

Jackie M. Bennett, Jr.  
317-713-3444  
jrbennett@taftlaw.com

January 9, 2017

Hon. William M. Landrum III, Secretary  
Commonwealth of Kentucky  
Finance and Administration Cabinet  
702 Capitol Avenue, Room 383  
Frankfort, Kentucky 40601

Re: Report of the “Pay to Stay” Campaign Finance Investigation

Dear Secretary Landrum:

Attached is our report of the “pay to stay” campaign finance investigation. The investigation has revealed the apparently endemic practice by certain senior managers and officials in the administration of former Governor Steven L. Beshear of soliciting – and in some cases pressuring and coercing – non-merit employees to make campaign contributions, mainly to the primary and general election campaigns of two Democratic candidates for statewide office: then-gubernatorial candidate Jack Conway and then-attorney general candidate Andrew Beshear.

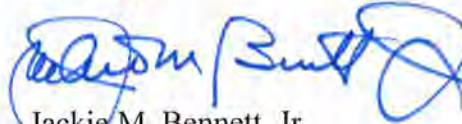
As part of our investigation, we interviewed sixteen (16) affected employees from offices, departments, divisions, and boards within six (6) cabinets. Each employee referred to in the report stated that they had been solicited in their capacity as a non-merit employee of the state. Such targeted solicitations, particularly when coupled with suggestions that state workers might not retain their jobs in a new Conway Administration if they did not “pay to stay,” violated state law. Kentucky law specifically prohibits the solicitation of campaign contributions targeting state employees for money or services, with a limited exception that was not applicable to any of the employees that we interviewed. *See, e.g.*, KRS 121.150(22) (2011).

While our investigation provides only a sampling of the improper campaign fundraising practices that appear to have been pervasive during former Governor Beshear’s administration, we believe that there are likely numerous additional employees stationed in various offices, departments, and divisions who also received or were witness to improper solicitations for campaign contributions. For the reasons outlined in the report, we have reason to believe that the practices described by these sixteen (16) employees were systemic and pervasive. We also believe that similar findings would be obtained from additional investigation of non-merit employees in other Executive Branch cabinets.

Hon. William M. Landrum III, Secretary  
January 9, 2017  
Page 2

We look forward to consulting with you and others regarding recommendations for possible additional investigation, as well as for proposals to ensure future compliance with the state's ethics laws.

Sincerely,



Jackie M. Bennett, Jr.

cc: Gwen R. Pinson  
Ken Bohac  
William C. Wagner

17927307.1

# Taft / Memorandum

To: Hon. William M. Landrum III, Secretary  
Commonwealth of Kentucky  
Finance and Administration Cabinet

From: Taft Stettinius & Hollister LLP

Date: January 9, 2017

Re: Report of "Pay to Stay" Campaign Finance Investigation

---

This report to the Secretary of the Finance and Administration Cabinet ("FAC") sets forth the findings and conclusions derived from the ongoing investigation into potential violations of Kentucky law by certain senior Executive Branch employees during the administration of former Governor Steven L. ("Steve") Beshear. In particular, the report compiles and summarizes information regarding the apparently endemic practice by certain senior managers and officials in the Beshear Administration of soliciting – and in some cases pressuring and coercing<sup>1</sup> – other unclassified or "non-merit" employees to make campaign contributions, mainly to the primary and general election campaigns of two Democratic candidates for statewide office: then-gubernatorial candidate Jack Conway and then-attorney general candidate Andrew ("Andy") Beshear.<sup>2</sup>

During his first Inaugural Address on December 11, 2007, Governor Beshear stated that the Commonwealth could accomplish much over the next four (4) years, but "only if we put the interests of all Kentuckians ahead of the interests of political parties, individuals and special interests."<sup>3</sup> Governor Beshear stated that he expected his

---

<sup>1</sup> A number of witnesses reported that requests for campaign contributions were sometimes coupled with veiled threats that, if the non-merit employees did not make contributions, they might not be permitted to remain employed when the new administration assumed office. Hence, these types of solicitations are referred to as "pay to stay."

<sup>2</sup> In the November 2015 general election in Kentucky, Jack Conway was defeated in his bid for governor. Andy Beshear won the race for attorney general, and serves in that capacity today.

<sup>3</sup> See "Text of Governor Steve Beshear's Inaugural Address," delivered on December 11, 2007, available at <http://www.wave3.com/story/7482418/text-of-governor-steve-beshears-inaugural-address>.

administration to be accountable, therefore one of his first acts as governor would be “to require all my top appointees to take extensive training in laws relating to ethics ... and to pledge to follow them.” A few weeks later, on January 10, 2008, Governor Beshear issued a directive “mandating ethics training for executive branch employees.”<sup>4</sup>

Unfortunately, not only did some of Governor Beshear’s political appointees fail to receive any such mandatory ethics training<sup>5</sup>, but for those who did there is ample reason to believe it did not result in the hoped-for improved levels of ethical conduct, at least on the part of some high-level officials in the Beshear Administration.<sup>6</sup> The most conspicuous example of ethical and criminal misconduct involved the Governor’s appointed Secretary of the Personnel Cabinet, Timothy Longmeyer.<sup>7</sup> As documented in recent filings in federal court in Lexington, Mr. Longmeyer and several others “formulated a kickback scheme” designed to receive illicit kickbacks from MC Squared, a company that received business through the state’s third party administrator for the Kentucky Employees’ Health Plan. That scheme, which was underway by about July 2009 – only 18 months after Governor Beshear’s issuance of that new directive – involved then-Secretary Longmeyer steering millions of dollars of “consulting fees” to co-conspirators, which in turn yielded over \$200,000 in kickbacks to him personally.<sup>8</sup> According to federal prosecutors, Mr. Longmeyer redirected about half of those proceeds to political campaigns in the form of illegal “straw” conduit contributions – contributions made by one person in the name of another, thereby concealing from public scrutiny the true identity of the source of funding.<sup>9</sup> Although the prosecution exposed Mr. Longmeyer’s rather extreme focus on fundraising for the political campaigns of several Democratic candidates, to date federal law enforcement authorities have disclosed neither the identities of the campaigns that benefitted from the approximately \$100,000 in

---

<sup>4</sup> See [http://migration.kentucky.gov/newsroom/governor/govpr\\_20080110.htm](http://migration.kentucky.gov/newsroom/governor/govpr_20080110.htm).

<sup>5</sup> For example, according to Executive Branch Ethics Commission, there are no records of any of the following Beshear Administration appointees having received the mandatory ethics training: Chief Information Officer Jim Fowler, Chief Highway Engineer Gilbert Newman, and Commissioner of the Kentucky Department of Alcoholic Beverage Control Freddie Higdon.

<sup>6</sup> See Executive Branch Ethics Commission Advisory Opinion 13-02, dated March 18, 2013, RE: Obligation of public servants 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 (noting that “[d]uring recent investigations conducted by the Commission, staff of the Commission all too frequently heard the excuse from public servants that they were “just following orders,” or words to that effect, to explain their involvement in, or enablement of, conduct that was clearly contrary to the Code of Ethics. This is not an acceptable excuse. Such behavior, even under orders, undermines the public confidence in the integrity of its government and public servants.”).

<sup>7</sup> Mr. Longmeyer attended ethics training on March 21, 2008; September 15 and December 15, 2011; July 26, 2013; and October 23, 2014.

<sup>8</sup> See Plea Agreement in United States v. Lawrence J. O’Bryan, at para. 4. Mr. O’Bryan has been described as the “middleman” in the Longmeyer conspiracy. The O’Bryan Plea Agreement is attached hereto as Exhibit A.

<sup>9</sup> See <http://www.kentucky.com/news/politics-government/article104939206.html>.

unlawful contributions nor the identities of perhaps dozens of straw conduit donors whom Longmeyer used to further his scheme.

Quite apart from the Longmeyer matter, this investigation has revealed a pattern of senior officials in the Beshear Administration intentionally disregarding and violating Kentucky law that forbids soliciting state employees for financial contributions. These contributions were sought primarily, but not exclusively, for the benefit of the two individual Democratic candidates running for statewide offices or for the state Democratic Party organization.<sup>10</sup> These violations were widespread and involved multiple state officials targeting an entire class of employees who owed their jobs to the administration.

Kentucky law specifically prohibits the solicitation of campaign contributions targeting state employees:

*No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.*

KRS 121.150(22) (2011) (emphasis supplied).<sup>11</sup> Each cooperating witness referred to herein reported that they had been solicited in their capacity as a non-merit employee of the state, rather than through the exception “as a registered voter in an identified precinct.” Such targeted solicitations, particularly those coupled with suggestions that state workers might not retain their jobs in a new Conway Administration if they did not “pay to stay,” were conducted in violation of state law.

To date, the investigation has been confined mainly to compiling information about these practices from state employees who have acknowledged being targeted for campaign contributions. Although the investigation has identified numerous instances of Beshear Administration officials soliciting contributions from state employees, as of this date we have interviewed and canvassed affected employees from about half of the cabinets that comprise the Executive Branch of Kentucky state government. Specifically, we have interviewed sixteen (16) affected employees from offices, departments, divisions, and boards within six (6) cabinets:

---

<sup>10</sup> Several state employees reported that they were solicited to make campaign contributions to candidates running for judicial positions in Louisville, even though these employees were not residents of Louisville or Jefferson County, and were not even eligible to vote for these candidates. See also footnote 18.

<sup>11</sup> This statute also has criminal penalties under state law. KRS 121.990 provides in pertinent part that “Any person who knowingly violates any of the provisions of ... KRS 121.150 ... shall, for each offense, be guilty of a Class D Felony.” KRS 121.990(3).

- the Personnel Cabinet,
- the Finance and Administration Cabinet,
- the Transportation Cabinet,
- the Energy and Environment Cabinet,
- the Public Protection Cabinet, and
- the General Government Cabinet.

Even as to these six (6) cabinets, however, our investigation provides only a sampling of the improper campaign fundraising practices that appear to have been pervasive. We believe that there are likely numerous additional employees stationed in various offices, departments, and divisions who also received or were witness to improper solicitations for campaign contributions.<sup>12</sup> We have reason to believe that the practices described by these sixteen (16) employees were systemic and pervasive. We also believe that similar findings would be obtained from additional investigation of non-merit employees in other Executive Branch cabinets.

Following the submission of this report, we expect to consult with Secretary Landrum and others regarding recommendations for possible additional investigation, as well as for proposals to ensure future compliance with the state's ethics laws.<sup>13</sup>

## I. BACKGROUND

The administration of former Kentucky Governor Steve Beshear formally ended on December 7, 2015, when new Governor Matt Bevin was sworn in and assumed the duties of that office. Shortly after assuming office, officials in the new administration received reports that a number of officials in the Beshear Administration, particularly within its Personnel Cabinet during Secretary Longmeyer's tenure, had made what appeared to be coordinated efforts to raise campaign funds from non-merit employees during the 2014-15 time period that preceded the state's November 3, 2015 general election.<sup>14</sup> These efforts, which sought contributions to the Jack Conway campaign for governor and the Andy Beshear campaign for attorney general, were made by state

---

<sup>12</sup> Based on the statements made by cooperating witnesses, we also have reason to believe that some individuals who are no longer employed by the state likewise were subjected to requests for contributions as described herein.

<sup>13</sup> We understand that the Office of the Inspector General has referred the findings in this report to the Executive Branch Ethics Commission for further investigation.

<sup>14</sup> Although our investigation into "pay to stay" practices is focused mainly on the last statewide election cycle that culminated with the November 3, 2015 general election, as discussed below a number of witnesses reported that they had also received solicitations during the 2011 election cycle.

officials, notwithstanding the widely known legal prohibition on soliciting state employees for financial campaign contributions.

**A. Bribe and kickback payments to Timothy Longmeyer**

From January 2011 to September 30, 2015, Timothy Longmeyer served as Secretary of the Personnel Cabinet in the Beshear Administration. While serving in that capacity, Secretary Longmeyer devoted considerable efforts to political fundraising for the campaigns of Jack Conway for Governor and Andy Beshear for Attorney General.<sup>15</sup> After resigning as Secretary, Mr. Longmeyer reportedly worked on the campaign of Governor Beshear's son Andy, who was then campaigning to become the attorney general of Kentucky. Although Mr. Conway was unsuccessful in the race for governor of Kentucky, Mr. Beshear won the race for attorney general. On January 3, 2016, newly-elected Attorney General Beshear appointed Mr. Longmeyer to the highest-ranking position in his office: Chief Deputy.

A few months later, on March 25, 2016, Mr. Longmeyer was charged by federal authorities with conspiring to “engage[] in fraud, money laundering, bribery, and kickbacks” during his time as Personnel Cabinet Secretary, in that he steered several million dollars’ worth of business to a consultant, who in turn kicked back to him more than \$200,000.<sup>16</sup> According to federal law enforcement officials, their investigation “determined that members of this conspiracy orchestrated a kickback scheme, under which LONGMEYER agreed to use his former official position to steer work to [MC Squared] in exchange for cash payments and conduit contribution checks made payable to certain political campaigns.”<sup>17</sup> On April 19, 2016, less than a month after those charges were filed, Mr. Longmeyer pleaded guilty to the bribery charges in federal court.<sup>18</sup>

---

<sup>15</sup> Mr. Longmeyer was a member of the “founding committee” of the Capitol Club, a fundraising arm of the Kentucky Democratic Party. See <http://www.pageonekentucky.com/wp-content/uploads/2008/06/capitolclub.pdf>.

<sup>16</sup> See Affidavit in Support of Criminal Complaint of Timothy Longmeyer, attached hereto as **Exhibit B**, at para. 7.

<sup>17</sup> On May 3, 2016, an Affidavit in Support of Search and Seizure Warrant Applications was filed, setting forth in greater detail information about the conspiracy between Longmeyer and others. That affidavit, attached hereto as **Exhibit C**, was prepared by FBI Special Agent James Huggins. The affidavit was unsealed on or about September 28, 2016, in connection with the filing of related charges against a Longmeyer co-conspirator, Lawrence J. O'Bryan. Although the affidavit is heavily redacted and specific details are not available for viewing, it alleges that the “Jack Conway for Governor” campaign received checks for \$2,000, and the “Andy Beshear for Attorney General” campaign received checks totaling \$4,000 in illegal campaign contributions directed by Longmeyer. See Affidavit at para. 26.

<sup>18</sup> On November 14, 2016, the Executive Branch Ethics Commission issued a press release stating it had determined that Timothy Longmeyer violated the Executive Branch Code of Ethics, KRS Chapter 11A. The Commission initiated an administrative proceeding and formal complaint against Mr. Longmeyer charging him with 45 counts of violations of the Ethics Code. Mr. Longmeyer admitted to forty-one (41) counts of using his position to secure cash and other benefits through a kickback scheme and two (2) counts of failing to file a complete and accurate Statement of Financial Disclosure with the Ethics Commission for

## **B. Governor Bevin's decision to investigate**

Following the disclosures about Longmeyer's criminal conspiracy, as well as the discovery of other allegations involving officials of the Beshear Administration, later on that same day, April 19, Governor Bevin referred to additional "disturbing" revelations – including allegations that we believe to be separate and apart from the federal government's ongoing investigation involving Longmeyer and others – that state employees had been coerced by high-level officials in the Beshear Administration into making political contributions to the Conway and Beshear campaigns. Governor Bevin directed that Secretary Landrum issue a request for proposal ("RFP") to retain an outside law firm to conduct an independent investigation into those and other allegations.<sup>19</sup>

At the direction of Secretary Landrum, on May 23, 2016, the FAC issued an RFP for legal and investigative services. On August 5, 2016, Taft Stettinius & Hollister LLP ("Taft") was retained to assist the FAC Office of Inspector General ("OIG") in its "investigation of potential violations of state laws governing the behavior of elected officials and public servants in conducting the affairs of the state, including, but not limited to, investigative assistance related to ... coercion of state employees for campaign contributions in violation of campaign finance laws."

## **C. Investigation of "pay to stay" solicitations**

Beginning on August 25, 2016, Taft lawyers, working with Inspector General Ken Bohac and other FAC personnel, set about interviewing state employees who had disclosed that they had been solicited for campaign contributions by officials in the Beshear Administration during the prior Kentucky election cycle. As mentioned above, in the ensuing several weeks, sixteen (16) employees assigned to positions within six (6) Commonwealth cabinets were interviewed regarding apparently rampant violations of Kentucky law forbidding solicitation of campaign donations from state employees.

Although a number of employees interviewed had worked as "merit" employees during some part of their careers in state service, the investigation revealed that all of the employees who were solicited at work were designated as "non-merit" employees at the time they were asked to contribute. However, the distinction between merit and non-

---

the 2014 and 2015 calendar years. Finally, Mr. Longmeyer agreed not to contest two (2) counts related to conduct between 2011 and 2015, in which Mr. Longmeyer, while on state time, directed subordinate employees to solicit financial contributions for gubernatorial and judicial campaigns from Personnel Cabinet employees who worked under his supervision. These requests for contributions were made in the workplace, during working hours, and a portion of the contributions were collected in the workplace. See Press Release, dated November 14, 2016, Initiating Order, Initiation of Administrative Proceeding and Formal Complaint; Settlement Agreement; and Agreed Final Order in *In Re: Timothy Longmeyer Alleged Violation of KRS Chapter 11A*, attached hereto as Exhibit D. Mr. Longmeyer has also pleaded guilty to a single state count of misuse of confidential information, a class D felony. See Waiver of Indictment, Information, Motion to Enter Guilty Plea, and Signed Plea Agreement in *Commonwealth of Kentucky v. Timothy M. Longmeyer*, attached as Exhibit E.

<sup>19</sup> See Governor Matt Bevin Remarks as Prepared for Delivery, April 19, 2016, attached as Exhibit F.

merit service is important to understanding why these subordinates were particularly vulnerable to sometimes-coercive requests for political contributions.

As described in the “Careers” section of Ky.gov, the Commonwealth’s official website, Executive Branch civil servants fall into two categories: “classified” and “unclassified,” or more commonly referred to as “merit” and “non-merit” employees, respectively. The large majority of civil servants working in the executive branch are classified as merit employees, and the general criteria for their employment are based on their individual qualifications and performance. Merit employees are entitled to certain protections from arbitrary or discriminatory practices by operation of the state’s civil service system. In contrast, non-merit employees generally fill management and policy-making roles within the Executive Branch, implementing the policy prescriptions and political strategies of an elected administration, and are not subject to the rules or the protections of the state merit or civil service system.

Under Kentucky state law, non-merit employees may receive higher salaries than merit employees. For a variety of reasons – including potentially higher remuneration – some merit employees may seek non-merit positions. But unlike merit employees, non-merit employees generally serve at the will of the governor and his appointees. Lacking the same civil service protections as merit workers, non-merit employees may be terminated “without cause or recourse.”<sup>20</sup> It is precisely because of these differences between merit and non-merit protections that the latter are uniquely vulnerable to threats of job termination if campaign donations are not made to candidates for elected office, to whom they owe or may owe their professional employment.

#### **D. Investigation and public reprimand of Charles Geveden, Sr.**

In late 2010, a few months before the upcoming 2011 primary elections in Kentucky’s election cycle, Charles Geveden, Sr., then-Deputy Secretary of the Justice and Public Safety Cabinet, began contacting multiple non-merit employees in several departments within that cabinet to solicit campaign contributions for then-incumbent Governor Steve Beshear’s re-election campaign. In one reported instance, Mr. Geveden is alleged to have called two subordinates, both division directors in the Justice and Public Safety Cabinet, and asked “How much do you value your job?” Mr. Geveden then urged each of these non-merit employees to write \$500 checks to the Beshear campaign, and to do so in time for a fundraiser later in the week. Mr. Geveden threatened the employment security of these non-merit workers, stating that if they refused to make the contributions, “I may not be able to retain you [after the election].”<sup>21</sup>

---

<sup>20</sup> In some circumstances where non-merit employees have previously held a merit position for a certain number of years, non-merit employees have “reversion rights,” which provide an opportunity to revert to a protected merit position within the civil service system. In the absence of such reversion rights, however, a non-merit employee may be terminated without cause or recourse.

<sup>21</sup> See Complaint and attachments in *Executive Branch Ethics Commission v. Charles Geveden, Sr.*, attached hereto as Exhibit G.

Mr. Geveden also reportedly pressured other state employees in a similar fashion, calling them after hours on their privately-listed home telephones and personal cell phones and making the requests for money to the Beshear re-election campaign. During these telephone conversations, Mr. Geveden typically made reference to the employee's position as non-merit, along with a request for a specific dollar amount to support the re-election of Governor Beshear. Mr. Geveden emphasized that the requested dollar amounts were based upon their respective employment positions or the salaries that they were receiving as employees within the Justice and Public Safety Cabinet.

