by consistently claiming work time on his timesheets for time that he did not work while assigned the duties of testing scales at various gas stations and grocery stores, thereby collecting wages and benefits for time that he falsely reported on his timesheets and, further, failing to fulfill his assigned job duties while receiving compensation; and by using his state vehicle for non-work related reasons, driving the vehicle for extended periods of time through areas not included in his assigned region, while failing to perform any work related activities during this time, thereby using state resources for his own personal benefit.

**Conclusion:** In the Settlement Agreement, Parsons agreed to pay a \$5,000 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

***Executive Branch Ethics Commission v. George "Doug" Begley***, Case Number: 13-004

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**Allegation:** While employed as an Agricultural Inspector I, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture, Begley violated the Executive Branch Code of Ethics by claiming work time on his timesheets for time spent allegedly performing amusement ride inspections while consistently failing to perform these inspections, thereby collecting pay for time he falsely reported on his timesheets; by using his assigned state vehicle on days that he did not claim work time and did not perform any work-related activities for Agriculture, thereby abusing a state resource that was assigned to him for his own personal benefit; by using his assigned state vehicle while on state time to perform activities relating to his private logging business, thereby abusing state time and resources that were assigned to him; and by attempting to use his official position as a means to avoid a citation from the Department of Forestry for logging activities being conducted by his private business over which he was fraudulently acting as the onsite Master Logger, while on state time and using his assigned state vehicle.

**Conclusion:** In a Settlement Agreement approved by the Commission, Begley agreed to pay a \$6,500 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

***Executive Branch Ethics Commission v. William E. Mobley***, Case Number: 13-005

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**Allegation:** That during the course of his employment as a Staff Assistant with the Department of Agriculture during the Richie Farmer administration he violated the Code of Ethics by collecting pay for time claimed on his time sheets for which he failed to fulfill his assigned job duties but received compensation. Mobley was assigned the duties of a Stockyard Market Reporter which required him to appear at designated stockyards and create market reports of the stockyard's activities for the Department's market news. Mobley consistently failed to appear at these stockyards and failed to make market reports of the activities of the stockyards. Mobley also admitted that he violated the Code of Ethics by consistently failing to appear at his designated stockyards, but nevertheless collecting reimbursement for mileage for travel to these stockyards that he did not incur in the performance of his duties.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission v. Steven Mobley***, Case Number: 13-006

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**Allegation:** That during the course of his employment as the Director of Agriculture Marketing and Agribusiness Recruitment in the Department of Agriculture during the Richie Farmer administration, Mobley violated the Code of Ethics by failing to report receiving any gifts in excess of \$200 dollars on his 2008 Statement of Financial Disclosure filed with the Ethics Commission when he had in fact received a gift in the form of a wooden hat valued at approximately \$600 from a Kentucky Proud vendor. Additionally, while not admitting that his conduct violated the Code of Ethics but recognizing that the evidence against him indicated he had, for the purposes of settlement Mobley agreed not to contest charges that he violated the Code of Ethics by reporting time on his brother William E. Mobley's time sheets which enabled his brother to collect pay for time he did not work and to receive compensation while failing to fulfill his assigned job duties; and that he violated the Code of Ethics by reporting that his brother used his personal vehicle to travel for the Department, which allowed his brother to collect reimbursement for mileage for travel that he did not actually incur in the

performance of duties for the Department.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission v. Stephanie Sandmann***, Case Number: 13-007

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**Allegation:** While serving as a Staff Assistant, Office of the Commissioner, Department of Agriculture, Sandmann was found to have violated the Executive Branch Code of Ethics by falsifying her timesheets by claiming to have worked at the Department during times that she did not appear at any of the Department's offices. In doing so, Sandmann collected pay for time she falsely reported on her timesheets and, further, failed to fulfill her assigned job duties and created little to no discernible work product while receiving compensation.