In December 2012, following an investigation into complaints about his conduct, the Executive Branch Ethics Commission filed a complaint against Mr. Geveden for soliciting campaign contributions from state employees in violation of Kentucky campaign finance laws. On January 28, 2014, Mr. Geveden entered into a settlement agreement with the Commission to resolve the allegations. The settlement included a public reprimand of Mr. Geveden. Although Mr. Geveden claimed that "he was not aware at the time that his actions" violated the law, he admitted that he violated the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b), and (d), as alleged in the Commission's complaint.<sup>22</sup>

The *Geveden* matter is mentioned in this memorandum for three (3) reasons. First, the conduct complained of in that case, which resulted in Mr. Geveden's termination as a state employee, a civil financial penalty, and a public reprimand, is remarkably similar to much of the conduct that was revealed during our investigation as discussed below. Second, a number of witnesses in this investigation made mention during interviews of their awareness of the *Geveden* case and its import. That case, which was ultimately resolved in a Final Order dated March 21, 2014, was known to at least several of the non-merit employees interviewed in this matter. Finally, the *Geveden* case related to illegal conduct that benefitted Governor Beshear's 2011 re-election campaign as well as the 2015 campaigns of Jack Conway and Andy Beshear. As noted above, in both his December 11, 2007 Inaugural Address and his January 10, 2008 directive mandating ethics training for executive branch employees, Governor Beshear promised to require extensive ethics training for his appointees. If such training was provided, for several of his top appointees the training either was not effective or was widely ignored.

## II. SUMMARY OF FACTUAL FINDINGS

In a series of interviews conducted on August 25, September 14, 28, 29, 30, October 3, 11, and November 15, 2016, sixteen (16) individuals who were non-merit employees in the Beshear Administration were questioned concerning their experiences with campaign solicitations in the months preceding the November 3, 2015 Kentucky general election. Nearly all of these individuals expressed strong reservations about their identities being revealed publicly as a result of this investigation. There was a collective

---

<sup>22</sup> See Initiating Order, Initiation of Administrative Proceeding and Formal Complaint; Settlement Agreement; and Final Order in *In Re: Charles Geveden, Sr. Alleged Violation of KRS Chapter 11A*, attached hereto as Exhibit H.

reluctance on the part of these witnesses to provide information for a number of reasons, including:

- a strong desire not to implicate former colleagues in improper conduct;
- fear of retaliation from a future political administration, should the fact of their cooperating with this investigation become known; and
- a reluctance to discuss how the requests for contributions impacted personal finances for the witnesses as well as for their families, who often were subject to shared family budgets.

Given the pervasiveness of those sentiments and in order to protect the privacy of these witnesses, we have agreed not to disclose individual identities at this time and, instead, to refer to them simply as “cooperating witnesses” numbered “CW 1” to “CW 16,” inclusive. Their experiences are summarized in the factual findings as set forth below.

**A. State employees were solicited for campaign contributions both during and after normal working hours in violation of the law**

As noted previously on page 3, KRS 121.150(22) makes it unlawful to target state employees for the solicitation of money or services for political contributions by or on behalf of candidates for elective office. The statute creates a single exception, in that it is permissible “for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.” For example, if a political candidate or organization mailed requests for contributions to all voters residing in particular precincts, where the list of targeted voters included persons who were not known to be state employees, that type of request would not violate the solicitation prohibition. But the kind of conduct disclosed during our investigation does not fall into such category. Instead, during the most recent election cycle in Kentucky, *each* of the witnesses identified as CW 1 to CW 15 – all of them non-merit employees – reported receiving contribution requests with varying amounts of pressure from or on behalf of senior Beshear Administration officials for the following:

- the Jack Conway campaign for governor;
- the Andy Beshear campaign for attorney general;
- the Kentucky Democratic Party; or
- the Capitol Club.<sup>23</sup>

---

<sup>23</sup> CW 16 was not employed by the Commonwealth during the most recent election cycle.

A number of interviewed witnesses were also told that virtually *all* non-merit employees in the Executive Branch, serving at the will of the administration, were expected to make financial contributions to support the Democratic Party candidates. Almost invariably, these employees were contacted during normal working hours and solicited to make contributions to one or more of these campaigns or entities. Sometimes these employees also received after-hours solicitations in calls made to their homes or personal cell phone numbers. Again, these solicitations were made because of the employees' status as non-merit employees.

**B. At work solicitations were often made by a supervisor or someone acting or purporting to act at the direction of a supervisor**

Reinforcing the political patronage aspect of the requests, solicitations were often made by a supervisor or someone who purported to be following directions of a supervisor. The most conspicuous examples of such conduct occurred in the Personnel Cabinet headed by Secretary Longmeyer. Witnesses stated that several of Mr. Longmeyer's closest aids and assistants were actively involved in canvassing and soliciting non-merit employees.

- Walter Gaffield was the Executive Director of Administrative Services under Secretary Longmeyer.<sup>24</sup> CWs 1, 2, 4, and 5 each reported receiving one or more requests for campaign contributions from Mr. Gaffield, who they said typically stated that he had been asked by Secretary Longmeyer to make the requests to them.<sup>25</sup>
- William ("Bill") Ryan was a Special Assistant to Secretary Longmeyer.<sup>26</sup> Several witnesses, including CWs 4, 5, and 7, identified receiving verbal solicitations from Bill Ryan, whom they said told them that he had been asked by Secretary Longmeyer to make the requests.<sup>27</sup>

---

<sup>24</sup> Mr. Gaffield received ethics training on March 5, 2009 and December 15, 2011.

<sup>25</sup> On October 20, 2016, FAC Inspector General Ken Bohac contacted Mr. Gaffield to request an interview concerning these matters. Mr. Gaffield asked if he might have a few days to consider the request. Thereafter, Inspector General Bohac called Mr. Gaffield several times to follow up on the discussion, and left a message on October 27, 2016. Mr. Gaffield never responded to Inspector General Bohac regarding the interview request.

<sup>26</sup> Mr. Ryan received ethics training on April 4, 2008. Some witnesses commented that they believed that Mr. Ryan was a close friend of the Longmeyer family and that he was even rumored to be the godfather of the Secretary.

<sup>27</sup> On October 31, 2016, Taft lawyers interviewed Mr. Ryan by telephone. Mr. Ryan was accompanied during the call by his personal attorney, Steve Ryan. During the telephone conference, Mr. Ryan denied that he had ever solicited anyone for campaign contributions or that he had directed anyone to give payments to Joyce Wilcher in his absence.

- Joyce Wilcher was the Executive Secretary to Secretary Longmeyer.<sup>28</sup> Several cooperating witnesses employed in the Personnel Cabinet stated that Ms. Wilcher had been responsible for contacting non-executive level employees in the cabinet and soliciting contributions of both money and services (e.g., volunteering to work at the Democratic Party Headquarters).

A few weeks before the November 2015 general election in Kentucky, Ms. Wilcher reportedly requested that CW 7 stop by her office during working hours. Ms. Wilcher informed CW 7 that “they” were tracking who had and who had not made financial contributions to the Kentucky Democratic Party, and that all non-merit employees were being asked to contribute. Ms. Wilcher reportedly told CW 7 that Tim Longmeyer expected all non-merit employees to donate the maximum (\$2,000) amount and that, if elected, the new administration would review the list of contributors to see who had done so.

Several witnesses stated that separately, and during normal working hours, Ms. Wilcher collected envelopes containing their requested contributions to the Conway for Governor campaign.<sup>29</sup> CW 3 also reported that Ms. Wilcher was frequently away from her office during working hours, attending to campaign-related work at Democratic Party Headquarters. CW 3 also stated that she and others were sometimes asked to “cover” for Ms. Wilcher during these absences from her position as a state employee.<sup>30</sup>

Although witnesses in the Personnel Cabinet reported aggressive efforts to obtain campaign contributions by high-ranking managers, witnesses in other cabinets reported very similar activities. For example, a number of cooperating witnesses from the Transportation Cabinet reported solicitations for contributions from senior personnel.

---

<sup>28</sup> Ms. Wilcher received ethics training on December 15, 2011 and May 10, 2016. She is presently employed by Attorney General Andy Beshear.

<sup>29</sup> On October 31, 2016, Taft lawyers interviewed Ms. Wilcher by telephone. Ms. Wilcher acknowledged that she had received ethics training at Kentucky State University and that she was aware of the prohibition against soliciting political contributions from state employees. Ms. Wilcher denied that she had ever been asked by anyone to make contributions or that she had ever stated to anyone that Secretary Longmeyer expected all non-merit employees in the Personnel Cabinet to contribute. She stated that she did not recall ever having solicited such contributions from other state employees or ever having told any non-merit employees within the Personnel Cabinet that their political contributions were being tracked by party operatives. Finally, Ms. Wilcher acknowledged that she had collected contributions to the Conway campaign while sitting “at the front desk at Democratic headquarters,” but insisted that she had never done so while working on state time. She also claimed that she did not recall ever leaving her assigned office during normal working hours in order to perform campaign work at Democratic Party Headquarters but that she would have taken vacation or sick leave if she did so.

<sup>30</sup> In order to better protect the anonymity of the confidential witnesses, we are intentionally using references to “she” and “her” regardless of the witnesses’ actual gender.

Several witnesses stated that Rebecca Goodman, the former Executive Director of the Office of Legal Services in Transportation, had pressured non-merit workers to make campaign contributions on behalf of Governor Beshear's re-election campaign in 2011 and for Jack Conway's 2015 campaign for governor.<sup>31</sup> CWs 11 and 12 each reported being personally solicited by Ms. Goodman.<sup>32</sup>

Similarly, employees working in the Finance and Administration Cabinet during the Beshear Administration reported that Deputy Secretary Steve Rucker had actively solicited campaign contributions for the Beshear re-election campaign in 2011 and the Conway campaign in 2015.<sup>33</sup> Mr. Rucker, who passed away in March 2016, also was reported by CW 10 as having placed a stack of envelopes pre-addressed to the Conway campaign on his desk with the expectation that CW 10 would distribute the envelopes to subordinates to facilitate their contributions.

**C. When some employees objected that such solicitations were unlawful, high-level officials ignored the objection and persisted in seeking contributions**

After being targeted for solicitations by Walter Gaffield for contributions on multiple occasions, CW 4 brought into the office a news article that reported the then-pending ethics charges lodged against Charles Geveden, Sr. CW 4 displayed to Gaffield the news report on the *Geveden* case, and stated in words to the effect: "Tim has got to stop asking us for this, they're looking at Geveden, and this is not going to end well." Despite CW 4's admonition, as well as the ethics training that was supposed to be required of all Executive Branch employees, Mr. Gaffield continued to solicit contributions.

Several witnesses also reported that, when solicitations were received, they complained to their immediate supervisors because they felt the requests were improper. Rather than receiving support for their desire to resist these requests, witnesses reported

---

<sup>31</sup> Ms. Goodman has been employed as a staff attorney for the Kentucky Public Service Commission; as general counsel for the Department of Alcoholic Beverage Control, the Executive Branch Ethics Commission, and the Kentucky Electric General and Transmission Siting Board; and as the executive director of the Office of Legal Services with the Kentucky Transportation Cabinet. <http://ag.ky.gov/civil/rate/pages/default.aspx>. Ms. Goodman received ethics training on February 26, 2013, October 13, 2014, and April 25 and May 6, 2016. Ms. Goodman is presently employed by Attorney General Andy Beshear.

<sup>32</sup> On October 31, 2016, while accompanied by her attorney Jacqueline Sawyers, Ms. Goodman was interviewed by Taft lawyers by telephone. Ms. Goodman acknowledged having received ethics training through the state's program at Kentucky State University, including training regarding the prohibition on soliciting campaign contributions. Ms. Goodman denied that she had ever solicited donations from colleagues at work but stated that she had invited several Transportation employees to attend -- on a voluntary basis -- a fundraiser she hosted for Jack Conway at her home. Ms. Goodman denied that she had ever pressured employees to make donations and said she never mentioned or reminded employees that they had no reversion rights.

<sup>33</sup> Mr. Rucker received ethics training on July 22, 2009.

that their supervisors simply responded that they too had received similar requests and were also expected to contribute.

**D. During conversations in which campaign contributions were being solicited, officials sometimes used veiled threats of job termination in order to coerce contributions**

A number of non-merit employees received what they took to be threats that they might not be permitted to keep their jobs after the election if they did not contribute. For example, CW 6 reported that Joyce Wilcher told her that campaign representatives had been provided lists of non-merit employees, so that they could determine who had and who had not yet contributed to campaigns. CW 6 also said that Ms. Wilcher informed her that this list would be reviewed again *after* the election, that the winning candidates would know who had contributed and who had not contributed as requested, and that Tim Longmeyer expected that all non-merits would donate the maximum amount. CW 6 stated that she paid \$250 to the Kentucky Democratic Party for “membership” in the Capitol Club.

Similarly, CW 1 reported being asked by Walter Gaffield for contributions on several occasions during 2014. CW 1 said she had tried to stall Mr. Gaffield by telling him she had to speak with her spouse about it, but Mr. Gaffield persisted in pressing her, asking again a few days later. CW 1 believed that her continued employment with the state was contingent on making a donation, and that, in the absence of a donation, her professional status would be at risk. As a consequence, she decided to make out a personal check to the Kentucky Democratic Party.

At the time non-merit state employees were solicited to make campaign contributions, some witnesses reported that they also were told that they should remember that they did not have “reversion rights,” meaning that they were not guaranteed a job when the administration changed – even if another Democrat was elected. For example, at the time CW 8 was asked to contribute to the Conway campaign, she was told that Rebecca Goodman, former Executive Director of the Office of Legal Services in the Transportation Cabinet, would be a member of the Conway transition team, and that CW 8 should remember that she did not have reversion rights.

**E. On at least one occasion, state employees were directed to leave their office during working hours to attend a political fundraiser at Democratic Party Headquarters**

Commonwealth law forbids state employees from using their influence in any matter that involves a conflict of interest or to secure personal gain in derogation of the public interest. KRS 11A.020(1) provides that no public servant, by himself or through others, shall knowingly:

- (a) Use his influence in a matter that involves a substantial conflict between his personal or private interests and his duties in the public interest; or

\* \* \*

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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

CW 3 described an episode in which she and others were instructed by supervisors to leave their assigned duty stations in the middle of their workday and to travel to Democratic Party Headquarters to attend a fundraising event. CW 3 reported that some of her colleagues were even provided transportation to the event. Upon arrival at the event, these employees were asked to make contributions.<sup>34</sup> CW 3 did not have her checkbook with her at the time and, therefore, could not contribute, but she observed a number of colleagues writing checks as requested. We believe that the organizers of the mid-day fundraiser at party headquarters – who the witnesses did not identify by name – violated this statute by prioritizing their own personal fundraising activities over the interests of the public, which has the right to expect state employees to perform their duties during working hours.

**F. State employees were told that the amounts of their contributions should correspond with their salary level**

Witnesses reported that the officials engaged in seeking political contributions were aware of and made reference to the amounts of their salaries, and used that information to make requests for specific contribution dollar amounts. For example, an employee at the low end of the salary scale might be asked for a relatively modest contribution of \$250 or \$300. Higher salaried employees were told that higher contribution amounts, up to and including the maximum allowed contribution limits, would be expected of them. CW 7 reported that when Bill Ryan called her cell phone to discuss her campaign donation, he stated that the amount of the contribution should be in proportion to her salary.

Notwithstanding where employees landed on a salary scale, officials frequently requested and encouraged employees to make the maximum campaign contribution per candidate allowable under the law: \$2,000 per employee (the \$1,000 maximum for the primary election and the \$1,000 maximum for the general election).<sup>35</sup> Some non-merit state employees were told that their *spouses* also should make their own \$2,000 campaign contributions for the Conway and Beshear campaigns, and that all together married couples could also make up to \$10,000 in contributions to the Democratic Party of Kentucky.

---

<sup>34</sup> After the event concluded, the event attendees were directed to record the use of personal leave hours for their time out of the office. But because they had been directed by their supervisors to attend the event at party headquarters, none of the employees acknowledged actually reporting such leave.

<sup>35</sup> See KRS 121.150.

Even after having made contributions, some non-merit state employees were asked to make additional payments on behalf of the candidates. When those employees asked why they continued to be contacted even after making significant but not maximum contributions, they were told that they continued to receive invitations to fundraisers and for contributions because they had not maxed out their campaign contributions.

**G. Solicitations of state employees were not limited to requests for *financial* contributions**

Several state employees reported that, in addition to requests for financial contributions to the Jack Conway and Andy Beshear campaigns, they also received requests that they volunteer their time at Democratic Party Headquarters to support these campaigns. Partisan officials working within state government solicited non-merit employees to assist in out-of-office services, including staffing the campaigns themselves. As noted above, however, the Kentucky statute proscribing solicitation of state employees provides that “[n]o candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money *or services* from a state employee ....” KRS 121.150 (22). We believe that, as in the case of requests for monetary contributions, requests for labor or service likewise violate the law.

**H. Making requested campaign contributions sometimes imposed hardships on non-merit employees**

Many state employees who were interviewed spoke of how the pressure and coercion to make political contributions imposed a financial hardship on them and their families. Numerous employees reported making their requested campaign contributions by check, credit card, money order, and cash. A number of non-merit employees reported that they had to pay by credit card because they did not have the money available to pay the requested amounts. Some non-merit employees, fearful that they would lose their jobs if they did not contribute, reported having to borrow money from family members in order to make the solicited campaign contributions.

Requests for political contributions made by senior managers and officials in the Beshear Administration were not confined to higher-level employees who were working in higher-salaried positions. Even employees holding lower-salaried positions were asked to make contributions. The common denominator for the employees who were asked to contribute was that they were non-merit, and therefore lacking the civil service protections generally afforded merit employees as previously discussed.

**I. Solicitation activities were sometimes designed to be inconspicuous**

Several state employees reported that soliciting officials sometimes took steps to make their activities appear inconspicuous. For example, Bill Ryan would arrange to leave his office within the Personnel Cabinet to meet and discuss their requested campaign donations with employees over a cup of coffee elsewhere in another state

building. A number of other state employees who were interviewed referred to the use of envelopes that were pre-addressed to individual campaigns or to the Kentucky Democratic Party. Some employees reported receiving stacks of such envelopes, which they understood were meant for taking one envelope for the recipient's personal use in their contribution, then distributing the remainder to employees around the office for their use, as part of the coordinated effort to raise campaign funds from non-merit workers. Others reported receiving individual pre-addressed envelopes, which they understood to be following up on earlier verbal requests for contributions.

Another practice regarding use of pre-addressed envelopes was reported by employees working in the Finance and Administration Cabinet. A non-merit employee in the Finance Cabinet, CW 9, reported that in 2015 Deputy Secretary Steve Rucker had asked her "Do you want to stay when the new administration takes over?" She answered "yes." Later, Mr. Rucker told CW 9 that there were pre-addressed envelopes from the Conway campaign in Secretary Flanery's car in the parking lot. According to CW 9, Mr. Rucker stated "Secretary Flanery won't tell you this, but you should give."<sup>36</sup> CW 9 said that she walked to Secretary Flanery's car in the parking lot, and retrieved an envelope from the back seat of the unlocked car. Afterwards, she mailed a contribution check to the Conway for Governor campaign.<sup>37</sup>

#### **J. Solicitations made for local organizations or non-statewide candidates**

Several state employees reported that they were solicited to make campaign contributions to candidates running for judge in Louisville, even though they were not residents of Louisville or Jefferson County, and were not even eligible to vote for these candidates. CW 5 stated that, in 2015, Walter Gaffield entered her office during work hours and stated that Mr. Longmeyer requested a contribution to the Jefferson County Democratic Party because it had "overspent its budget." Similarly, CW 4 reported that she was visited several times by Mr. Gaffield, who requested contributions for two (2) judicial candidates in Jefferson County. Although CW 4 made a number of voluntary contributions to Democratic candidates in other races, she contributed to only one of the judicial candidates. She said she became annoyed with the requests because she did not even live in Jefferson County, and eventually concluded that she was prepared to lose her job because of her refusal to make any additional contributions.

---

<sup>36</sup> Ms. Flanery received ethics training on May 27 and October 30, 2008; October 13, 2010; January 20, 2012; and February 21, 2013.

<sup>37</sup> On October 25, 2015, Taft attorneys interviewed former Secretary of the Finance and Administration Cabinet, Lori Flanery, by telephone. Ms. Flanery denied that she had ever solicited campaign contributions from non-merit employees. She also denied that she had ever left her car unlocked with pre-addressed envelopes available to potential contributors, although she did recall an instance when she had envelopes for campaign contributions in her back seat for the Conway campaign.

**K. Several employees reported that they had also been solicited for contributions in other election cycles**

Many non-merit employees reported that they were solicited for contributions not only in the most recent general election, but also in the 2010-11 time period corresponding with the November 2011 general election as well. Of course, that was the election cycle in which the misconduct of Charles Geveden, Sr. occurred, as later determined by the Executive Branch Ethics Commission. According to several witnesses, however, Mr. Geveden was far from the only Beshear Administration official who was actively involved in soliciting donations from non-merit employees at that time. Mr. Geveden appears to have been the only such official who was implicated in those activities to date.

CW 2 reported that, in 2012, after being told that Tim Longmeyer expected all non-merit employees to contribute, she left a check for \$250 made out to the Kentucky Democratic Party with Mr. Longmeyer's Executive Secretary, Joyce Wilcher. Similarly, CW 4 reported that in 2011 she had complied with a request by Secretary Longmeyer's Special Assistant, Bill Ryan, for a contribution to Governor Beshear's re-election campaign. CWs 5 and 7 each reported that, in 2011, they were called on their personal cell phones by Mr. Ryan, who told both of them that he had been tasked by Mr. Longmeyer to contact every non-merit employee in the Personnel Cabinet to advise them of their "required" contribution. Mr. Ryan directed that CW 7 leave her donation with Ms. Wilcher.

**L. Employees were pressured to raise funds in excess of personal limits**

CW16 reported that, in 2011, Mike Haydon, who at that time was Chief of Staff to former Governor Steve Beshear, called CW 16 on her cell phone and stated that, if she wanted to keep her job, she had to come up with \$10,000 for the Governor's re-election campaign.<sup>38</sup> When CW16 responded that she couldn't come up with that kind of money, Mr. Haydon told her, if that was the case, then she needed to contact others to raise that sum. When CW16 told Mr. Haydon that she was not comfortable doing that, Mr. Haydon told her in words to the effect "You're comfortable with your job, aren't you? Then you need to come up with the \$10,000." CW 16 told two close friends of the request, and those friends held fundraisers for Governor Beshear. Mr. Haydon told CW 16 to make sure that the checks from the fundraisers indicated in the memo line CW 16's name or her office in order to make sure that CW 16 was properly credited for her efforts to raise the campaign contributions. CW 16 also said a colleague told her that there was an unwritten rule that state employees in her position had to "donate" at least 10% of their salary back to the administration in the form of campaign contributions. Finally, CW 16 saw a printed version of a spreadsheet on Mr. Haydon's desk that had the names and amounts raised by each non-merit employee in the administration.

---

<sup>38</sup> Mike Haydon, who passed away in August 2012, received ethics training on May 7, 2008.

### III. CONCLUSIONS

As shown above, for a period of time preceding even the most recent general election in Kentucky, numerous officials serving in the Beshear Administration engaged in wholesale violations of state law regarding the prohibited practices of soliciting money or services from state employees. Their misconduct occurred in at least six (6) separate cabinets within the Executive Branch, and affected – sometimes to the point of inflicting serious financial hardships – numerous non-merit state employees. Some of these officials persisted in unlawful solicitations of employees, even when explicitly reminded that their requests were unlawful by employees familiar with the *Geveden* case.

The investigation has revealed a pattern of Beshear Administration officials intentionally disregarding and violating Kentucky laws that forbid soliciting state employees for financial contributions. These contributions were primarily sought for the benefit of two Democratic candidates for statewide office or for the state Democratic Party organization. These violations were wide-spread and involved multiple state officials targeting an entire class of employees who owed their jobs to the administration.

After the Secretary has had the opportunity to review our investigative findings, we stand ready to investigate such conduct in other cabinets and to consult regarding proposals to ensure future compliance.

18106038 1

## Memorandum Exhibits

- A. Plea Agreement filed in United States v. Lawrence J. O'Bryan
- B. Affidavit in Support of Criminal Complaint of Timothy M. Longmeyer
- C. Affidavit in Support of Search and Seizure Warrant Applications
- D. Initiating Order, Initiation of Administrative Proceeding and Formal Complaint; Settlement Agreement; and Agreed Final Order in *In Re: Timothy Longmeyer Alleged Violation of KRS Chapter 11A*
- E. Waiver of Indictment, Information, Motion to Enter Guilty Plea, and Signed Plea Agreement in Commonwealth of Kentucky v. Timothy M. Longmeyer
- F. Governor Matt Bevin Remarks as Prepared for Delivery, April 19, 2016
- G. Complaint and attachments in *Executive Branch Ethics Commission v. Charles Geveden, Sr.*
- H. Initiating Order, Initiation of Administrative Proceeding and Formal Complaint; Settlement Agreement; and Final Order in *In Re: Charles Geveden, Sr. Alleged Violation of KRS Chapter 11A*

# **EXHIBIT A**

**Plea Agreement filed in  
United States  
v. Lawrence J. O'Bryan**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON

Eastern District of Kentucky  
**FILED**

SEP 28 2016

AT LEXINGTON  
ROBERT R. CARR  
CLERK U.S. DISTRICT COURT

CRIMINAL ACTION NO. 5:16-CR-86-KKC

UNITED STATES OF AMERICA

PLAINTIFF

V.

PLEA AGREEMENT

LAWRENCE J. O'BRYAN

DEFENDANT

\* \* \* \* \*

1. Pursuant to Federal Rule of Criminal Procedure 11(c), the Defendant will enter a guilty plea to Counts 1, 2, and 3 of the Information, each charging a violation of 18 U.S.C. § 666(a)(2), bribery concerning a program that receives federal funds.

2. The essential elements of Counts 1, 2, and 3 are:

- (a) The Defendant corruptly gave, offered, or agreed to give anything of value to any person;
- (b) The Defendant intended to influence or reward an agent of a state government or any agency thereof, in connection with any business, transaction, or series of transactions of such government or agency involving anything of value of \$5,000 or more; and
- (c) Within the same one-year period as the Defendant's conduct, the state government or agency in question received benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of federal assistance.

3. The statutory punishment for Counts 1, 2, and 3 is imprisonment for not more than 10 years, a fine of not more than \$250,000, and a term of supervised release of not more than 3 years. A mandatory special assessment of \$100 applies, and the Defendant

will pay this assessment to the U.S. District Court Clerk at the time of the entry of the plea.

4. As to Counts 1 through 3, the United States could prove the following facts that establish the essential elements of the offense beyond a reasonable doubt, and the Defendant admits these facts:

- (a) At all relevant times, the Kentucky Personnel Cabinet was an agency of a state government within the purview of 18 U.S.C. § 666(a)(2). In each period of twelve consecutive months covered by this Information, the government of the Commonwealth of Kentucky received benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of federal assistance, within the meaning of 18 U.S.C. § 666(b). Furthermore, at all relevant times, the Secretary of the Kentucky Personnel Cabinet was Timothy Longmeyer. As Secretary, Longmeyer was the Personnel Cabinet's chief executive and was an agent of the Commonwealth of Kentucky within the purview of 18 U.S.C. § 666(a)(2).
- (b) At all relevant times, the Kentucky Personnel Cabinet held responsibility for the administration of pay and benefits for employees of the Commonwealth of Kentucky. This included responsibility over the Kentucky Employees' Health Plan (hereinafter, "KEHP"). Under the KEHP, the Commonwealth of Kentucky contracted with private health insurance companies, including Humana, Inc. (hereinafter, "Humana"), to provide health care coverage to Commonwealth employees and their dependents.
- (c) In or about July 2009, Timothy Longmeyer contacted the Defendant and they formulated a kickback scheme. Under the scheme, Longmeyer would use his position to persuade Humana to retain MC Squared, LLC (hereinafter, "MC Squared"), a consulting company based in Lexington, Kentucky, for focus groups and telephone surveys with KEHP participants. In exchange for Longmeyer's assistance in securing contracts for MC Squared, the owner of MC Squared, S.M., would pay the Defendant approximately half of MC Squared's proceeds from contracts with Humana. After receiving each such payment from S.M., the Defendant would withhold a portion of the payment that he believed was due and payable as taxes. The Defendant would then use various means to kick back fifty percent of the remaining funds to Longmeyer.

- (d) Between a date in or about October 2011 and a date in or about March 2014, MC Squared received multiple payments of consulting fees from Humana. S.M. then caused approximately half of each such payment to be transferred to the Defendant or to Proactive Media, a company controlled by the Defendant, for the purpose of fulfilling the kickback agreement. After withholding a portion of each such payment in the manner described above, the Defendant then paid fifty percent of the remaining funds to Longmeyer. These transactions occurred on or about the following dates and in the following amounts:

Approximate Date of Payment to MC Squared from Humana	Amount of Payment to MC Squared from Humana	Approximate Date of Payment from MC Squared to the Defendant	Amount of Payment from MC Squared to the Defendant
10/18/2011	\$26,125.00	10/24/2011	\$13,062.50
12/1/2011	\$49,875.00	12/7/2011	\$24,937.50
3/13/2012	\$71,820.00	3/16/2012	\$35,910.00
4/24/2012	\$165,847.50	4/27/2012	\$82,923.75
5/22/2012	\$73,710.00	7/2/2012	\$36,855.00
9/17/2012	\$73,710.00	9/24/2012	\$36,855.00
12/3/2012	\$108,225.00	12/10/2012	\$51,112.50
2/21/2013	\$73,710.00	3/1/2013	\$36,855.00
3/14/2013	\$166,698.00	3/19/2013	\$83,349.00
5/24/2013	\$176,580.00	6/3/2013	\$88,290.00
5/24/2013	\$13,162.50	6/3/2013	\$6,581.25
10/31/2013	\$55,500.00	11/13/2013	\$27,750.00
11/22/2013	\$120,180.00	12/4/2013	\$58,860.00
3/4/2014	\$117,720.00	3/11/2014	\$58,860.00
<b>TOTALS</b>	<b>\$1,292,863.00</b>		<b>\$642,201.50</b>

- (e) Through this kickback scheme, MC Squared received contracts to perform consulting work for Humana intermittently between the inception of the scheme through a date in or about December 2014. The Defendant served as the conduit for kickbacks paid from S.M. to Longmeyer from the inception of the scheme through a date in early 2014. Throughout the scheme, Longmeyer ensured that the Kentucky government reimbursed Humana for its payments to MC Squared.

5. Pursuant to Rule 11(c)(1)(B), the United States and the Defendant recommend the following sentencing guidelines calculations, and they may object to or argue in favor of other calculations. This recommendation does not bind the Court.

- (a) The United States Sentencing Guidelines (U.S.S.G.), November 2015 manual, will determine the Defendant's guidelines range.
- (b) Pursuant to U.S.S.G. § 1B1.3, the Defendant's relevant conduct includes all payments solicited or accepted from S.M. on behalf of Timothy Longmeyer between March 13, 2011 and March 12, 2014.
- (c) Pursuant to U.S.S.G. § 2C1.1(a), the base offense level is 12.
- (d) Pursuant to U.S.S.G. § 2C1.1(b)(1), increase the offense level by 2 levels because the offense involved more than one bribe.
- (e) Pursuant to U.S.S.G. §§ 2C1.1(b)(2) and 2B1.1(b)(1)(H), increase the offense level by 14 levels because the value of the payments solicited or accepted from S.M. by the Defendant during the relevant timeframe was \$642,201.50.
- (f) Pursuant to U.S.S.G. § 2C1.1(b)(3), increase the offense level by 4 levels because the offense involved a public official in a high-level decision-making or sensitive position.
- (g) Pursuant to U.S.S.G. § 3E1.1 and unless the Defendant commits another crime, obstructs justice, or violates a court order, decrease the offense level by 2 levels for the Defendant's acceptance of responsibility. If the offense level determined prior to this 2-level decrease is level 16 or greater, the United States will move at sentencing to decrease the offense level by 1 additional level based on the Defendant's timely notice of intent to plead guilty.
- (h) Pursuant to U.S.S.G. § 5E1.1, restitution is \$642,201.50, and the victim is the Commonwealth of Kentucky. At or before the time of sentencing, the Defendant shall pay \$642,201.50 to satisfy the full amount of restitution owed.

6. No agreement exists about the Defendant's criminal history category pursuant to U.S.S.G. Chapter 4.

7. The Defendant will not file a motion for a decrease in the offense level based on a mitigating role pursuant to U.S.S.G. § 3B1.2 or a departure motion pursuant to U.S.S.G. Chapter 5, Parts H or K.

8. The Defendant waives the right to appeal the guilty plea, conviction, and sentence. Except for claims of ineffective assistance of counsel, the Defendant also waives the right to attack collaterally the guilty plea, conviction, and sentence.

9. The United States will recommend releasing the Defendant on the current conditions for future court appearances if the Defendant does not violate the terms of the order setting conditions of release. If the Defendant receives a sentence of imprisonment, the United States will not object to a request by the Defendant to self-surrender.

10. The Defendant agrees to cooperate fully with the United States Attorney's Office by making a full and complete financial disclosure. Within 30 days of pleading guilty, the Defendant agrees to complete and sign a financial disclosure statement or affidavit disclosing all assets in which the Defendant has any interest or over which the Defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party, and disclosing any transfer of assets that has taken place within three years preceding the entry of this plea agreement. The Defendant will submit to an examination, which may be taken under oath and may include a polygraph examination. The Defendant will not encumber, transfer, or dispose of any monies, property, or assets under the Defendant's custody or control without written approval from the United States Attorney's Office. If the Defendant is ever incarcerated in connection with this case, the Defendant will participate in the Bureau of Prisons Inmate

Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments. If the Defendant fails to comply with any of the provisions of this paragraph, the United States, in its discretion, may refrain from moving the Court pursuant to U.S.S.G. § 3E1.1(b) to reduce the offense level by one additional level, and may argue that the Defendant should not receive a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a).

11. The Defendant understands and agrees that, pursuant to 18 U.S.C. § 3613, whatever monetary penalties are imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States. If the Court imposes a schedule of payments, the Defendant agrees that it is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. The Defendant waives any requirement for demand of payment on any fine, restitution, or assessment imposed by the Court and agrees that any unpaid obligations will be submitted to the United States Treasury for offset. The Defendant authorizes the United States to obtain the Defendant's credit reports at any time. The Defendant authorizes the U.S. District Court to release funds posted as security for the Defendant's appearance bond in this case, if any, to be applied to satisfy the Defendant's financial obligations contained in the judgment of the Court.

12. If the Defendant violates any part of this Agreement, the United States may void this Agreement and seek an indictment for any violations of federal laws, and the Defendant waives any right to challenge the initiation of additional federal charges.


13. This document and the supplement contain the complete and only Plea Agreement between the United States Attorney for the Eastern District of Kentucky and the Defendant. The United States has not made any other promises to the Defendant.

14. This Agreement does not bind the United States Attorney's Offices in other districts, or any other federal, state, or local prosecuting authorities.

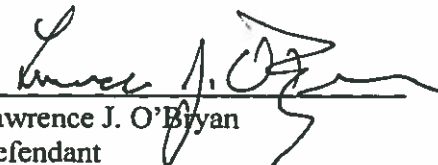
15. The Defendant and the Defendant's attorney acknowledge that the Defendant understands this Agreement, that the Defendant's attorney has fully explained this Agreement to the Defendant, and that the Defendant's entry into this Agreement is voluntary.

KERRY B. HARVEY  
UNITED STATES ATTORNEY

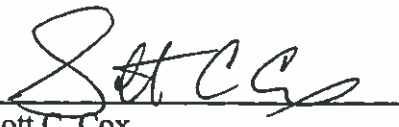
Date: 9/7/16

By:   
Andrew T. Boone  
Assistant United States Attorney


Date: 19 AUG 16

  
Lawrence J. O'Bryan  
Defendant

Date: 19 AUG 16

  
Scott C. Cox  
Attorney for Defendant

Date: 8/19/2016

  
Patrick J. Renn  
Attorney for Defendant

---

# **EXHIBIT B**

## **Affidavit in Support of Criminal Complaint of Timothy M. Longmeyer**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON**

**UNITED STATES OF AMERICA**

**V.**

**CASE NO. 5:16-MJ-5057-REW**

**TIMOTHY M. LONGMEYER**

**\* \* \* \* \***

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, James Huggins, Special Agent of the Federal Bureau of Investigation, being duly sworn, depose and state that:

1. I am a Special Agent with the Federal Bureau of Investigation [hereinafter "FBI"] and have been since February 21, 1995. I have received basic training regarding all FBI investigations, to include Public Corruption investigations, located at the FBI Academy located in Quantico, Virginia. I am currently assigned to the Louisville Division of the FBI, Lexington Resident Agency and am assigned to investigate Public Corruption matters. Prior to my current assignment, I was assigned to the San Francisco Division of the FBI, where I worked a variety of violations, to include narcotics, gangs, fugitives, terrorism, and public corruption.

2. Throughout my 20 years as an FBI investigator, I have received training in evidence handling, undercover operations, working with confidential informants, surveillance, legal issues to include constitutional and privacy issues, a wide variety of frauds, forfeiture, and arrest procedures, among other training. As a federal law enforcement officer, I am authorized to execute warrants issued under Rule 4 of the Federal Rules of Criminal Procedure.

### PURPOSE OF AFFIDAVIT

3. This Affidavit is being submitted in support of a Criminal Complaint. For the reasons set forth below, I respectfully submit that this Affidavit contains probable cause to believe that TIMOTHY M. LONGMEYER has committed violations of 18 U.S.C. § 666(a)(1)(B), bribery concerning a federally funded program.

4. I make this Affidavit based upon personal knowledge derived from my participation in this investigation and upon information I believe to be reliable from the following sources:

- (a) my training and experience, including my experience investigating the fraud, money laundering, and public corruption described herein;
- (b) discussions I have had personally concerning this investigation with experienced fraud and public corruption investigators;
- (c) physical surveillance conducted by the FBI, the results of which have been reported to me either directly or indirectly;
- (d) public records; and
- (e) information reported by FBI Confidential Sources.<sup>1</sup>

5. This Affidavit is intended to show only that there is sufficient probable cause to support the Criminal Complaint and for the requested summons. This Affidavit does not set forth all of my knowledge about this matter.

---

<sup>1</sup> All confidential sources will be referred to as "he" throughout this Affidavit regardless of the actual gender of the confidential source for consistency and to protect the confidentiality of the confidential source. Furthermore, the full names and identities of all confidential sources and all other entities referenced anonymously herein (including LLC #1, Candidate #1, and Candidate #2) are known to the FBI.

### RELIABILITY OF INFORMATION

6. FBI Confidential Source 1 [hereinafter "CS #1"] has provided reliable information to the FBI since approximately May 7, 2015. CS #1 obtained this information through his employment with a limited liability company [hereinafter, "LLC #1"] that has received over \$2,000,000.00 in payments under contracts obtained through a kickback arrangement with LONGMEYER. In the normal course of his duties, CS #1 has regular access to LLC #1's business records. Information provided by CS #1 is derived from first hand observation, in the normal course of his employment. CS #1's information has consistently been corroborated by recordings of communications involving other members of the conspiracy, business records of LLC #1 that CS #1 provided, state campaign finance data maintained by the Kentucky Registry of Election Finance [hereinafter, "KREF"], physical surveillance, and telephone call and text message history records, including records from Court authorized pen register and trap and trace devices [hereinafter, "pen-trap devices"].<sup>2</sup> CS #1's information has never been found to be false or misleading. For each of these reasons, I consider CS #1's information to be reliable.

### PROBABLE CAUSE

7. The FBI is conducting a criminal investigation of a conspiracy engaged in fraud, money laundering, bribery, and kickbacks. The investigation has determined that members of

---

<sup>2</sup> CS #1 has a criminal history that includes an arrest for possession of marijuana. Furthermore, as an employee of LLC #1, CS #1 had limited involvement in the conspiracy prior to his cooperation with the FBI. CS #1 expressed concern over continued involvement in these illegal activities and reported this concern as his motivation for bringing this information to the FBI. In exchange for his cooperation and in recognition of the fact that he reported this conduct to the FBI in a voluntary and timely manner, CS #1 is receiving consideration from the United States Attorney's Office, in that he will not be charged for his previous involvement in the scheme. Additionally, the FBI has provided and is providing CS #1 with monetary compensation in return for this information and his assistance. The FBI recently increased CS #1's periodic compensation after CS #1 expressed intent to cease participating in the operation due to frustration over a recent verbal altercation with a member of the conspiracy, a history of poor treatment of CS #1 by this other individual, and an inaccurately perceived delay in the periodic compensation that CS #1 has been receiving from the FBI.

this conspiracy orchestrated a kickback scheme, under which LONGMEYER agreed to use his former official position to steer work to LLC #1 in exchange for cash payments and conduit contribution checks made payable to certain political campaigns.

8. From approximately January 2011 through approximately September 30, 2015, LONGMEYER was the Secretary of the Kentucky Personnel Cabinet, the agency responsible for the management and administration of the Commonwealth of Kentucky's workforce, including the administration of pay and benefits for state employees. As Secretary, LONGMEYER was the Cabinet's chief executive. Prior to this time, LONGMEYER was employed as the Cabinet's Deputy Secretary. According to public information, LONGMEYER resigned this position on or about September 30, 2015.<sup>3</sup>

9. Based on public information, I have learned that the Kentucky Personnel Cabinet is responsible for administering the Kentucky Employees' Health Plan [hereinafter, "KEHP"]. According to the Personnel Cabinet's public website, the KEHP is "a \$1.8 billion, self-funded, health insurance program, which provides benefits to nearly 300,000 public employees and their dependents." See <http://personnel.ky.gov/pages/about-cabinet.aspx>. From public information, I have also learned that the Commonwealth of Kentucky, through the Personnel Cabinet, contracts with private insurance companies, including Humana, Inc. [hereinafter, "Humana"] and Anthem Blue Cross Blue Shield [hereinafter, "Anthem"], to provide health care coverage to Commonwealth employees and their dependents. See, e.g., <https://personnel.ky.gov/Annual%20Reports/2014-2015%20Annual%20Report.pdf>.