**Conclusion:** This matter is pending.

***Executive Branch Ethics Commission v. Rhonda Monroe***, Case Number: 13-008

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**Allegation:** While employed as the Assistant Executive Director of the Kentucky Registry of Election Finance, Monroe violated the Executive Branch Code of Ethics by using or attempting to use her knowledge of election finance laws, practices and procedures to assist her brother, who was running for a second term as the Commissioner of Agriculture, to fraudulently claim campaign-related expenses in order for him to obtain reimbursement from his campaign fund account for his personal financial gain. Monroe did so by advising her brother and his then current spouse to claim mileage and expenses for reimbursement from his campaign account for trips that he did not actually make and for trips that were actually made by his then current spouse for her private direct sales business. Monroe also provided her brother with receipts that she had incurred for her own personal expenses that she then guided him to submit for reimbursement from his campaign account for his own financial gain and in derogation of the state interest. Furthermore, Monroe used or attempted to use her knowledge of election finance laws, practices, and procedures to assist her brother, who was re-elected to his second term as the Commissioner of Agriculture, to respond to an audit being performed by her own agency. Monroe drafted for her brother a letter, upon which her brother relied under her guidance, to respond to the Registry's audit. This letter drafted by Monroe was misleading in its contents and was intended to deceive the Registry about the expenses submitted for reimbursement from the campaign account, some of which included the receipts Monroe had provided to her brother for reimbursement from the campaign account that she had incurred.

**Conclusion:** This matter is pending

***Executive Branch Ethics Commission v. Donald Nolan***, Case Number: 13-009

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**Allegation:** That while employed as a Transportation Engineering Technologist III in District 11, Kentucky Transportation Cabinet, Nolan violated the Executive Branch Code of Ethics by consistently leaving assigned job sites early and failing to perform or complete surveys while nevertheless claiming work time on his timesheets for time spent allegedly performing those surveys, thereby collecting pay for time he falsely reported on his timesheets and failing to fulfill his assigned job duties while receiving compensation; by claiming overtime on every timesheet submitted during the period reviewed even though he consistently left early from his assigned job sites, thereby collecting compensatory hours for time he falsely reported on his timesheets and failing to fulfill his assigned job duties; and by conducting surveying activities through his private enterprise at locations of construction sites that were not Transportation

Cabinet work sites while using a state vehicle.

**Conclusion:** This matter is pending.

**Executive Branch Ethics Commission v. Dwayne Mills**, Case Number: 13-010

**Allegation:** Mills admitted that during the course of his employment as Superintendent of the Adair Youth Development Center, Department of Juvenile Justice, Justice and Public Safety Cabinet, he used a subordinate employee to place bets on college and professional sporting events on his behalf through a bookie. He would text or call this employee, often while the employee was on state time while working shift at the facility, and require this employee to deviate from his required duties managing staff and juveniles at the facility to place bets for Mills ranging between \$25 and \$100 on upwards of hundreds of sporting events over a two year period. Mills also used this subordinate employee to carry money to and from the bookie on his behalf, giving the employee money to pay for bets that he lost and having the employee carry money to him for bets that he won over a two year period. Mills also used state time and resources to view websites devoted to betting sporting events and to research point spreads before instructing the subordinate employee to place the bets for him; and when Mills was not at the facility, he would contact the employee at the facility and instruct the employee to use state time and resources to research point spreads and betting statistics for him.

**Conclusion:** This matter is pending.

## LITIGATION

### INTRODUCTION

All final orders of the Commission issued pursuant to an administrative hearing are appealable to circuit court. The Commission also may initiate court actions to collect unpaid fines and may initiate court actions where judicial intervention is necessary to enforce the orders of the Commission.

### COURT REVIEW OF ETHICS VIOLATIONS

**Felicia Wooten v. Executive Branch Ethics Commission**, Franklin Circuit Court, Division II, Case No. 12-CI-00512:

Felicia Wooten challenged the Commission's Final Order entered March 19, 2012. Wooten, by counsel, filed a Petition on April 17, 2012. The Court later combined the Wooten, Wooten and Winters matters. Judge Shepherd issued his Opinion and Order on March 5, 2013, reversing the Commission's Final Orders against the Petitioners. Judge Shepherd found that the Commission's actions against the Petitioners were arbitrary and outside of the scope of its authority. Judge Shepherd found that the 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 the Petitioners in these actions. The Commission filed a Notice of Appeal to the Court of Appeals on March 18, 2013.