10. Through the methods described in the previous paragraphs, the investigation has determined that LONGMEYER and others participated in a kickback scheme, under which

---

<sup>3</sup> As Secretary of the Kentucky Personnel Cabinet, LONGMEYER was an agent of the Commonwealth of Kentucky, which receives well over \$10,000.00 in federal funds per year.

LONGMEYER abused his authority over the KEHP to persuade Humana and Anthem to hire and pay LLC #1 for consulting services that included focus group testing and telephone surveys. In exchange for LONGMEYER's actions, representatives of LLC #1 laundered the proceeds of these contracts through a series of transactions designed to convert the funds into cash and conduit campaign contributions. A representative of LLC #1 then delivered this cash and these conduit campaign contributions to LONGMEYER.

**A. KICKBACKS DERIVED FROM LLC #1'S PAYMENTS FROM HUMANA**

11. The investigation has determined that LLC #1 received contracts to provide consulting services for Humana and received consulting fees from Humana for several years. CS #1 supplied the FBI with a copy of an August 2009 consulting agreement and schedule of services, signed by representatives of LLC #1 and Humana. Based on my review of these records and my training and experience, I have concluded that LLC #1 contracted to provide professional consulting services for Humana, which required focus groups to elicit discussion of state employees' "likes and dislikes of the current health plan" over a period of 1-2 hours, and "[a] full written report," including "key findings, detailed findings, and any implications/recommendations." Through federal legal process, the FBI obtained records of financial accounts held by LLC #1 and is analyzing these accounts. Thus far, that analysis has established that Humana paid \$2,008,663.00 to LLC #1 in transactions between October 18, 2011 and December 23, 2014.

12. CS #1 reported that LLC #1 received these contracts because of its kickback agreement with LONGMEYER. Specifically, CS #1 reported that LONGMEYER arranged surreptitious meetings with a representative of LLC #1 in different locations, including the parking lots of a Kroger in Versailles, Kentucky, and a McDonalds in Midway, Kentucky. At these meetings, according to information provided by CS #1, LONGMEYER presented the LLC

#1 representative with further consulting opportunities and solicited further kickbacks.

According to CS #1's information, LONGMEYER gave specific, written directions as to (i) the amount that LLC #1 should charge the health insurance company; (ii) the amount that LLC #1 should kick back to LONGMEYER; and (iii) the amount that LLC #1 could keep.

13. The investigation has also determined that after certain payments of consulting fees from Humana, representatives of LLC #1 converted these funds into cash through a series of financial transactions. Based on the information set forth immediately below, representatives of LLC #1 used a portion of this cash to repay third parties who wrote contribution checks to the campaigns of political candidates specified by LONGMEYER. A representative of LLC #1 delivered these conduit contribution checks and cash kickbacks to LONGMEYER, as repayment for assistance in securing the consulting business for LLC #1.

14. CS #1 provided the FBI with a copy of a two-page ledger maintained by LLC #1. According to CS #1, each page of the ledger related to the disposition of a payment from Humana to LLC #1. One page of the ledger contained a series of 17 entries associated with dates occurring on roughly a weekly basis between November 21, 2014 and February 27, 2015 and monetary amounts ranging from \$3,500.00 to \$10,500.00. CS #1 reported, based on discussions within the offices of LLC #1, that the ledger reflected disposition of a payment from Humana to LLC #1 and that LONGMEYER directed a \$90,000 kickback from this payment.<sup>4</sup> The seventeen transaction entries on this page totaled \$90,000.00. CS #1 reported that the second page of this ledger related to disposition of a \$218,000.00 payment from Humana to LLC #1 and

---

<sup>4</sup> The FBI's preliminary analysis of LLC #1's bank records has confirmed that LLC #1 received \$118,800.00 in a wire transfer from Humana on November 13, 2014.

that LONGMEYER directed that \$100,000.00 of these funds be kicked back to him.<sup>5</sup> The second page of the ledger reflected a series of payments to LONGMEYER, including: (i) 17 entries of \$5,000.00 each, associated with dates occurring on roughly a weekly basis between February 27, 2015 and June 19, 2015; (ii) \$2,000.00 in entries bearing the name of Candidate #2, associated with the date March 6, 2015; (iii) \$1,000.00 in entries bearing the name of Candidate #1, associated with the date March 12, 2015; and (iv) \$3,000.00 in entries bearing the name of Candidate #1, associated with the date May 29, 2015. The entries on this page thus totaled \$91,000.00 and reflected a balance of \$9,000.00 after the final entry. CS #1 explained the entries that did not contain candidates' names corresponded to cash payments given to LONGMEYER. CS #1 further explained that the entries associated with candidate names corresponded to conduit contribution checks provided to LONGMEYER.<sup>6</sup> Based on this information, I believe that LONGMEYER received: (i) \$90,000.00 in cash between November 21, 2014 and February 27, 2015; and (ii) \$91,000.00 between February 27, 2015 and June 19, 2015, \$85,000.00 of which was in cash and \$6,000.00 of which was in checks written to political campaigns by conduit contributors.

15. According to CS #1, representatives of LLC #1 recruited and paid other individuals, including employees of LLC #1, to write campaign contribution checks in their own names. CS #1 reported that he was required to make conduit contributions to certain political campaigns, and that he was reimbursed, in cash, for these contributions. CS #1 provided the FBI with his own bank records to corroborate this. In each instance, these bank records showed that

---

<sup>5</sup> The FBI's preliminary analysis of LLC #1's bank records has confirmed that LLC #1 received \$217,800.00 in two separate wires from Humana on December 23, 2014.

<sup>6</sup> The investigation has given no reason to believe that the political candidates whose campaigns received the funds in question were aware of this scheme or the illegal sources of the funds contributed their campaigns.

CS #1 made a cash deposit of \$1,000.00 and issued a check for \$1,000.00 to the pertinent campaign, within days of each other. Based on my training, experience, and knowledge of this investigation, I have concluded that these records corroborate CS #1's explanation of the ledger and CS #1's allegation that members of the conspiracy used a portion of this cash to obtain conduit contributions to the campaigns of certain candidates for state public office.

16. Additionally, CS #1's information was corroborated through an analysis of data from a publicly accessible state campaign finance database maintained by KREF. The data showed that campaign contributions were reported from employees of LLC #1 to the campaigns of Candidate #1 and Candidate #2 on the dates and consistent with the amounts specified in the ledger.

17. CS #1 covertly recorded a conversation within the offices of LLC #1, in which a representative of LLC #1 spoke of the cash payments to LONGMEYER. CS #1 provided that recording to the FBI. I have reviewed the recording, and I have concluded that it corroborates CS #1's explanation that the 17 ledger entries of \$5,000.00 corresponded to cash payments to LONGMEYER. In the recording, the LLC #1 representative stated: "I wish I hadn't given that last 5, because that was out of my pocket." Further in the discussion, the representative clarified: "actually the last 25 was out of my pocket," and "I'm out about \$43,000 . . . ." The representative also stated that he was "protecting the business" by "taking 5 grand a week out of my pocket." When asked whether LONGMEYER would "give us more work," the representative's response was: "I don't know but I think when the well runs dry, you get used to that water, you're going to come back for it."

18. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that LLC #1 converted at least \$181,000.00 in

consulting fees received from Humana into cash (\$175,000.00) and conduit campaign contributions (\$6,000.00), through a series of financial transactions. I also believe that the cash and conduit campaign contributions were delivered to LONGMEYER, in exchange for his assistance in steering the Humana work to LLC #1.

**B. KICKBACKS DERIVED FROM LLC #1'S PAYMENTS FROM ANTHEM**

19. Shortly before LONGMEYER stepped down as the Secretary of the Personnel Cabinet last fall, he and other members of the conspiracy continued their scheme with a new funding source. Based on information received from CS #1, I learned that LONGMEYER ensured that LLC #1 would receive a consulting project from Anthem as part of the continuing kickback arrangement. CS #1 reported that this consulting project was a telephone survey relating to Anthem's services under the KEHP. Furthermore, I learned that representatives of LLC #1 laundered its consulting fees, converting these proceeds to cash. During FBI surveillance, I observed a representative of LLC #1 meeting with LONGMEYER on two occasions to deliver cash kickbacks.

20. On September 10, 2015, while under FBI surveillance, LONGMEYER and a representative of LLC #1 (each of whom was identified based on a visual comparison with his driver's license photograph) met for 15 minutes inside of LONGMEYER's car, in the parking lot of the McDonald's restaurant at 1007 Green Gable Drive, Midway, Kentucky. Afterward, CS #1 participated in a discussion about the meeting, recorded part of this conversation, and provided that recording to the FBI. I have reviewed the recording and have determined that the LLC #1 representative who met with LONGMEYER stated that LLC #1 would perform a "phone survey" for Anthem, that LLC #1's payment would be "\$48,000.00," and that "we in turn, give back 22.5." Based on my training, experience, and knowledge of the investigation, I have

concluded that the LLC #1 representative and LONGMEYER agreed that LLC #1 would bill Anthem for \$48,000.00 and kick back \$22,500.00 to LONGMEYER.

21. According to information supplied by CS #1, a check from Anthem, in the amount of \$48,000.00, arrived at LLC #1's office via U.S. mail on September 29, 2015. CS #1 provided the FBI with a copy of this check, which was dated September 25, 2015.

22. On October 2, 2015, CS #1 learned that a representative of LLC #1 planned to give LONGMEYER \$5,000.00 in cash on October 2, 2015 and \$17,500.00 on October 9, 2015. On the same date, CS #1 observed two large envelopes containing cash within LLC #1's offices. On October 2, 2015, the FBI established surveillance on the McDonald's restaurant at 1007 Green Gable Drive, Midway, Kentucky. While under surveillance, LONGMEYER met a representative of LLC #1 inside of a vehicle being driven by LONGMEYER for approximately 15 minutes. Both individuals were identified based on visual comparisons with their driver's license photographs and positive cross-references between the license plate numbers of their vehicles and Kentucky motor vehicle registration records. My conclusion, based on my training and experience and my knowledge of this investigation, is that LONGMEYER accepted \$5,000.00 during this meeting.

23. On October 8, 2015, CS #1 reported that he observed a brown cardboard box in the office of LLC #1 and that he overheard a representative of LLC #1 state that the box contained \$17,500.00. Based on information provided by CS #1, the FBI established surveillance on the same McDonald's restaurant on October 9, 2015. During the surveillance, the FBI observed LONGMEYER meeting with a LLC #1 representative in the vehicle being driven by LONGMEYER, based on visual identification of both individuals. Surveillance witnessed the LLC #1 representative enter LONGMEYER's vehicle with a brown cardboard

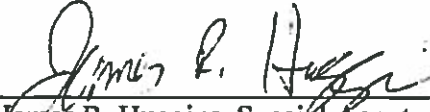
box. Approximately eight minutes later, the representative exited the vehicle without the brown cardboard box. Immediately afterward, the representative returned to LLC #1's office. CS #1 then participated in a discussion of the meeting, recorded that discussion, and provided the recording to the FBI. I have reviewed the recording and have determined that the representative who met with LONGMEYER stated: "Yeah, everything's good; I'm paid off with Tim now." Later in the recording, the representative can be heard stating that LONGMEYER had picked up "\$17,500.00." My conclusion, based on my training and experience and my knowledge of this investigation, is that LONGMEYER accepted \$17,500.00 in cash during the October 9, 2015 meeting.

24. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that LLC #1 converted \$22,500.00 in consulting fees received from Anthem into cash, through a series of financial transactions. I also believe that the cash was delivered to LONGMEYER.


#### CONCLUSION

25. Based upon all of the information set forth herein, I respectfully submit that this Affidavit contains probable cause to believe that TIMOTHY M. LONGMEYER has committed violations of 18 U.S.C. § 666(a)(1)(B), bribery concerning a federally funded program.

WHEREFORE, your Affiant respectfully requests that the Court issue a summons ordering the appearance of TIMOTHY M. LONGMEYER.

  
\_\_\_\_\_  
James R. Huggins, Special Agent  
Federal Bureau of Investigation

SWORN and SUBSCRIBED to before me on this 24<sup>th</sup> day of March 2016.



---

Hon. Robert E. Wier  
United States Magistrate Judge  
Eastern District of Kentucky

# **EXHIBIT C**

## **Affidavit in Support of Search and Seizure Warrant Applications**

Eastern District of Kentucky  
**FILED**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
LEXINGTON**

**MAY - 3 2016**

**AT LEXINGTON  
ROBERT R. CARR  
CLERK U.S. DISTRICT COURT**

**IN THE MATTER OF THE APPLICATIONS ) Nos. 5:16-MJ-5036-REW through  
OF THE UNITED STATES OF AMERICA ) 5:16-MJ-5042-REW  
FOR WARRANTS AUTHORIZING )  
SEARCHES AND SEIZURES )**

**\* \* \* \* \***

**AFFIDAVIT IN SUPPORT OF SEARCH AND SEIZURE WARRANT APPLICATIONS**

I, James Huggins, Special Agent of the Federal Bureau of Investigation, being duly sworn, depose and state that:

1. I am a Special Agent with the Federal Bureau of Investigation [hereinafter "FBI"] and have been since February 21, 1995. I have received basic training regarding all FBI investigations, to include Public Corruption investigations, located at the FBI Academy located in Quantico, Virginia. I am currently assigned to the Louisville Division of the FBI, Lexington Resident Agency and am assigned to investigate Public Corruption matters. Prior to my current assignment, I was assigned to the San Francisco Division of the FBI, where I worked a variety of violations, to include narcotics, gangs, fugitives, terrorism, and public corruption.

2. Throughout my 20 years as an FBI investigator, I have received training in evidence handling, undercover operations, working with confidential informants, surveillance, legal issues to include constitutional and privacy issues, a wide variety of frauds, forfeiture, minimization during federal wiretaps, arrest procedures, among other training. I have investigated and assisted with multiple investigations involving searches of computer systems and seizures of computers and other electronic storage devices. In these prior investigations and in the present case, Special Agents with specialized training in computer forensics have assisted

me with setting forth computer search parameters and have imparted their computer forensics knowledge to me. As a federal law enforcement officer, I am authorized to execute search and seizure warrants issued under Rule 41 of the Federal Rules of Criminal Procedure.

#### PURPOSE OF AFFIDAVIT

3. This Affidavit is being submitted in support of applications for the following:
- (a) A warrant to search the premises at 141 Prosperous Place, Suite 23A, Lexington, KY 40509, which is known as the office of MC Squared Consulting, LLC, and seize fruits and evidence of the crimes specified herein;
  - (b) A warrant to search the premises at [REDACTED] which is known as the residence of SAMUEL MCINTOSH, and seize fruits and evidence of the crimes specified herein;
  - (c) A warrant to search the person of SAMUEL MCINTOSH (date of birth: [REDACTED] Social Security Number: [REDACTED])<sup>1</sup> and seize fruits and evidence of the crimes specified herein;
  - (d) A warrant to seize the cellular telephone associated with the number [REDACTED] [hereinafter, the "MCINTOSH Phone"] and search its contents for evidence of the crimes specified herein;
  - (e) A warrant to search the premises at [REDACTED] [REDACTED] which is known as the residence of MYRON HARROD, and seize fruits and evidence of the crimes specified herein;
  - (f) A warrant to search the person of MYRON HARROD (date of birth: [REDACTED]; Social Security Number: [REDACTED]) and seize fruits and evidence of the crimes specified herein; and

<sup>1</sup> The FBI has on record the full Social Security number of each individual listed herein.

- (g) A warrant to seize the cellular telephone associated with the number [REDACTED] [hereinafter, the "HARROD Phone"] and search its contents for evidence of the crimes specified herein.

4. I make this Affidavit based upon personal knowledge derived from my participation in this investigation and upon information I believe to be reliable from the following sources:

- (a) my training and experience, including my experience investigating the fraud, money laundering, and public corruption described herein;
- (b) oral and written reports, and documents about this investigation that I have received from members of the FBI, including an undercover special agent [hereinafter, "UC #1"];
- (c) discussions I have had personally concerning this investigation with experienced fraud and public corruption investigators;
- (d) physical surveillance conducted by the FBI, the results of which have been reported to me either directly or indirectly;
- (e) public records;
- (f) telephone toll records, data from a court authorized pen register and trap and trace devices [hereinafter, "pen-trap devices"], and telephone subscriber information; and
- (g) information reported by FBI Confidential Sources.<sup>2</sup>

---

<sup>2</sup> All confidential sources will be referred to as "he" throughout this Affidavit regardless of the actual gender of the confidential source for consistency and to protect the confidentiality of the confidential source.

5. This Affidavit is intended to show only that there is sufficient probable cause to support the aforementioned warrants. This Affidavit does not set forth all of my knowledge about this matter.

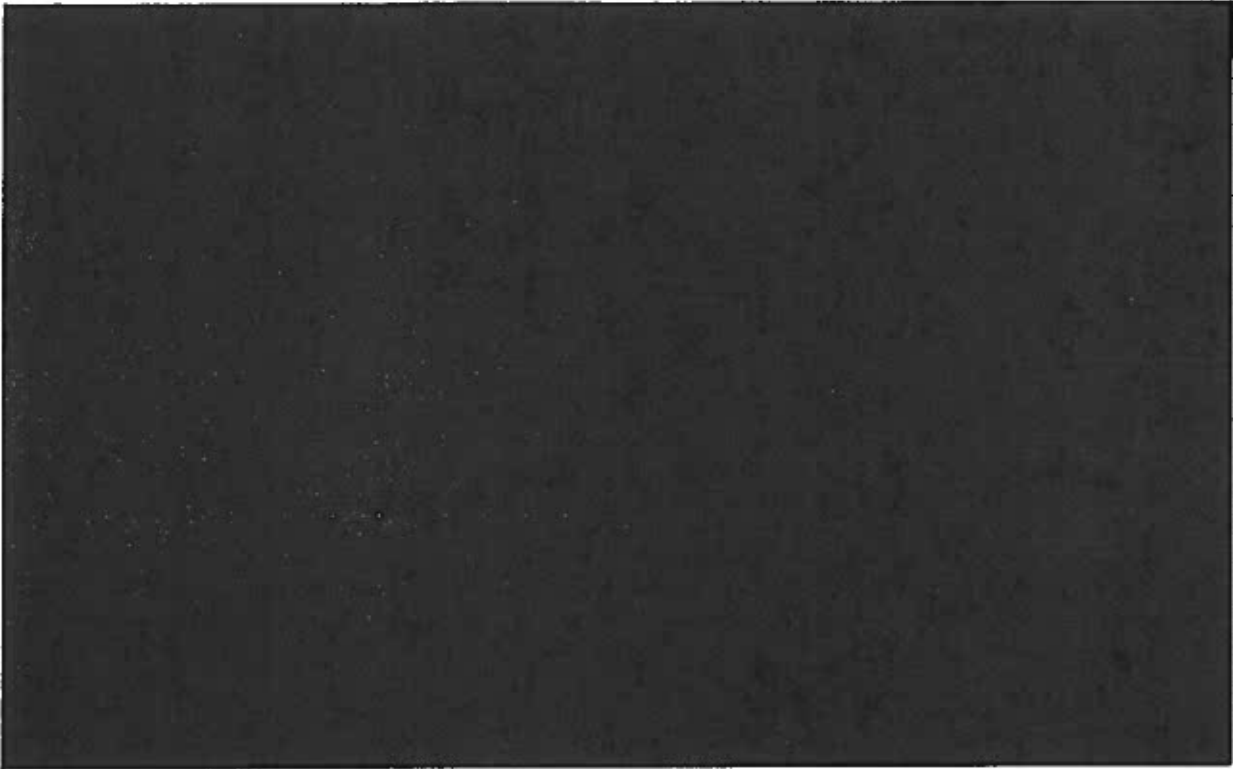
6. For the reasons set forth below, I respectfully submit that this Affidavit contains probable cause to believe that TIMOTHY LONGMEYER, [REDACTED] SAMUEL MCINTOSH, [REDACTED] MYRON HARROD, [REDACTED], [REDACTED] [REDACTED] and others have committed the following criminal offenses: fraud and bribery concerning a federally funded program, in violation of 18 U.S.C. § 666; mail fraud, in violation of 18 U.S.C. § 1341; wire fraud, in violation of 18 U.S.C. § 1343; extortion under color of official right, in violation of 18 U.S.C. § 1951; money laundering, in violation of 18 U.S.C. §§ 1956(A)(i), 1956(B)(i), and 1957; conspiring to commit the offenses described above, in violation of 18 U.S.C. §§ 371, 1349, and 1956(h); and racketeering and racketeering conspiracy, in violation of 18 U.S.C. § 1962(c) and (d) and punishable under 18 U.S.C. § 1963, by conducting the affairs of an "enterprise," that is MC Squared Consulting, LLC [hereinafter, "MC Squared"] and also a group of individuals associated in fact, although not a legal entity, the activities of which affect interstate and foreign commerce, through a pattern of racketeering activity consisting of violations of 18 U.S.C. §§ 1341, 1343, 1951, 1956, and 1957.

7. Furthermore, I respectfully submit that this Affidavit contains probable cause to believe that SAMUEL MCINTOSH, MYRON HARROD, and others have committed the following criminal offenses: distribution of controlled substances and possession of controlled substances with intent to distribute, in violation of 21 U.S.C. § 841(a)(1); possession of controlled substances, in violation of 21 U.S.C. § 844(a); and conspiring to commit the offenses described above, in violation of 18 U.S.C. § 371.

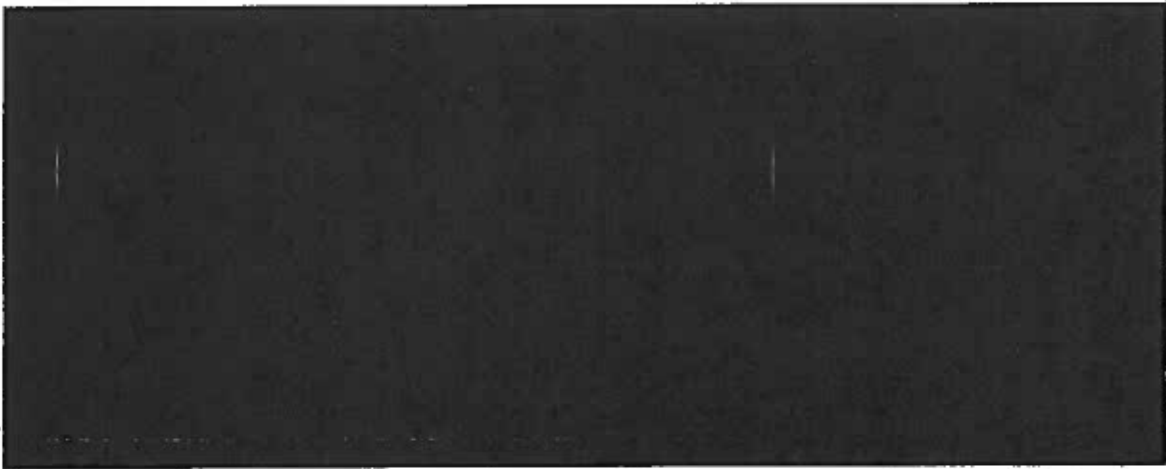
## PROBABLE CAUSE

8. The FBI is conducting a criminal investigation of a conspiracy engaged in fraud, money laundering, bribery, and kickbacks. The investigation has determined that one of the objects of this conspiracy is to use the kicked back money to fund illegal conduit contributions to certain political campaigns. The investigation has confirmed that several individuals, listed below, are involved in the conspiracy. The FBI's information about these individuals comes from the following sources and criminal indices: Kentucky Department of Motor Vehicles records, FBI 302s, FBI undercover reports, FBI source interview reports, telephone toll records and data from court-authorized pen-trap devices, and Kentucky Administrative Office of the Courts records.

(a) **TIMOTHY M. LONGMEYER:** LONGMEYER has been identified as a public official who used his former position to solicit and receive cash kickbacks and illegal contributions made payable to certain political campaigns. From approximately January 2011 through approximately September 30, 2015, LONGMEYER was the Secretary of the Kentucky Personnel Cabinet, the agency responsible for the management and administration of the Commonwealth of Kentucky's workforce, including the administration of pay and benefits for state employees. As Secretary, LONGMEYER was the Cabinet's chief executive. Prior to this time, LONGMEYER was employed as the Cabinet's Deputy Secretary. After September 30, 2015, LONGMEYER worked for the campaign of Andrew Beshear, who was then a candidate for the elected office of Kentucky Attorney General. LONGMEYER then worked for Beshear's transition team, following his successful election on November 3, 2015. On or about January 4, 2016, LONGMEYER reentered state employment as Kentucky's Deputy Attorney General.



(c) **SAMUEL C. MCINTOSH:** MCINTOSH has been identified as a participant in the scheme who secures consulting contracts through corrupt arrangements with LONGMEYER and pays kickbacks from his proceeds to LONGMEYER and others specified by [REDACTED] MCINTOSH is the owner and operator of MC Squared, a Lexington-based company that holds itself out as a political consulting firm.



(e) MYRON D. HARROD: HARROD has been identified as an employee of MC Squared, who participates in the scheme through financial transactions that convert MC Squared's fraud proceeds into cash that is used for kickbacks and conduit campaign contributions.



**A. RELIABILITY OF INFORMATION**

9. FBI Confidential Source 1 [hereinafter "CS #1"] has provided reliable information to the FBI since approximately May 7, 2015. CS #1 obtained this information through employment with MC Squared and frequent contact with MCINTOSH and HARROD. In the normal course of his duties, CS #1 has regular access to MC Squared's business records. Information provided by CS #1 is derived from first hand observation, in the normal course of his employment. CS #1's information has consistently been corroborated by recordings of communications involving MCINTOSH, HARROD, and other members of the conspiracy,

reports from UC #1, MC Squared business records obtained by CS #1, state campaign finance data maintained by the Kentucky Registry of Election Finance [hereinafter, "KREF"], physical surveillance, and telephone call and text message history records, including records from Court authorized pen-trap devices.<sup>3</sup> CS #1's information has never been found to be false or misleading. For each of these reasons, I consider CS #1's information to be reliable.

10. FBI Confidential Source 2 [hereinafter "CS #2"] has provided information to the FBI since approximately November 3, 2015. CS #2's information has been corroborated primarily through recordings of communications involving LONGMEYER, [REDACTED] and other members of the conspiracy. CS #2's information has never been found to be false or misleading. For each of these reasons, I consider CS #2's information to be reliable.

11. FBI Confidential Source 3 [hereinafter "CS #3"] has provided information to the FBI since approximately January 5, 2016. CS #3's information has been corroborated primarily through recordings of communications involving [REDACTED] and other members of the conspiracy. CS #3's information has never been found to be false or misleading. For each of these reasons, I consider CS #3's information to be reliable.

12. FBI Confidential Source 4 [hereinafter "CS #4"] has provided information to the FBI since approximately January 5, 2016. CS #4's information has been corroborated primarily through recordings of communications involving MCINTOSH and other members of the

<sup>3</sup> CS #1 has a criminal history that includes a March 2008 arrest for possession of marijuana. Furthermore, as an employee of MC Squared, CS #1 had limited involvement in the fraud scheme and money laundering conspiracy prior to his cooperation with the FBI. CS #1 expressed concern over continued involvement in MC Squared's illegal activities and reported this concern as his motivation for bringing this information to the FBI. In exchange for his cooperation and in recognition of the fact that he reported this conduct to the FBI in a voluntary and timely manner, CS #1 is receiving consideration from the United States Attorney's Office, in that he will not be charged for his previous involvement in the scheme. Additionally, the FBI has provided and is providing CS #1 with monetary compensation in return for this information and his assistance. The FBI recently increased CS #1's periodic compensation after CS #1 expressed intent to cease participating in the operation due to frustration over a history of poor treatment from MCINTOSH, a recent verbal altercation with MCINTOSH, and an inaccurately perceived delay in the periodic compensation that CS #1 has been receiving from the FBI.

conspiracy. CS #4's information has never been found to be false or misleading. For each of these reasons, I consider CS #4's information to be reliable.

## B. OVERVIEW OF THE CONSPIRACY

13. In summary, through the methods described in the previous paragraphs, the investigation has revealed a conspiracy to: (i) defraud health insurance companies, including at least Humana, Inc. [hereinafter, "Humana"] and Anthem Blue Cross Blue Shield [hereinafter, "Anthem"], through MC Squared's procurement of consulting work through kickback arrangements and billing of excessive consulting fees for substandard services;<sup>4</sup> (ii) launder the proceeds of this fraud through a series of transactions designed to convert the funds into cash and conduit campaign contributions; and (iii) transfer the derivative cash and conduit contributions as kickbacks for the official actions of LONGMEYER and others. The investigation confirmed that MC Squared has been dependent on the official actions of LONGMEYER and ██████████ to secure these consulting contracts. The investigation also determined that, in return for these actions, MCINTOSH has delivered substantial amounts of cash and conduit campaign contributions to LONGMEYER and ██████████. The investigation confirmed that HARROD assisted MCINTOSH in converting MC Squared's consulting proceeds to cash and conduit contribution checks, all for use in the kickback arrangements.

<sup>4</sup> I note the following jurisdictional matters. First, based on publicly available information, Anthem is headquartered in Indianapolis, is listed on the New York Stock Exchange, and has more than 30,000 employees nationwide. Humana is headquartered in Louisville, is also listed on the New York Stock Exchange, and has over 50,000 employees nationwide. Accordingly, the conspiracy, which has involved defrauding these two companies, has a significant effect on interstate commerce. Second, records provided by CS #1 established that MC Squared received a number of its payments from Humana in the form of ACH transfers. Based on a discussion with a representative of PNC Bank, I have determined that PNC maintains its servers in Pennsylvania, and that any ACH transaction involving the transfer of funds into the account of a PNC customer in Kentucky will necessarily require interstate wire communications to and from these servers. Third, according to information supplied by CS #1 and UC #1, on September 29, 2015, MC Squared received a \$48,000.00 payment from Anthem through the U.S. mail. Fourth, as Secretary of the Kentucky Personnel Cabinet, LONGMEYER was an agent of the Commonwealth of Kentucky, which I am aware receives well over \$10,000.00 in federal funds per year.

14. The investigation has also determined that one of the past goals of the conspiracy was to fund illegal contributions to the campaigns of various politicians, including Andrew Beshear and Jack Conway, who were running for Kentucky Attorney General and Kentucky Governor, respectively, in the November 3, 2015 general election.<sup>5</sup> In this election, Andrew Beshear won his bid to become Attorney General, and Conway lost the gubernatorial race. Andrew Beshear assumed office on January 4, 2016 and appointed LONGMEYER his Deputy Attorney General.

15. MCINTOSH's most recent delivery of cash to LONGMEYER occurred on October 9, 2015. Since that date, the investigation has determined MCINTOSH, [REDACTED] LONGMEYER, and other members of the conspiracy have continued to plan and communicate about the continuation of the conspiracy. To that end, LONGMEYER and [REDACTED] have each made arrangements for MC Squared to receive compensated work from the Beshear campaign and from [REDACTED], respectively. Based on my training, experience, and knowledge of this investigation, I believe that LONGMEYER and [REDACTED] made these arrangements, at least in part, so that MCINTOSH would be willing and able to continue participating in the conspiracy. In consensually recorded conversations, MCINTOSH has expressed his expectation that LONGMEYER will continue providing work to MC Squared after LONGMEYER assumes office as the state Deputy Attorney General.

---

<sup>5</sup> The investigation has given no reason to believe that Andrew Beshear and Jack Conway were aware of this scheme or the illegal sources of the funds contributed their campaigns. These candidates are referenced by name in this affidavit only because their identities are relevant to understanding and interpreting the evidence discussed below.

A. **THE HISTORICAL SCHEME**

i. **Fraud on Humana**

16. Thus far, the investigation has determined that MCINTOSH entered into a kickback agreement with LONGMEYER, [REDACTED]. Under this kickback arrangement, LONGMEYER ensured that MC Squared received contracts to provide consulting services for Humana and that received MC Squared consulting fees from Humana for several years. The investigation has established that MCINTOSH received this work through fraudulent means and provided and charged for services in a fraudulent manner, as detailed below. The investigation has also determined that Humana paid a significant amount of consulting fees to MC Squared over time, [REDACTED]. [REDACTED] Through federal legal process, the FBI obtained records of financial accounts held by MC Squared and is analyzing these accounts. Thus far, that analysis has established that Humana paid \$2,008,663.00 to MC Squared in transactions between October 18, 2011 and December 23, 2014. [REDACTED]

17. Based on public information, I have learned that Humana and Anthem provide health care coverage to Kentucky state employees through the Kentucky Employees' Health Plan [hereinafter, "KEHP"]. The KEHP is administered by the Kentucky Personnel Cabinet, through its subsidiary Department of Employee Insurance. According to the Personnel Cabinet's public

website, the KEHP is "a \$1.8 billion, self-funded, health insurance program, which provides benefits to nearly 300,000 public employees and their dependents." See <http://personnel.ky.gov/pages/about-cabinet.aspx>.

18. At the outset of this investigation, CS #1 reported that LONGMEYER and ██████ abused their official positions with the Kentucky Personnel Cabinet to persuade Humana to retain MC Squared for consulting services relating to the KEHP, including focus groups and telephone surveys. LONGMEYER then directed MCINTOSH to charge a specific fee for these consulting services and directed MCINTOSH to kick back a portion of that fee, often in the form of cash and sometimes in the form of contributions to political campaigns specified by LONGMEYER.

19. In June 2015, CS #1 reported that MCINTOSH had detailed conversations with him about the origin of this conspiracy and MC Squared's past and current role in it. Specifically, MCINTOSH told CS #1 that ██████ approached MCINTOSH with the scheme. MCINTOSH stated that ██████ directed him: (i) to propose a focus group project for Humana at a certain price; and (ii) to kick back to ██████ a specified amount of MC Squared's proceeds. MCINTOSH told CS #1 that this took place approximately six years ago. MCINTOSH informed CS #1 that he continued providing similar kickback payments to ██████ for several years. Throughout this period, according to MCINTOSH, ██████ would distribute this money to LONGMEYER and others. MCINTOSH told CS #1 that this arrangement changed in approximately February 2014, when LONGMEYER and ██████ approached him at a focus group in Lexington, Kentucky, and told him to deal directly with LONGMEYER going forward. From that point, according to MCINTOSH, he and LONGMEYER arranged surreptitious meetings in different locations, including the parking lots

of a Kroger in Versailles, Kentucky, and a McDonalds in Midway, Kentucky. At these meetings, LONGMEYER presented MCINTOSH with further consulting opportunities and directed MCINTOSH to provide further kickbacks. According to MCINTOSH, LONGMEYER delivered these instructions in writing only, by showing MCINTOSH a paper listing: (i) the amount that MC Squared should charge the health insurance company; (ii) the amount that MCINTOSH should kick back to LONGMEYER; and (iii) the amount that MCINTOSH could keep. MCINTOSH informed CS #1 that LONGMEYER retrieved this paper at each meeting, after showing it to MCINTOSH.

20. To support the allegations that he has reported, CS #1 provided documents from MC Squared's files, to which CS #1 has access in the usual course of his business. I have reviewed these documents, which include: (i) a July 31, 2009 email from [REDACTED] to MCINTOSH [REDACTED], providing details about a prospective Humana consulting project and stating "when Humana calls they know nothing about me and you know nothing about what they will be offering you";<sup>6</sup> (ii) an August 2009 consulting agreement and schedule of services, signed by representatives of MC Squared and Humana; and (iii) numerous financial records reflecting certain of MC Squared's revenue from Humana. Based on my review of these records and my training and experience, I have concluded that they corroborate CS #1's allegations to the extent possible. More specifically, from these records, I have concluded that: (i) [REDACTED] indeed played an instrumental role in the process by which MC Squared was selected to consult with Humana; (ii) [REDACTED] then

<sup>6</sup> CS #1 explained that [REDACTED] is an email account that MCINTOSH established to send and receive emails related to the business of MC Squared. CS #1 also explained that MCINTOSH has provided the username and password for this email account to CS #1 and other MC Squared employees, and that MCINTOSH authorized (and in some cases directed) CS #1 to view emails to and from the account. Thus, as part of his duties for MC Squared, CS #1 accessed this account and viewed its contents on a regular basis.

sought to conceal his involvement in that transaction; (iii) MC Squared contracted to provide professional consulting services for Humana, which required focus groups to elicit discussion of state employees' "likes and dislikes of the current health plan" over a period of 1-2 hours, and "[a] full written report," including "key findings, detailed findings, and any implications/recommendations"; and (iv) MC Squared received well over \$1 million in revenue from Humana between August 2009 and late 2014, mostly in the form of ACH transfers to PNC Bank Account \*\*-\*\*\*\*-7641, a business checking account in the name of "MC Squared Consulting."<sup>7</sup>

21. The investigation determined that MCINTOSH deliberately restricted MC Squared's costs of consulting for Humana, in order to ensure that MC Squared's consulting fees far exceeded its costs so that this excess was available for MCINTOSH's kickback arrangement. Based on the information discussed immediately below, it often appeared that MCINTOSH'S cost restrictions substantially degraded the quality of MC Squared's work product. Thus, based on my training and experience and my knowledge of this investigation, including the facts set forth immediately below, I believe that MCINTOSH defrauded Humana with excessive fees and/or low quality work.

22. CS #1, who was involved in planning and conducting the focus groups and telephone surveys for approximately a year, provided examples of the methods used by MCINTOSH to cut costs. For instance, CS #1 reported that MC Squared repeatedly interviews

<sup>7</sup> CS #1 provided copies of the bank statements that were onsite at MC Squared's office. These statements do not necessarily provide a comprehensive list of the payments that MC Squared received from Humana or other health insurance companies. Bank records associated with several of the pertinent accounts have been obtained through federal legal process, and the FBI is conducting a detailed analysis of the revenue received by MC Squared as part of the scheme and the distribution of those proceeds, to the extent possible from the bank records. As stated above, the financial analysis so far has determined that MC Squared received \$2,008,663.00 from Humana between October 18, 2011 and December 23, 2014, and that MC Squared paid \$642,201.50 of these proceeds to [REDACTED] between October 2011 and March 2014.



ii. McIntosh's Conversion of the Humana Fraud Proceeds

25. The investigation also determined that after certain payments of consulting fees from Humana, MCINTOSH and HARROD converted these funds into cash through a series of financial transactions. Based on the information set forth immediately below, MCINTOSH and HARROD used a portion of this cash to repay third parties who wrote contribution checks to the campaigns of political candidates specified by LONGMEYER. MCINTOSH delivered these conduit contribution checks and cash kickbacks to LONGMEYER, as repayment for LONGMEYER's and [REDACTED] assistance in securing the consulting business for MC Squared. Thus, based on my training, experience, and my knowledge of this investigation, including the facts set forth immediately below, I believe that MCINTOSH and HARROD laundered money to provide illegal campaign contributions and kickbacks to LONGMEYER.

26. CS #1 provided the FBI with a copy of a two-page ledger maintained by MCINTOSH. According to CS #1, each page of the ledger related to the disposition of a payment from Humana to MC Squared. One page of the ledger contained a series of 17 entries associated with dates occurring on roughly a weekly basis between November 21, 2014 and February 27, 2015 and monetary amounts ranging from \$3,500.00 to \$10,500.00. CS #1 reported, based on statements by MCINTOSH, that the ledger reflected disposition of a payment from Humana to MC Squared and that LONGMEYER directed MCINTOSH to kick back \$90,000 of this payment.<sup>8</sup> The seventeen transaction entries on this page totaled \$90,000.00. CS #1 reported that the second page of this ledger related to disposition of a \$218,000.00 payment from Humana to MC Squared and that LONGMEYER directed MCINTOSH to kick back

---

<sup>8</sup> The FBI's preliminary analysis of MC Squared's bank records (mentioned in footnote 7 above) has confirmed that MC Squared received \$118,800.00 in a wire transfer from Humana on November 13, 2014.

\$100,000.00 of these funds.<sup>9</sup> The second page of MCINTOSH's ledger reflected a series of payments to LONGMEYER, including: (i) 17 entries of \$5,000.00 each, associated with dates occurring on roughly a weekly basis between February 27, 2015 and June 19, 2015; (ii) \$2,000.00 in entries bearing the name "Conway," associated with the date March 6, 2015; (iii) \$1,000.00 in entries bearing the name "Beshear," associated with the date March 12, 2015; and (iv) \$3,000.00 in entries bearing the name "Beshear," associated with the date May 29, 2015. The entries on this page thus totaled \$91,000.00 and reflected a balance of \$9,000.00 after the final entry. CS #1 explained the entries that did not contain candidates' names corresponded to cash payments given by MCINTOSH to LONGMEYER during their meetings. CS #1's basis for this understanding is his personal observation of MCINTOSH preparing envelopes containing thousands of dollars of cash, for delivery to LONGMEYER. CS #1 further explained that the entries associated with candidate names corresponded to conduit contribution checks provided by MCINTOSH to LONGMEYER. Based on this information, I believe that MCINTOSH delivered to LONGMEYER: (i) \$90,000.00 in cash to LONGMEYER between November 21, 2014 and February 27, 2015; and (ii) \$91,000.00 between February 27, 2015 and June 19, 2015, \$85,000.00 of which was in cash and \$6,000.00 of which was in checks written to political campaigns by conduit contributors.

27. According to CS #1, MCINTOSH and HARROD recruit and pay other individuals, including MC Squared employees, to write campaign contribution checks in their own names. CS #1 reported that MCINTOSH required him to make conduit contributions to the campaigns of [REDACTED], and that HARROD reimbursed him, in cash, for these contributions. CS #1 provided the FBI with his own bank records to corroborate this.

<sup>9</sup> The FBI's preliminary analysis of MC Squared's bank records has confirmed that MC Squared received \$217,800.00 in two separate wires from Humana on December 23, 2014.