**James D. Wooton v. Executive Branch Ethics Commission**, Franklin Circuit Court, Division I, Case No. 12-CI-00760:

James D. Wooton is challenged the Commission's Final Order entered May 14, 2012. Wooton, by counsel, filed a Petition on June 12, 2012. The Court later combined the Wooton, Wooton and Winters matters. Judge Shepherd issued his Opinion and Order on March 5, 2013, reversing the Commission's Final Orders against the Petitioners. Judge Shepherd found that the Commission's actions against the Petitioners were arbitrary and outside of the scope of its authority. Judge Shepherd found that the 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 the Petitioners in these actions. The Commission filed a Notice of Appeal to the Court of Appeals on March 18, 2013.

**Julie Shields v. Executive Branch Ethics Commission**, Franklin Circuit Court, Division II, Case No. 12-CI-00759:

In this ongoing matter, Julie Shields challenged the Commission's Final Order entered May 14, 2012. Shields, by counsel, filed a Petition on June 12, 2012. The Court combined the Parker and Shields matters.

**Joyce Parker v. Executive Branch Ethics Commission**, Franklin Circuit Court, Division II, Case No. 12-CI-00758:

In this ongoing matter, Joyce Parker is challenging the Commission's Final Order entered May 14, 2012. Parker, by counsel, filed a Petition on June 12, 2012. The Court combined the Parker and Shields matters.

### COMMISSION-INITIATED ACTION

**Executive Branch Ethics Commission v. Two Unnamed Individuals**, Franklin Circuit Court, Division II, Case No. 11-CI-1562:

This matter was filed as a result of two former Department of Transportation employees, who were under investigation by the Commission for possible violations of KRS 11A.020(1) and 11A.045, refusing to participate in interviews requested by Commission Staff upon the advice of their attorney. The Commission subpoenaed the individuals for interviews to be conducted on October 10, 2011. Neither party appeared for their scheduled subpoenaed interview. The Commission filed a Petition for Relief and Memorandum of Law in Support on October 25, 2011. On December 19, 2011, the Court issued an Order supporting the Commission's actions and ordering the individuals to appear for interviews. On January 11, 2012, the Court refused to vacate its original Order entered an new Order further supporting the actions of the Commission and stating that subjects of an investigation are potential witnesses and can be subpoenaed during the Commission's preliminary investigation. The Court again ordered the individuals to appear for interviews.

**Executive Branch Ethics Commission v. Patrick Yates**, Franklin Circuit Court, Division II, Case No. 12-CI-00090:

This matter was filed as a result of Patrick Yates failure to pay the penalty amount required by the Commission through its Final Order of Default entered on September 19, 2011. Commission Staff secured a Default Judgment against Mr. Yates in Franklin Circuit Court on April 4, 2013.

# EXECUTIVE AGENCY LOBBYING

## REGISTRATION

Any person engaged for compensation to influence, on a substantial basis, a decision to be made by an executive branch official or staff member concerning a state expenditure, grant or budgetary allocation of state funds must register with the Commission, along with his employer, and real party in interest, if applicable, as an executive agency lobbyist within ten days of the engagement. Thus, if a person attempts to secure business with the state by communicating and attempting to influence a state employee's decision, the person must register as an executive agency lobbyist if attempts are made involving state funds of over \$5000. Upon registration, an executive agency lobbyist is issued a registration card.

Registration as an executive agency lobbyist is not required if:

- ✓ Decisions involve no state funds or state funds of less than \$5000;
- ✓ Merely responding to a request for proposal or submitting a bid;
- ✓ Contacts with state officials are for information gathering only;
- ✓ Lobbying is conducted only during appearances before public meetings of executive branch agencies;
- ✓ Lobbyist is an employee of a federal, state or local government, of a state college or university, or of a political subdivision, and is acting within his official duty; or
- ✓ Exercising the constitutional right to assemble with others for the common good and petition executive branch agencies for the redress of grievances.