In each instance, these bank records show that CS #1 made a cash deposit of \$1,000.00 and issued a check for \$1,000.00 to the campaign, within days of each other. Based on my training, experience, and knowledge of this investigation, I have concluded that these records corroborate CS #1's explanation of MCINTOSH's ledger and CS #1's allegation that MCINTOSH is using cash to obtain conduit contributions to the campaigns of certain candidates for state public office.

28. Additionally, CS #1's information was corroborated through an analysis of data from a publicly accessible state campaign finance database maintained by KREF. The data showed that: (i) two MC Squared employees made contributions of \$1,000.00 each to the campaign of Jack Conway, both dated March 6, 2015; and (ii) two MC Squared employees made contributions of \$1,000.00 each to the campaign of Andrew Beshear, both dated May 29, 2015. On September 21, 2015, MCINTOSH informed UC #1 that he requires all MC Squared employees to make contributions to political campaigns. MCINTOSH did not discuss specifics with UC #1, such as whether he reimbursed the MC Squared employees for these contributions. Nevertheless, MCINTOSH's admission to UC #1, coupled with the correlations between these reported campaign contributions and the entries on MCINTOSH's ledger, further corroborates CS #1's explanation of the ledger and CS #1's allegation that MCINTOSH obtains conduit contributions to the campaigns of certain candidates for state public office.

29. CS #1 covertly recorded a July 29, 2015 conversation within MC Squared's office, in which MCINTOSH discussed with CS #1 his cash payments to LONGMEYER. CS #1 provided that recording to the FBI. I have reviewed the recording, and I have concluded that it corroborates CS #1's explanation that MCINTOSH's 17 ledger entries of \$5,000.00 correspond to cash payments to LONGMEYER. In the recording, MCINTOSH stated: "I wish I hadn't given that last 5, because that was out of my pocket." Further in the discussion, MCINTOSH

clarified: "actually the last 25 was out of my pocket," and "I'm out about \$43,000, I think is what Myron told me." In response to a question from CS #1, MCINTOSH stated that he was "protecting the business" by "taking 5 grand a week out of my pocket."<sup>10</sup> CS #1 then asked whether MCINTOSH knew if LONGMEYER would "give us more work." MCINTOSH's response was: "I don't know but I think when the well runs dry, you get used to that water, you're going to come back for it."

30. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that MCINTOSH and HARROD converted at least \$181,000.00 in excessive consulting fees received from Humana into cash (\$175,000.00) and conduit campaign contributions (\$6,000.00), through a series of financial transactions. I also believe that the purpose of these transactions was to obtain cash for delivery to LONGMEYER and to comply with LONGMEYER's requests for contributions to the campaigns of certain state politicians. Finally, I believe that MCINTOSH viewed the delivery of cash and campaign contributions to LONGMEYER as a necessary exchange for LONGMEYER's assistance in steering Humana consulting projects to MC Squared. The warrants sought would authorize law enforcement to search for and seize evidence of these transactions, including financial records reflecting the disposition of proceeds from the Humana fraud, communications involving the recruitment and payment of conduit contributors, and communications involving MCINTOSH, LONGMEYER, and other members of the conspiracy reflecting the means and purposes of these transactions. The warrants sought would also authorize law enforcement to seize fruits and

---

<sup>10</sup> The investigation has determined that a former MC Squared employee embezzled at least \$217,000.00 from MCINTOSH's business, thus explaining why MCINTOSH paid LONGMEYER "out of [his] pocket" instead of using proceeds of the scheme.

instrumentalities of these crimes, including cash derived from these proceeds and property that MCINTOSH and HARROD used to conduct these transactions.

iii. Longmeyer's Receipt and Use of Cash to Fund Additional Conduit Campaign Contributions

31. The investigation has determined that, in addition to MCINTOSH (whose funding of conduit campaign contributions is discussed above), LONGMEYER and others used the proceeds of the Humana fraud to finance additional conduit contributions to political campaigns. The investigation has also determined that LONGMEYER and [REDACTED] were motivated by the prospect of personal financial gain, [REDACTED]

[REDACTED] The information upon which this conclusion is based includes the following.

32. Based on my training, experience, and knowledge of the investigation to date, I believe that LONGMEYER accepted at least \$175,000.00 in cash from MCINTOSH between approximately November 2014 and June 2015. I have concluded that LONGMEYER used at least some of this cash to fund additional conduit contributions.<sup>11</sup> In the preceding section, I discussed how entries on MCINTOSH's ledger, bearing the names "Beshear" and "Conway", corresponded to reported contributions by MC Squared employees to: (i) the campaign of Jack Conway, dated March 6, 2015; and (ii) to the campaign of Andrew Beshear, dated May 29, 2015. Other entries on MCINTOSH's ledger suggest that MCINTOSH delivered a \$5,000.00 payment of cash to LONGMEYER on March 6, 2015, and another \$5,000.00 payment of cash on May 28 or 29, 2015. Analysis of state campaign finance data revealed that [REDACTED]

[REDACTED] and that

<sup>11</sup> MCINTOSH has stated, during an in-office conversation covertly recorded by CS #1 on August 3, 2015, that he does not know what LONGMEYER does with the cash kickbacks and that [REDACTED] once instructed him that he "[s]houldn't care."

LONGMEYER made a contribution of \$1,000.00 to the campaign of Andrew Beshear on May 29, 2015. [REDACTED]

[REDACTED]

[REDACTED] Based on the parallels between these contributions and the entries on MCINTOSH's ledger (corresponding both to cash payments to LONGMEYER and the conduit campaign contributions of MC Squared employces), I believe it is likely that LONGMEYER funded these contributions with cash he received from MCINTOSH.

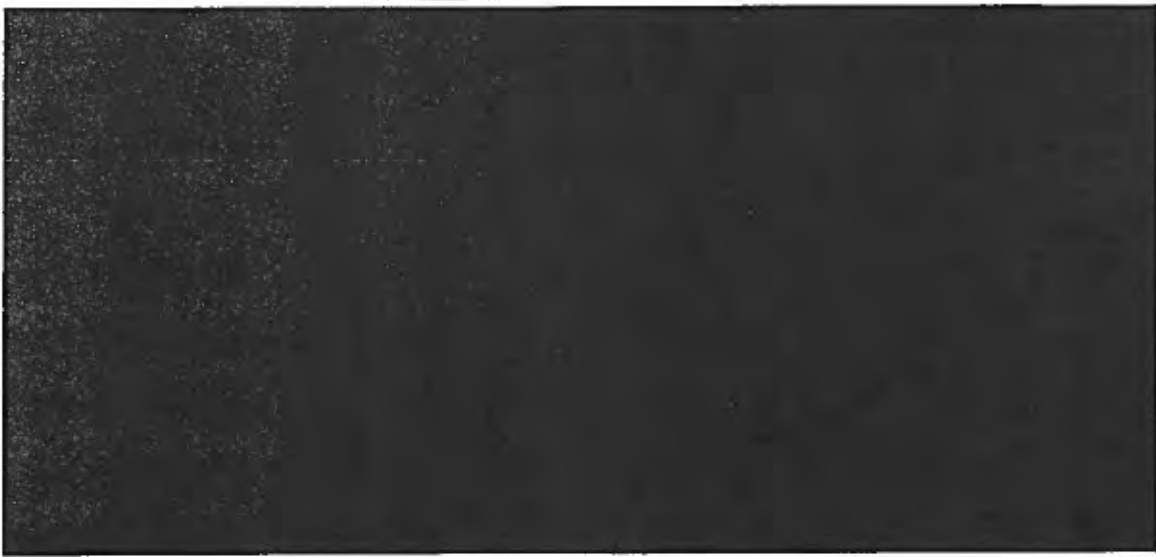
33. Based on my training, experience, and knowledge of the investigation to date, I also believe that [REDACTED] have used cash laundered through MC Squared to fund other conduit campaign contributions. An analysis of state campaign finance data has revealed that [REDACTED] each conducted transactions consistent with conduit campaign contribution activity. [REDACTED]

[REDACTED]

[REDACTED] Under

these circumstances, I believe that [REDACTED] were acting as conduit contributors.

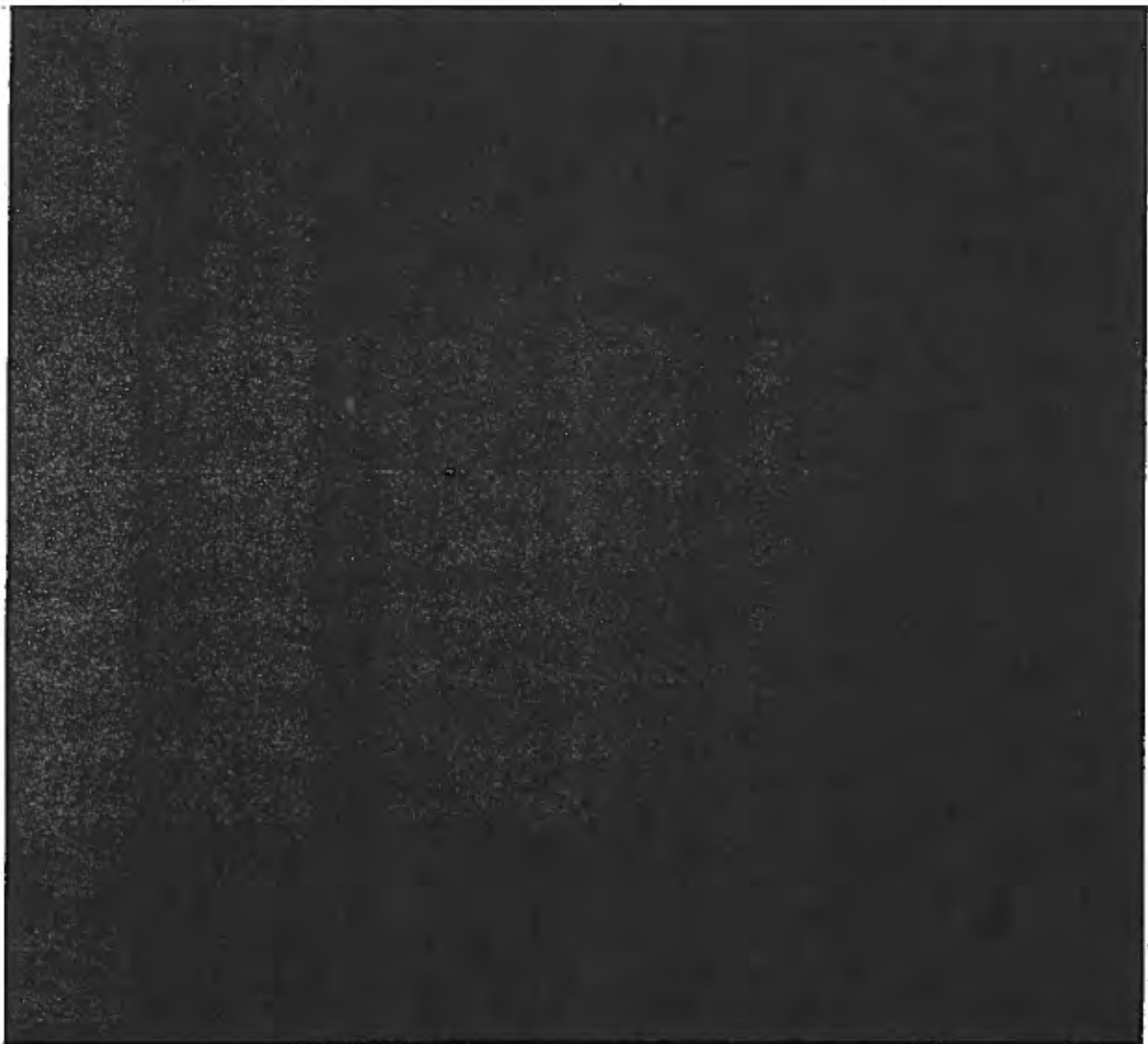
34. Based on information that I received from CS #3, I believe that LONGMEYER has compensated (and has agreed to continue compensating) [REDACTED] for serving as conduit contributors. [REDACTED]



[REDACTED] Based on my training, experience, and my knowledge of this investigation, I believe CS #3's information confirms that LONGMEYER has been funding the conduit contributions issued from [REDACTED]. Furthermore, I believe that LONGMEYER would have funded these conduit contributions by delivering to [REDACTED] the cash that he accepted from MCINTOSH as part of the overall kickback scheme.

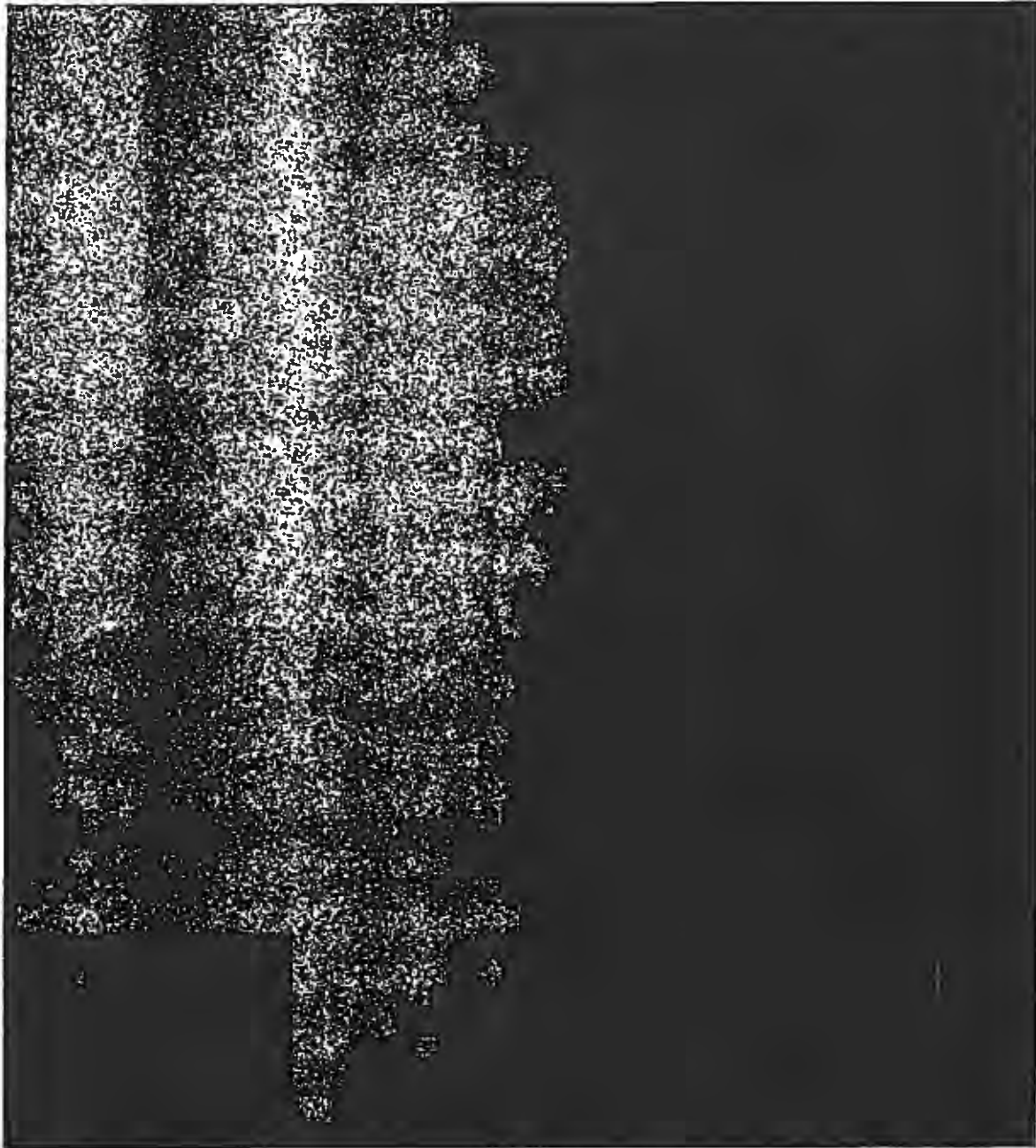
35. The investigation has also determined that LONGMEYER's [REDACTED] illegal efforts to fund conduit campaign contributions were motivated by the prospect of personal clout and financial gain. [REDACTED]





12





13



[REDACTED]

38. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that LONGMEYER accepted at least \$175,000.00 in cash from MCINTOSH between approximately November 2014 and June 2015, and that LONGMEYER used or planned to use at least some of this cash to finance additional campaign contributions from [REDACTED] and others. I also believe that LONGMEYER [REDACTED] participated in this illegal campaign financing scheme for personal clout and financial gain, including [REDACTED]

[REDACTED] The warrants sought would authorize law enforcement to search for and seize evidence of conduit contributions involving LONGMEYER, [REDACTED] and others, including communications involving the recruitment and payment of conduit contributors. The warrants sought would also authorize law enforcement to search for and seize evidence and proceeds of the co-conspirators' attempts to trade on the campaign contributions that they illegally funded, [REDACTED]

[REDACTED] The warrants sought would also authorize law enforcement to seize other fruits of these crimes, including cash in the possession, custody, or control of LONGMEYER or [REDACTED]

iv. **Fraud on Anthem and Use of the Proceeds for Additional Kickbacks and Conduit Campaign Contributions**

39. Shortly before LONGMEYER stepped down as the Secretary of the Personnel Cabinet last fall, he and other members of the conspiracy continued their scheme with a new

funding source. Based on information received from CS #1 and UC #1, I learned that LONGMEYER ██████ ensured that MC Squared would receive a consulting project from Anthem as part of the continuing kickback arrangement. I also learned that MCINTOSH defrauded Anthem by charging for a telephonic survey that cost MC Squared a fraction of its consulting fee, all the while anticipating that the overage would be used to pay kickbacks to LONGMEYER. Furthermore, I learned that MCINTOSH and HARROD laundered MC Squared's excessive consulting fees, converting these fraud proceeds to cash. During FBI surveillance, I observed MCINTOSH meeting with LONGMEYER on two occasions to deliver cash kickbacks. Finally, based on analysis of campaign finance data, I have probable cause to believe that LONGMEYER used at least some of this cash to fund additional conduit campaign contributions.

40. On September 10, 2015, while under FBI surveillance, LONGMEYER and MCINTOSH (each of whom was identified based on a visual comparison with his driver's license photograph) met for 15 minutes inside of LONGMEYER's car, in the parking lot of the McDonald's restaurant at 1007 Green Gable Drive, Midway, Kentucky. Afterward, MCINTOSH called CS #1 to discuss his meeting with LONGMEYER. CS #1 recorded part of this conversation and provided that recording to the FBI, and I have reviewed it. Relevant excerpts follow:

MCINTOSH: "We're gonna do a phone survey."

CS #1: "Okay."

MCINTOSH: "\$48,000. Pay— blood is— everything is paid off. They agreed with my numbers from earlier, which said I just owed them 4. [Inaudible.] But, 48, we in turn, give back 22.5."

CS #1: "That's good, Sam."

MCINTOSH: "And this is a project that needs to get done now. I've talked to [REDACTED] already. [REDACTED] sent me an email that I've gotta send the bid proposal in. Tim's already called me again. He called me about 3:15. I texted Tim back again. This has gotta be done the last week of Oct – of September, early October period, that's our – we've gotta get everything done now, paperwork. And this opens the door at Anthem for us, which we were having a hard time doing, but now it's wide open, because [REDACTED] opened it for us."

CS #1: "Sounds good."

MCINTOSH continued to summarize his meeting with LONGMEYER, including LONGMEYER's promise to compensate MCINTOSH for his former employee's embezzlement and a discussion of LONGMEYER ensuring that MC Squared would receive compensation to perform voter outreach for the Andrew Beshear campaign, both of which are discussed in the next section. Later in the same conversation, MCINTOSH discussed the anticipated costs for the Anthem consulting project:

MCINTOSH: "I mean, I'm sort of glad it's not focus groups. Focus groups cost us more money. After everything is said and done, on the location, we make about \$5,000 on location. Okay?"

CS #1: "Okay."

MCINTOSH: "But on the phone, on this project here, they take \$22.5 out of the \$48, that gives us, what, roughly \$25? Out of that \$25, all expenses, everything bagged, tagged, Dustin, you, and everything, \$4,000 dollars maximum."

CS #1: "So we've got so enough to cover salaries that we have now, until the end of the year."

MCINTOSH: "What did I tell you, yeah."

CS #1: "And rent and utilities and everything, we're covered."

MCINTOSH: [Inaudible.]

41. Based on my training, experience, and knowledge of the investigation, I have concluded that: (i) [REDACTED]

[REDACTED] (ii) LONGMEYER and MCINTOSH agreed that MC Squared would bill Anthem for \$48,000.00 and kick back \$22,500.00 to LONGMEYER; and (iii) MCINTOSH himself intended to retain the rest of the excess and use those proceeds to fund the continued operation of MC Squared. I also believe the statements about MC Squared's expenses for the survey are consistent with the conspirators' intent for MC Squared to deliver services that cost far less than its consulting fees charged to Anthem, thus creating excess for the kickback scheme.