Executive agency lobbyists, employers, and real parties in interest registered with the Commission must update their registration and report to the Commission annually any expenditures made to or on behalf of an executive branch employee. In addition, executive agency lobbyists, employers and real parties in interest are required to report any financial transactions with or for the benefit of an executive branch employee. A copy of the required expenditure or financial transaction statement must be sent to the official or employee who is named by the executive agency lobbyist at least ten days prior to the date it is filed with the Commission.

Information explaining the requirements for executive agency lobbyists has been published in an *Executive Agency Lobbying Handbook* that is available free of charge to lobbyists, their employers, or other interested persons. Included in the *Handbook* are the registration forms required to be filed. The *Handbook* is also available on the Commission's website at <http://ethics.ky.gov/>.

Lobbyists are required to identify on their registration statements the type of industry that they represent. The table below shows the type of industries represented as of June 30, 2012 and 2013.

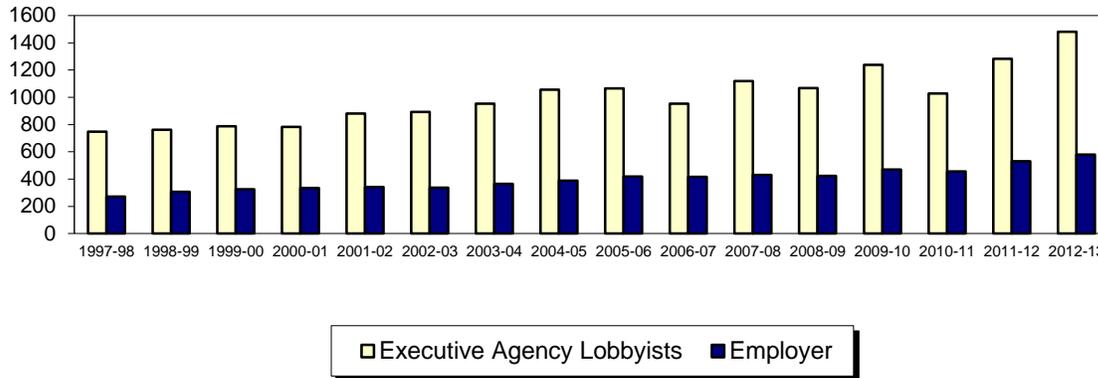
TYPE OF INDUSTRY	2011-2012		2012-2013	
	NUMBER OF LOBBYISTS	NUMBER OF EMPLOYERS	NUMBER OF LOBBYISTS	NUMBER OF EMPLOYERS
Advocacy/ Non-Profit/Social Services	23	26	76	24
Agriculture/Equine/Tobacco	26	11	29	13
Architects/Construction/Engineers	184	62	184	59
Arts/Tourism	12	3	4	2
Computer Hardware/Data/Technology	144	42	116	48
Communications/Telecom	42	17	75	13
Criminal Justice/Corrections/Public Safety	32	19	33	14
Education/Workforce Training	64	22	58	22
Entertainment/Gaming /Hospitality/Alcohol	57	24	35	21
Environmental Services/Energy Efficiency	45	10	31	14
Financial Services/Investments/Insurance	190	98	314	116
Health Care/Hospital/Pharmaceuticals/ Bio Tech	237	124	322	145
Legal/Law Firm/Consulting	14	7	19	6
Local Government/Economic Development	61	12	58	19
Manufacturing/Retail	26	10	20	12
Media/Public Relations	19	9	13	8
Minerals/Petroleum/Utilities/Energy	60	19	49	28
Transportation/Shipping	46	16	45	16
<b>TOTAL</b>	<b>1282</b>	<b>531</b>	<b>1481</b>	<b>580</b>

The Commission maintains all registration statements filed by executive agency lobbyists, employers and real parties in interest. The statements are open records subject to inspection by the public. In addition, all statement information is maintained on a database so that such information may be cross-referenced between lobbyist, employer and real party in interest and is readily accessible to the general public.

As of June 30, 2012, 1282 executive agency lobbyists representing 531 employers were registered with the Commission; on June 30, 2013, 1481 executive agency lobbyists representing 580 employers were registered.

A comparison of registered lobbyists and employers for the past 15 years is shown below.

### REGISTRATION OF EXECUTIVE AGENCY LOBBYISTS AND EMPLOYERS



### ENFORCEMENT ACTION

Any lobbyist, employer or real party in interest who fails to file an initial or updated registration statement or, in the case of an employer or real party in interest, fails to pay the \$125 as required by the lobbying laws may be fined by the Commission an amount not to exceed \$100 per day, up to a maximum fine of \$1,000. During fiscal year 2011-12 and 2012-13, the Commission levied no fines for the failure to file timely statements or pay the \$125 registration fee.

### LEGISLATIVE HISTORY

On December 10, 1991, shortly after taking office, Governor Brereton C. Jones issued Executive Order 91-2, pertaining to standards of ethical conduct for executive branch employees. The executive order detailed prohibitions of employees, required financial disclosure by certain employees, and directed the Governor's general counsel to prepare ethics legislation for the 1992 General Assembly. This was the beginning of the code of ethics. On April 12, 1992, Senate Bill 63 was passed by the General Assembly, creating the "Executive Branch Code of Ethics," codified as KRS Chapter 11A. The code became effective in July 1992. During the 1993 Special Session of the General Assembly, held to enact a legislative code of ethics, the Executive Branch Code of Ethics was amended to include a new section pertaining to executive agency lobbying, effective September 1993. Numerous amendments have been made to the code of ethics during subsequent sessions of the General Assembly.

The Commission has recommended certain necessary amendments and housekeeping measures for KRS Chapter 11A through the introduction of legislation at the 2012 and 2013 sessions of the General Assembly, which included increasing the amount of the allowable gift from \$25 to \$50 in a calendar year and codifying certain provisions of the Governor's Executive Order 2008-454 into statute. The Commission will continue to strive to improve the code by means of pursuing positive legislative action.

# PUBLIC INFORMATION

## MEETINGS

The Commission holds bi-monthly meetings to consider advisory opinion requests, conduct business, and issue orders related to administrative proceedings. Investigations and litigation reviews are conducted in closed, executive session. Notice of open meetings is sent to the press pursuant to Kentucky's Open Records Law, KRS 61.810. The public is welcome to attend open meetings.

## PUBLIC RECORDS

The Commission keeps on file many documents that are public record and are available for public inspection during normal business hours (8:00 a.m. to 4:30 p.m.) on regular state workdays.

-  Financial Disclosure Statements  
Filed by elected officials, officers, and candidates for office within the executive branch
-  Administrative Proceedings Case Files  
Maintained on all administrative actions taken by the Commission
-  Commission Meeting Minutes (open session only)
-  Executive Agency Lobbyist, Employer, and Real Party in Interest Registrations
-  Executive Agency Lobbyist Listings
-  Economic Development Incentive Disclosure Statements
-  Gift Disclosure Statements
-  Outside Employment Reports

## EDUCATIONAL MATERIALS

-  *Biennial Reports*
-  *Guide to the Executive Branch Code of Ethics*
-  *Advisory Opinions*
-  *Executive Agency Lobbying Handbook*
-  Brochures:
  - *Acceptance of Gifts*
  - *Leaving State Government?*
  - *Ethical Guidelines for Boards and Commission Members*
  - *Executive Branch Ethics Commission (general information)*

## **CODE OF ETHICS**

KRS Chapter 11A requires that public servants work for the benefit of the people of the Commonwealth. The code of ethics recognizes that public office is a public trust where government is based upon the consent of its citizens. Citizens are entitled to have complete confidence in the integrity of their government.

- Employees must be independent and impartial;
  
- Decisions and policies must not be made outside the established processes of government;
  
- Employees should not use public office to obtain private benefits;
  
- Employees' actions should promote public confidence in the integrity of government;
  
- Employees should not engage or be involved in any activity that has the potential to become a conflict of interest with their state employment.

**COMMONWEALTH OF KENTUCKY**

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