42. According to information supplied by CS #1 and UC #1, a check from Anthem, in the amount of \$48,000.00, arrived at MC Squared's office via U.S. mail on September 29, 2015. CS #1 provided the FBI with a copy of this check, which was dated September 25, 2015. CS #1 and UC #1 each reported that after the receipt of this check, MCINTOSH stated his intent to pay a small sum to LONGMEYER immediately and then provide the remainder of the kickback in one large, additional payment. Soon after the arrival of the check, UC #1 observed HARROD depart with the check, to deposit it at the bank. Subsequent developments in the investigation confirmed that MCINTOSH delivered \$22,500.00 in cash to LONGMEYER in two separate meetings.

43. On October 2, 2015, MCINTOSH delivered \$5,000.00 in cash to LONGMEYER. This determination is based on the following facts. The day before this meeting, UC #1 observed MCINTOSH write several checks to HARROD and instruct HARROD to negotiate them for cash. On October 2, 2015, CS #1 observed HARROD arrive at the MC Squared office carrying two envelopes containing cash, which HARROD packaged in comic book bags and then packaged in white padded mailing envelopes. On the same date, MCINTOSH told CS #1 that he would give LONGMEYER \$5,000.00 on October 2, 2015 and \$17,500.00 on October 9, 2015.

On October 2, 2015, the FBI established surveillance on the McDonald's restaurant at 1007 Green Gable Drive, Midway, Kentucky. While under surveillance, MCINTOSH and LONGMEYER met inside of a vehicle being driven by LONGMEYER for approximately 15 minutes. Both individuals were identified based on visual comparisons with their driver's license photographs and positive cross-references between the license plate numbers of their vehicles and Kentucky motor vehicle registration records. My conclusion, based on my training and experience and my knowledge of this investigation, is that MCINTOSH delivered \$5,000.00 in cash to LONGMEYER during this meeting.

44. On October 9, 2015, MCINTOSH delivered \$17,500.00 in cash to LONGMEYER. This determination is based on the following facts. *First*, several days before this meeting, CS #1 reported observing MCINTOSH write four checks to HARROD, in the amounts of \$4,375.00, \$3,125.00, \$4,750.00, and \$5,250.00. Because these four checks added up to \$17,500.00—the kickback amount discussed by MCINTOSH on October 2, 2015—and based on my training, experience, and knowledge of the investigation, I have concluded that MCINTOSH issued these checks to HARROD so that HARROD could negotiate them for cash. *Second*, during an October 8, 2015 discussion with MCINTOSH, CS #1 observed MCINTOSH point to a brown cardboard box sitting in the office and state that the box contained \$17,500 in cash that he would deliver to LONGMEYER. CS #1 recorded this conversation, and I have reviewed the recording and verified MCINTOSH's statements. *Third*, on October 9, 2015, the FBI established surveillance on the same McDonald's restaurant and again observed MCINTOSH and LONGMEYER meeting in the vehicle being driven by LONGMEYER, based on visual identification of both individuals. During the surveillance, the FBI observed MCINTOSH enter LONGMEYER's vehicle with a brown cardboard box. Approximately eight

minutes later, MCINTOSH exited the vehicle without the brown cardboard box. *Fourth*, immediately after the October 9, 2015 meeting, MCINTOSH returned to the MC Squared office and discussed the meeting with CS #1. CS #1 recorded the conversation, and I have reviewed it. In the recording, MCINTOSH can be heard stating: "Yeah, everything's good; I'm paid off with Tim now." CS #1 later asked MCINTOSH about LONGMEYER's reaction to receiving "that big box." MCINTOSH replied: "I said, 'I've got a gift for you.' He said, 'oh, thanks.' [Laughter.] Yeah, I said, you know what, if I had [inaudible] going to pick up \$17,500, I would have been fucking as early as hell." Thus, my conclusion, based on my training and experience and my knowledge of this investigation, is that MCINTOSH delivered \$17,500.00 in cash to LONGMEYER during the October 9, 2015 meeting and that this payment satisfied the agreed-upon kickback from MC Squared's \$48,000.00 contract with Anthem.

45. Based on an analysis of campaign finance data maintained by KREF, my knowledge of this investigation, and my training and experience, I believe that LONGMEYER used at least some of the \$22,500.00 in cash received from MCINTOSH to fund additional conduit campaign contributions. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



47. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that the members of this conspiracy defrauded Anthem, laundered the proceeds of that fraud, exchanged kickbacks, and funded additional conduit campaign contributions through these activities. The warrants sought would authorize law enforcement to search for and seize evidence and fruits of these activities, including communications about the kickback agreement; communications reflecting the actions taken by LONGMEYER [REDACTED] to steer the consulting work to MC Squared; records of MC Squared's services, revenue, and costs; proceeds of the kickback and conduit contribution arrangements; records reflecting use and disposition of those proceeds; communications involving the recruitment and payment of conduit contributors; information reflecting the co-conspirators' motives, including their attempts to trade on the campaign contributions that they illegally funded; and communications about the destruction of evidence.

**B. NEW FUNDING FOR MC SQUARED'S OPERATIONS AND CONTINUATION OF THE SCHEME**

48. Based on the investigation, it appears that MCINTOSH and LONGMEYER anticipated continuing the scheme in the coming weeks or months. It also appears that, in the interim, MCINTOSH's continued operation of MC Squared has been funded, at least in part, with proceeds from consulting projects arranged by LONGMEYER [REDACTED]



i. Payments Arranged by Longmeyer

49. Based on my training, experience, and knowledge of the investigation, I believe that LONGMEYER promised to steer future consulting work to MCINTOSH in order to generate revenue for MCINTOSH, compensate MCINTOSH for losses incurred during the scheme, and create funding for future kickbacks and conduit campaign contributions. These conclusions are based upon the following facts, among others.

50. CS #1 reported that on September 10, 2015, he had a telephonic conversation with MCINTOSH, in which MCINTOSH summarized a meeting with LONGMEYER.<sup>14</sup> CS #1 covertly recorded his conversation with MCINTOSH and provided that recording to the FBI. In the recording, MCINTOSH recounted a discussion between LONGMEYER and himself, concerning the prospect of MC Squared being retained to perform "voter contact" for the Andrew Beshear campaign for a payment of approximately \$25,000.00 to \$40,000.00. MCINTOSH went on to state: "He and I met for about 15 minutes and hit a bunch of topics. I told him that it's about \$217,000; that's what [REDACTED] stole across 18 months. He made me a promise that he's gonna do everything he can to try to help us replace that across time." CS #1 and UC #1 have each explained MCINTOSH's reference to the theft by [REDACTED]. On September 29, 2014, MCINTOSH told UC #1 that this individual—a former MC Squared employee—had embezzled at least \$217,000.00 from the business. MCINTOSH also told UC #1 that he declined to press charges against the former employee because she knew too much about what MCINTOSH termed, "his work with politics." Separately, CS #1 informed me that MCINTOSH declined to pursue criminal charges or a civil action because the former employee knew of MCINTOSH's involvement in the kickback scheme. Thus, based on these facts, I have

---

<sup>14</sup> This meeting is referenced in Section A(iv) above.

concluded that LONGMEYER agreed to continue steering work to MC Squared to compensate MCINTOSH's losses, reward MCINTOSH's participation in the scheme and his silence regarding his former employee's theft, and induce MCINTOSH's continued participation in the scheme.

51. The investigation confirmed that LONGMEYER has since worked to ensure that MCINTOSH received additional proceeds from the scheme, in the form of a disguised payment from the Andrew Beshear campaign. CS #1 informed me that MCINTOSH performed telephonic voter outreach work for the Beshear campaign, that MCINTOSH was told to bill this work to [REDACTED], and that MCINTOSH's contact was an individual named [REDACTED]. Separately, from CS #2 I learned about communications between LONGMEYER and [REDACTED], in which [REDACTED] indicated he had received a bill from MC Squared for [REDACTED]. In these communications, according to CS #2, LONGMEYER directed [REDACTED] to repackage the MC Squared charges as a bill from [REDACTED] and to send the [REDACTED] bill for payment from the Beshear campaign. An analysis of campaign finance data maintained by KREF confirmed that the Beshear campaign reported a [REDACTED] expenditure to [REDACTED] on [REDACTED]. The same data confirmed that the Beshear campaign reported no expenditures to MC Squared, [REDACTED]. [REDACTED] Based on my training, experience, and knowledge of the investigation, I believe that with this transaction, MCINTOSH reaped additional proceeds from this scheme. My belief is based on: (i) the fact that MCINTOSH and LONGMEYER have laundered funds through this scheme to create conduit contributions to Andrew Beshear's campaign; and (ii) the fungibility of these conduit contributions with the campaign's other funds.

52. The investigation has also established that LONGMEYER promised to continue delivering work to MCINTOSH in 2016, both to repay MCINTOSH for his participation in the conspiracy and to fund new cash kickbacks and/or conduit contributions. UC #1 covertly recorded a conversation with MCINTOSH on January 5, 2016, in which MCINTOSH stated: "I have a friend who is going into the Attorney General's office." In the recording, MCINTOSH can be heard reading aloud a text message that he received from LONGMEYER on or about December 31, 2015, which stated: "Sam we need to talk about doing focus groups and polling [inaudible] the AG's office." These statements are in line with previous reports about the conspirators' intentions. For example, as early as June 18, 2015, CS #1 informed me that MCINTOSH had predicted that LONGMEYER would continue to steer work to MC Squared after taking a position within the Attorney General's office. And during a conversation that CS #1 covertly recorded on November 17, 2015, MCINTOSH stated: "Tim's already told me that, after the first of the year, we're going to be doing work." In response to CS #1's question about the nature of the anticipated work, MCINTOSH cited "jury studies."

53. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that LONGMEYER has continued and will continue to steer work to MC Squared after his resignation from the Kentucky Personnel Cabinet. I also believe that MCINTOSH has reaped additional proceeds from the scheme as a result of the efforts of LONGMEYER and [REDACTED]. The warrants sought would authorize law enforcement to search for and seize evidence of these efforts, including communications regarding LONGMEYER's promises of future work for MCINTOSH; invoices and financial records establishing that [REDACTED] used his business as a means to pass through proceeds; and records of MC Squared's services, revenue, and costs. The warrants

sought would also authorize law enforcement to seize fruits of this scheme, including MC Squared's and MCINTOSH's proceeds from the campaign work.

ii. Payments Arranged by [REDACTED]

54. Based on my training, experience, and knowledge of the investigation, I believe that in order to compensate MCINTOSH for his participation in the conspiracy, [REDACTED] orchestrated a consulting agreement between MC Squared and [REDACTED]. I also believe that MCINTOSH anticipates that MC Squared will continue to receive work from [REDACTED]. This conclusion is based upon the following facts, among others.

55. CS #1 reported that on October 13, 2015, MCINTOSH informed MC Squared employees about a new consulting project for [REDACTED]. CS #1 covertly recorded this discussion and provided that recording to the FBI. In the recording, MCINTOSH can be heard admonishing MC Squared employees: "Y'all don't need to write anything down." MCINTOSH then stated that he was instructed to contact [REDACTED] about conducting a series of focus groups [REDACTED]. MCINTOSH continued: "[REDACTED] said that we were going to need to take care of her. She's probably looking for about a \$3,000.00 payment herself. I don't care. A lot cheaper than Tim. A lot cheaper than Tim. But if that's the way we're going to have to do business, that's the way we're going to do business."<sup>15</sup> Separately, CS #1 obtained from MC Squared's files, and provided to the FBI, a copy of an email dated October 13, 2015, from the email address [REDACTED], to MCINTOSH. In the email, [REDACTED] sought to schedule a conference call with MCINTOSH

<sup>15</sup> In this same discussion, MCINTOSH stated: "[REDACTED] is not dealing with Tim anymore," and "[REDACTED] said, 'I retired.'" Despite this, CS #2 and CS #3 have each reported numerous communications between LONGMEYER and [REDACTED] postdating October 13, 2015 and about the conspiracy.

about a focus group regarding [REDACTED]

56. According to UC #1, MC Squared received a payment of \$10,400.00 from [REDACTED] on or about December 30, 2015. MCINTOSH then made arrangements to deliver a kickback to [REDACTED] through the U.S. mail. UC #1 reported that HARROD secured two money orders, at MCINTOSH's direction, each dated January 5, 2016, and in the total amount of \$1,250.00. MCINTOSH told UC #1 that the money orders were blank so that they could not be traced, but that the payments constituted a "finders' fee" for [REDACTED]. MCINTOSH also told UC #1 that he planned to mail them to [REDACTED] at [REDACTED] and tell [REDACTED] to check this mailbox. CS #1 and UC #1 obtained copies of the money orders and the mailing envelope and provided them to me.

57. On January 12, 2016, CS #1 reported that MCINTOSH stated his expectation that MC Squared would continue to receive work from [REDACTED] in the future, and that MCINTOSH would continue to pay kickbacks to [REDACTED] for the receipt of this work. According to CS #3, on approximately January 21, 2016, [REDACTED] directed [REDACTED] to find more work from MCINTOSH, after he confirmed that [REDACTED] received her kickback from MCINTOSH. Based on this information, I have concluded that [REDACTED] MCINTOSH, and [REDACTED] contemplate that this arrangement will result in additional proceeds and kickbacks being routed through MC Squared. From CS #4, I learned that MCINTOSH spent virtually all of his proceeds from this initial [REDACTED] project on MC Squared's payroll and expenses. Based on MCINTOSH's past uses of the consulting fees that he received through kickback arrangements with LONGMEYER and [REDACTED], however, I have probable cause to believe

that MCINTOSH intends to use his proceeds from future [REDACTED] projects to fund additional kickbacks and conduit campaign contributions.

58. Thus, based on my training, experience, and knowledge of this investigation, including the foregoing information, I believe that [REDACTED] continues to ensure that MCINTOSH receives consulting projects through illegal kickback arrangements, and that MCINTOSH specifically paid a kickback to [REDACTED] for delivering one such project. The warrants sought would authorize law enforcement to search for and seize evidence of these arrangements, including communications involving [REDACTED], MCINTOSH, and/or [REDACTED] about the facilitation of kickback agreements; records of MC Squared's services, revenue, and costs; and communications about the disposition of proceeds from the kickback agreements. The warrants sought would also authorize law enforcement to seize fruits of this scheme, including MC Squared's and MCINTOSH's proceeds from the [REDACTED] contracts.

**C. MCINTOSH'S MARIJUANA TRAFFICKING.**

59. Early in the investigation, CS #1 informed the FBI that MCINTOSH often receives marijuana from a supplier in California. Based on the circumstances reported, it was unclear at the time whether MCINTOSH received marijuana for personal use or whether he was engaged in resale of the marijuana for his own profit. Recent information from CS #4 has confirmed that MCINTOSH and HARROD are receiving marijuana from the California-based supplier and are distributing it in Kentucky.

60. According to CS #4, on approximately January 11, 2016, MCINTOSH communicated with an unidentified male [hereinafter referenced as "UM #2"], who asked MCINTOSH to "hit me with Myron's addy again." MCINTOSH provided the following information, among other things: "His addy is Myron Harrod [REDACTED]"

██████████. Shortly after this exchange, according to CS #4, MCINTOSH contacted an associate identified as ██████████ and stated that he had received a request from "California" to confirm HARROD's address. The two then discussed a shipment from California and the potential to turn the shipment into money. Then, from CS #4, I learned that MCINTOSH contacted ██████████ again on approximately January 16, 2016, and told ██████████ to bring scales with him for a meeting with MCINTOSH. On approximately January 19, 2016, according to CS #4, ██████████ contacted MCINTOSH to inform him of ██████████ progress in selling the product received from California. Among other things during this January 19, 2016 communication, ██████████ told MCINTOSH: "Ain't nobody buyin a fuckin, even a joint." Based on these communications and my training and experience, I believe that UM #2 is MCINTOSH's marijuana supplier, that HARROD received a shipment of marijuana from UM #2 on MCINTOSH's behalf, and that MCINTOSH and ██████████ are attempting to resell this marijuana in Kentucky.

61. I also learned from CS #4 that MCINTOSH communicated with HARROD on approximately January 27, 2016 and informed him, among other things, that "[t]he cost went down in California." Among other things during this communication, MCINTOSH told HARROD: "You know what I told you I could do out of twenty-nine hundred, I could turn it into forty-four." In response to HARROD's statement that "well, anything you know I can do," MCINTOSH replied: "Well, hell, keep getting me free samples because that helps out a lot." Based on this communication, MCINTOSH's previous communications with UM#2 and ██████████, and my training and experience, I believe that HARROD is complicit in MCINTOSH's drug trafficking activities.

62. On February 25, 2016, CS#1 informed me that in the past, when MCINTOSH has believed that he may be in trouble, he has taken money, narcotics, and items that he considers to be valuable to HARROD's residence. HARROD then keeps these items until MCINTOSH desires to retrieve them. CS #1 reported that he learned this information from MCINTOSH.

**D. THE PREMISES AND PROPERTY TO BE SEARCHED.**

63. Through the investigation, including a review of information supplied by CS #1 and UC #1, I have confirmed that MC Squared's principal place of business is at 141 Prosperous Place, Suite 23A, Lexington, KY 40509.

64. Through the investigation, which included a check of Kentucky motor vehicle registration records and driver's license records, I have confirmed that MCINTOSH's residence is [REDACTED]. The FBI reconfirmed this information on February 25, 2016 and March 18, 2016, through a search of the Accurint law enforcement database.

65. Through the investigation, which included a check of Kentucky motor vehicle registration records and driver's license records, I have confirmed that HARROD's residence is [REDACTED]. The FBI reconfirmed this information on February 25, 2016 and March 18, 2016, through a search of the Accurint law enforcement database.

66. The FBI obtained subscriber information and historical call history records from Verizon, via federal legal process, for the MCINTOSH Phone [REDACTED]. According to the records produced by Verizon in response, the MCINTOSH Phone is registered to Sam C. MCINTOSH, [REDACTED]. Furthermore, CS #1 and CS #4 each confirmed that MCINTOSH is the user of this telephone number. Additionally, on September 21, 2015, January 5, 2016, and February 9, 2016, the United States District Court for the Eastern

District of Kentucky issued Orders authorizing the use of pen-trap devices on the MCINTOSH Phone, for 60 days each. The FBI conducted a preliminary examination of the call history records for records of communications among the known members of this conspiracy, during the period September 21, 2015 through February 17, 2016. That examination has shown that the MCINTOSH Phone has been used to communicate with various members of the conspiracy, including the following:

- (a) Seven voice calls and 182 text messages exchanged with a telephone using the number [REDACTED] which CS #1 and CS #2 each confirmed is a telephone used by LONGMEYER;
- (b) Three voice calls and twenty text messages exchanged with a telephone using the number [REDACTED] which CS #1, CS #2, and CS #3 each confirmed is a telephone used by [REDACTED];
- (c) Five voice calls and twenty-five text messages exchanged with a telephone using the number [REDACTED], which CS #1, CS #3, and CS #4 each confirmed is a telephone used by [REDACTED];
- (d) Seventeen voice calls and thirty-eight text messages exchanged with the telephone using the number [REDACTED] which CS #1 and CS #4 each confirmed is a telephone used by HARROD.

67. The FBI obtained subscriber information and historical call history records from T-Mobile, via federal legal process, for the HARROD Phone [REDACTED]. According to the records produced by T-Mobile in response, the HARROD Phone is registered to MYRON D. HARROD, [REDACTED]. Furthermore, CS #1 and CS #4 each confirmed that HARROD is the user of this telephone number. Additionally, on September

21, 2015, January 5, 2016, and February 9, 2016, the United States District Court for the Eastern District of Kentucky issued Orders authorizing the use of pen-trap devices on the MCINTOSH Phone, for 60 days each. The FBI conducted a preliminary examination of the call history records for records of communications among the known members of this conspiracy, during the period September 21, 2015 through February 17, 2016. That examination has shown that the HARROD Phone has been used to communicate with MCINTOSH, including seventeen voice calls and thirty-eight text messages exchanged with the MCINTOSH Phone.

**E. COMPUTERS, ELECTRONIC STORAGE, AND FORENSIC ANALYSIS**

68. As described above, the applications submitted herewith seek permission to search for records that might be found at the premises of MC Squared or at premises or on the persons of MCINTOSH and HARROD, in whatever form they are found. One form in which the records might be found is data stored on a computer's hard drive, an electronic storage device (such as the MCINTOSH Phone or the HARROD Phone), or other electronic storage media. Thus, the warrant applied for would authorize the seizure of electronic storage media or, potentially, the copying of electronically stored information, all under Rule 41(e)(2)(B).

69. *Probable cause.* I submit that if a computer, electronic storage device, or other electronic storage medium is found at any of the premises or on the persons of MCINTOSH or HARROD, there is probable cause to believe those records will be stored on that storage medium, for at least the following reasons:

- (a) Based on my knowledge, training, and experience, I know that computer files or remnants of such files can be recovered months or even years after they have been downloaded onto a storage medium, deleted, or viewed via the Internet. Electronic files downloaded to a storage medium can be stored for years at little

or no cost. Even when files have been deleted, they can be recovered months or years later using forensic tools. This is so because when a person "deletes" a file on a computer, the data contained in the file does not actually disappear; rather, that data remains on the storage medium until it is overwritten by new data.

- (b) Therefore, deleted files, or remnants of deleted files, may reside in free space or slack space—that is, in space on the storage medium that is not currently being used by an active file—for long periods of time before they are overwritten. In addition, a computer's operating system may also keep a record of deleted data in a "swap" or "recovery" file.
- (c) Wholly apart from user-generated files, computer storage media—in particular, computers' internal hard drives—contain electronic evidence of how a computer has been used, what it has been used for, and who has used it. To give a few examples, this forensic evidence can take the form of operating system configurations, artifacts from operating system or application operation, file system data structures, and virtual memory "swap" or paging files. Computer users typically do not erase or delete this evidence, because special software is typically required for that task. However, it is technically possible to delete this information.
- (d) Similarly, files that have been viewed via the Internet are sometimes automatically downloaded into a temporary Internet directory or "cache."
- (e) Based on actual inspection of other evidence related to this investigation, including text messages and emails sent by and to MCINTOSH, I am aware that computer equipment and electronic devices were used to generate, store, and print

documents used in the criminal activity described above. There is reason to believe that computer systems and electronic devices will be on the premises and within the possession, custody, or control of MCINTOSH or HARROD.

70. *Forensic evidence.* The applications submitted herewith seek permission to locate not only computer files that might serve as direct evidence of the crimes described on the warrant, but also for forensic electronic evidence that establishes how computers were used, the purpose of their use, who used them, and when. There is probable cause to believe that this forensic electronic evidence will be on any storage medium at either premises or on the person of MCINTOSH or HARROD:

- (a) Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file). Virtual memory paging systems can leave traces of information on the storage medium that show what tasks and processes were recently active. Web browsers, e-mail programs, and chat programs store configuration information on the storage medium that can reveal information such as online nicknames and passwords. Operating systems can record additional information, such as the attachment of peripherals, the attachment of USB flash storage devices or other external storage media, and the times the computer was in use. Computer file systems can record information about the dates files were created and the sequence in which they were created, although this information can later be falsified.

(b) As explained herein, information stored within a computer and other electronic storage media may provide crucial evidence of the “who, what, why, when, where, and how” of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, information stored within a computer or storage media (e.g., registry information, communications, images and movies, transactional information, records of session times and durations, internet history, and anti-virus, spyware, and malware detection programs) can indicate who has used or controlled the computer or storage media. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence. The existence or absence of anti-virus, spyware, and malware detection programs may indicate whether the computer was remotely accessed, thus inculcating or exculpating the computer owner. Further, computer and storage media activity can indicate how and when the computer or storage media was accessed or used. For example, as described herein, computers typically contain information that log: computer user account session times and durations, computer activity associated with user accounts, electronic storage media that connected with the computer, and the IP addresses through which the computer accessed networks and the internet. Such information allows investigators to understand the chronological context of computer or electronic storage media access, use, and events relating to the crime under investigation. Additionally, some information stored within a computer or electronic storage media may provide crucial

evidence relating to the physical location of other evidence and the suspect. For example, images stored on a computer may both show a particular location and have geolocation information incorporated into its file data. Such file data typically also contains information indicating when the file or image was created. The existence of such image files, along with external device connection logs, may also indicate the presence of additional electronic storage media (e.g., a digital camera or cellular phone with an incorporated camera). The geographic and timeline information described herein may either inculcate or exculpate the computer user. Last, information stored within a computer may provide relevant insight into the computer user's state of mind as it relates to the offense under investigation. For example, information within the computer may indicate the owner's motive and intent to commit a crime (e.g., Internet searches indicating criminal planning), or consciousness of guilt (e.g., running a "wiping" program to destroy evidence on the computer or password protecting/encrypting such evidence in an effort to conceal it from law enforcement).

- (c) A person with appropriate familiarity with how a computer works can, after examining this forensic evidence in its proper context, draw conclusions about how computers were used, the purpose of their use, who used them, and when.
- (d) The process of identifying the exact files, blocks, registry entries, logs, or other forms of forensic evidence on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. While it is possible to specify in advance the records to be sought, computer evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether

data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

- (e) Further, in finding evidence of how a computer was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium. For example, the presence or absence of counter-forensic programs or anti-virus programs (and associated data) may be relevant to establishing the user's intent.

71. *Necessity of seizing or copying entire computers or storage media.* In most cases, a thorough search of a premises for information that might be stored on storage media often requires the seizure of the physical storage media and later off-site review consistent with the warrant. In lieu of removing storage media from the premises, it is sometimes possible to make an image copy of storage media. Generally speaking, imaging is the taking of a complete electronic picture of the computer's data, including all hidden sectors and deleted files. Either seizure or imaging is often necessary to ensure the accuracy and completeness of data recorded on the storage media, and to prevent the loss of the data either from accidental or intentional destruction. This is true because of the following:

- (a) The time required for an examination. As noted above, not all evidence takes the form of documents and files that can be easily viewed on site. Analyzing evidence of how a computer has been used, what it has been used for, and who has used it requires considerable time, and taking that much time on premises could be unreasonable. As explained above, because the warrant calls for forensic

electronic evidence, it is exceedingly likely that it will be necessary to thoroughly examine storage media to obtain evidence. Storage media can store a large volume of information. Reviewing that information for things described in the warrant can take weeks or months, depending on the volume of data stored, and would be impractical and invasive to attempt on-site.

- (b) **Technical requirements.** Computers can be configured in several different ways, featuring a variety of different operating systems, application software, and configurations. Therefore, searching them sometimes requires tools or knowledge that might not be present on the search site. The vast array of computer hardware and software available makes it difficult to know before a search what tools or knowledge will be required to analyze the system and its data on the Premises. However, taking the storage media off-site and reviewing it in a controlled environment will allow its examination with the proper tools and knowledge.
- (c) **Variety of forms of electronic media.** Records sought under this warrant could be stored in a variety of storage media formats that may require off-site reviewing with specialized forensic tools.

72. *Nature of examination.* Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit seizing, imaging, or otherwise copying storage media that reasonably appear to contain some or all of the evidence described in the warrant, and would authorize a later review of the media or information consistent with the warrant. The later review may require techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of a hard drive to human inspection in order to determine whether it is evidence described by the warrant.

73. The warrant sought would only authorize search and seizure of storage media that are at the MC Squared premises or are within the possession, custody, or control of MCINTOSH or HARROD. It is possible that any of the premises to be searched will contain storage media that are predominantly used, and perhaps owned, by persons who are not suspected of a crime. If it is nonetheless determined that that it is possible that the things described in this warrant could be found on any of those computers or storage media, the warrant applied for would permit the seizure and review of those items as well.

74. MC Squared is a functioning company that conducts legitimate business. The seizure of its computers may limit its ability to conduct this legitimate business. As with any search warrant, I expect that this warrant will be executed reasonably. Reasonable execution will likely involve conducting an investigation on the scene of what computers, or storage media, must be seized or copied, and what computers or storage media need not be seized or copied. Where appropriate, officers will copy data, rather than physically seize computers, to reduce the extent of disruption. If employees of the company so request, the agents will, to the extent practicable, attempt to provide the employees with copies of data that may be necessary or important to the continuing function of the company's legitimate business. If, after inspecting the computers, it is determined that some or all of this equipment is no longer necessary to retrieve and preserve the evidence, the government will return it.

#### CONCLUSION

75. Based upon all of the information set forth herein, I respectfully submit that this Affidavit contains probable cause to believe that TIMOTHY LONGMEYER, [REDACTED], [REDACTED], SAMUEL MCINTOSH, [REDACTED], MYRON HARROD, [REDACTED], [REDACTED], and others have committed violations of 18 U.S.C. §§ 371, 666,

1341, 1343, 1349, 1951, 1956(A)(i), 1956(B)(i), 1956(h), 1957, and 1962(c)-(d) (punishable under 18 U.S.C. § 1963).

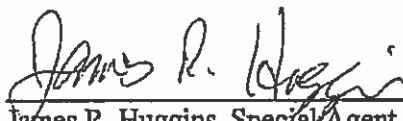
76. Furthermore, I respectfully submit that this Affidavit contains probable cause to believe that SAMUEL MCINTOSH, MYRON HARROD, and others have committed violations of 21 U.S.C. §§ 841(a)(1) and 844(a); and 18 U.S.C. § 371.

77. Based on the above information, I also have probable cause to believe that evidence, fruits, and instrumentalities of the aforementioned criminal activities will be found on the following persons and property:

- (a) The premises at 141 Prosperous Place, Suite 23A, Lexington, KY 40509, which is known as the office of MC Squared Consulting, LLC;
- (b) The premises at [REDACTED] which is known as the residence of SAMUEL MCINTOSH;
- (c) SAMUEL MCINTOSH (date of birth: [REDACTED] Social Security Number: [REDACTED]);
- (d) The MCINTOSH Phone (which is responsive to telephone number [REDACTED]);
- (e) The premises at [REDACTED] which is known as the residence of MYRON HARROD;
- (f) The person of MYRON HARROD (date of birth: [REDACTED] Social Security Number: [REDACTED]); and
- (g) The HARROD Phone (which is responsive to telephone number [REDACTED]).

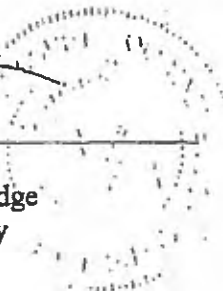
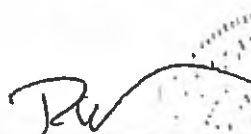
### SEALING REQUEST

78. I respectfully request that this Affidavit and the applications and search warrants be sealed until the execution of the search warrants. Disclosure of the Affidavit at this time could seriously jeopardize the safety and integrity of the confidential sources listed herein. Disclosure of the Affidavit at this time would also seriously jeopardize the ongoing investigation, as the targets would not otherwise be aware of the scope of this warrant or that their activities are currently the subject of an ongoing federal investigation. Disclosure at this time would provide the targets with the opportunity to destroy evidence, change patterns of behavior, notify co-conspirators, or flee. Furthermore, the investigation in this matter is continuing, and disclosing the Affidavit's contents prior to execution will likely preclude or impede the agents and investigators working on this matter from investigating new criminal activity or leads.



James R. Huggins, Special Agent  
Federal Bureau of Investigation

SWORN and SUBSCRIBED to before me on this 24 day of April 2016.



Hon. Robert E. Wier  
United States Magistrate Judge  
Eastern District of Kentucky

# **EXHIBIT D**

**Initiating Order, Initiation of  
Administrative Proceeding and Formal  
Complaint; Settlement Agreement;  
and Agreed Final Order in  
*In Re: Timothy Longmeyer Alleged  
Violation of KRS Chapter 11A***

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE 16-008**

**IN RE: TIMOTHY LONGMEYER  
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER  
Initiation of Administrative Proceeding  
And Formal Complaint**

The Executive Branch Ethics Commission (the "Commission"), upon its own motion, initiated a preliminary investigation of Timothy Longmeyer (the "Respondent"), pursuant to KRS 11A.080(1), on April 19, 2016.

At all relevant times, the Respondent was a "public servant" as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether there was probable cause to believe the Respondent violated provisions of KRS Chapter 11A (also referred to herein as the "Ethics Code").

The Commission focused its investigation upon whether the Respondent violated the Ethic's Code by using or attempting to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest; using or attempting to use any means to influence a public agency in derogation of the state at large; using his official position or office to obtain financial gain for himself or any members of the public servant's family; using or attempting to use his official position to secure or create privileges, exemptions, advantages or treatment for himself or others in derogation of the public interest at large; failing to avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest; failing to abstain from action on an official decision in which he had a conflict of

interest; disclosing or using confidential information acquired in the course of his official duties to further his own economic interests; knowingly receiving an interest or profit arising from the use or loan of public funds; knowingly accepting compensation other than that provided by law for public servants for performance of his official duties; accepting gift(s) in violation of the ethics code; and failing to comply with the financial disclosure requirement of the ethics code.

The Commission notified the Respondent of the preliminary investigation by letter dated April 27, 2016. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on November 14, 2016, to initiate an administrative proceeding, pursuant to KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the Allegations of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

**IT IS THEREFORE ORDERED** that:

1. This Initiating Order and Appendix shall be served on the Respondent pursuant to KRS 13B.050(2) by certified mail, return receipt requested, to the last known address of the Respondent.

2. The Respondent shall file his answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.

3. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that he committed the Ethics Code violations set forth in the Allegation of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

4. Pursuant to KRS 13B.030(2)(b), the Commission will request the designation of a Hearing Officer by the Administrative Hearings Branch of the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.

5. If the Attorney General's Office cannot provide the requested hearing officer, the Commission will, pursuant to KRS 13B.030(2)(a), employ a hearing officer, contract with another agency for a hearing officer in conjunction with KRS 11A.070, or contract with a private attorney through a personal services contract. The Commission will notify the Respondent or his retained counsel of the designation of a Hearing Officer as soon as possible after the appointment.

6. The Commission is represented by Misty Dugger Judy, General Counsel, and Kathryn H. Gabhart, Executive Director and co-Counsel. They may be contacted through the Commission's office at (502) 564-7954.

7. All original material shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601, Attention: Debbie Briscoe. A copy of all materials shall be served on the designated Hearing Officer and the Commission's counsels.

8. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.

9. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence that will be used at the hearing and any exculpatory information in the Commission's possession.

10. The Respondent has the right to subpoena witnesses on his own behalf. If the Respondent subpoenas witnesses, he shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.

11. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to

KRS 13B.050(3)(h).

12. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.


13. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

SO ORDERED, this 14th day of November 2016.


**EXECUTIVE BRANCH ETHICS COMMISSION:**

  
\_\_\_\_\_  
W. David Denton, Chair

  
\_\_\_\_\_  
William G. Francis, Vice-Chair

  
\_\_\_\_\_  
Sheila R. Isaac, Member

  
\_\_\_\_\_  
Christopher L. Thacker, Member

  
\_\_\_\_\_  
Theresa Fritz Camoriano, Member

**APPENDIX A  
CASE NO. 16-008  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Timothy Longmeyer, was at all relevant times an employee of the Commonwealth of Kentucky, serving as the Secretary of the Personnel Cabinet, (also referred to herein as "Cabinet"). As such, the Respondent was subject to the jurisdiction of the Commission. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Timothy Longmeyer (referred to herein as "Longmeyer"), committed the following violations:

**COUNTS I - XLI**

Longmeyer, during the course of his employment as Secretary of the Personnel Cabinet, used or attempted to use his influence in a matter which involved a substantial conflict between his personal or private interest and his duties in the public interest; used or attempted to use any means to influence a public agency in derogation of the public interest at large; used his official position or office to obtain financial gain for himself; used or attempted to use his official position to secure or create privileges for himself or others in derogation of the state at large; failed to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest; failed to abstain from action on an official decision in which he had a personal or private interest; disclosed or used confidential information acquired in the course of his official duties, received an interest or profit arising from the use or loan of public funds; accepted compensation other

than that provided by law for public servants for performance of his official duties; and accepted gifts in violation of the ethics code.

Specifically, during the course of his employment as Secretary of the Personnel Cabinet, and while responsible for the administration and oversight of the Kentucky Employees Health Plan, Longmeyer used his position to secure cash and other benefits through a kickback scheme. Longmeyer influenced Humana and Anthem to employ the services of a private consultant, (hereinafter "Consultant"), who in turn agreed to funnel certain payments to Longmeyer from the compensation received for his services. In most instances, the Consultant provided cash directly to Longmeyer. In other instances, Longmeyer directed the Consultant to use the cash to fund illegal conduit contributions to certain political campaigns.

Between November 21, 2014 and October 9, 2015, Longmeyer accepted 41 payments from the Consultant in exchange for ensuring that Humana and Anthem retained the Consultant's services and then ensured that Humana and Anthem received compensation, from state funds, for their payments to the Consultant. Each payment listed below represents a separate count within this Initiating Order in which Longmeyer received kickback payments from the Consultant:

Count	Approximate Date	Amount	Form
1	11/21/2014	\$ 7,000.00	Cash
2	11/28/2014	\$ 3,500.00	Cash
3	12/5/2014	\$ 3,500.00	Cash
4	12/8/2014	\$ 3,500.00	Cash
5	12/18/2014	\$ 3,500.00	Cash
6	12/18/2014	\$ 10,500.00	Cash
7	12/19/2014	\$ 10,500.00	Cash
8	12/24/2014	\$ 3,500.00	Cash
9	1/4/2015	\$ 3,500.00	Cash
10	1/8/2015	\$ 3,500.00	Cash
11	1/16/2015	\$ 3,500.00	Cash
12	1/21/2015	\$ 3,500.00	Cash
13	1/26/2015	\$ 3,500.00	Cash
14	2/6/2015	\$ 3,500.00	Cash

15	2/13/2015	\$ 3,500.00	Cash
16	2/20/2015	\$ 14,000.00	Cash
17	2/27/2015	\$ 6,000.00	Cash
19	2/27/2015	\$ 5,000.00	Cash
20	3/6/2015	\$ 5,000.00	Cash
21	3/6/2015	\$ 2,000.00	Conduit Campaign Contribution
22	3/12/2015	\$ 5,000.00	Cash
23	3/12/2015	\$ 1,000.00	Conduit Campaign Contribution
24	3/18/2015	\$ 5,000.00	Cash
25	3/26/2015	\$ 5,000.00	Cash
26	4/2/2015	\$ 5,000.00	Cash
27	4/17/2015	\$ 5,000.00	Cash
28	4/17/2015	\$ 5,000.00	Cash
29	4/24/2015	\$ 5,000.00	Cash
30	4/30/2015	\$ 5,000.00	Cash
31	5/5/2015	\$ 5,000.00	Cash
32	5/18/2015	\$ 5,000.00	Cash
33	5/24/2015	\$ 5,000.00	Cash
34	5/28/2015	\$ 3,000.00	Conduit Campaign Contribution
35	5/28/2015	\$ 5,000.00	Cash
36	6/8/2015	\$ 5,000.00	Cash
37	6/12/2015	\$ 5,000.00	Cash
38	6/19/2015	\$ 5,000.00	Cash
40	10/2/2015	\$ 5,000.00	Cash
41	10/9/2015	\$ 17,500.00	Cash

These facts constitute violations of KRS 11A.020(1)(a), (b), (c) and (d); KRS 11A.020(2); KRS 11A.020(3); KRS 11A.030; KRS 11A.040(1), (2) and (5); and KRS 11A.045(1).

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

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
  - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

- (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.020(2) provides:

- (2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

KRS 11A.020(3) provides:

- (3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

KRS 11A.030 provides:

In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following guidelines:

- (1) Whether a substantial threat to his independence of judgment has been created by his personal or private interest;
- (2) The effect of his participation on public confidence in the integrity of the executive branch;
- (3) Whether his participation is likely to have any significant effect on the disposition of the matter;
- (4) The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or
- (5) Whether the official decision will affect him in a manner differently from the public or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group. A public servant may request an advisory opinion from the Executive Branch Ethics Commission in accordance with the commission's rules of procedure.

KRS 11A.040(1), (2) and (5) provides:

- (1) A public servant, in order to further his own economic

interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

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

\*\*\*

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

\*\*\*

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

\*\*\*

## COUNT XLII

Longmeyer, during the course of his employment as Secretary of the Personnel Cabinet, failed to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest; and failed to properly file a Statement of Financial Disclosure with the Executive Branch Ethics Commission for the 2014 calendar year.

Specifically, during the course of his employment as Secretary of the Personnel Cabinet,

Longmeyer failed to file a timely and complete Statement of Financial Disclosure within the time period required by statute for the 2014 calendar year. In particular, Longmeyer failed to disclose the name and address of any source of gross income exceeding \$1000 from any one source, failed to disclose the source of retainers received by him relating to matters of the Cabinet, failed to disclose any representation or intervention for compensation by him for any person or business before the Cabinet, and failed to disclose sources of gifts of money or property with a retail value exceeding \$200 from sources other than his family.

These facts constitute a violation of KRS 11A.020(2) and KRS 11A.050(3)(f), (g), (h), and (k).

KRS 11A.020(2) provides:

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

KRS 11A.050(3)(f), (g), (h), and (k) provides:

(3) The statement shall include the following information for the preceding calendar year:

(f) The name and address of any source of gross income exceeding one thousand dollars (\$1000) from any one (1) source to the filer, his spouse, or dependent child, as well as information concerning the nature of the business, and the form of the income.

(g) Sources of retainers received by the filer or his spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would service in a decision-making capacity, including each source's name and address;

(h) Any representation or intervention for compensation by the filer or his spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;

\*\*\*

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his spouse, or dependent children except those from a member of the filer's family;

\*\*\*

### COUNT XLIII

Longmeyer, during the course of his employment as Secretary of the Personnel Cabinet, failed to avoid all conduct which might in any way lead members of the general public to conclude that he was using his official position to further his professional or private interest; and failed to properly file a Statement of Financial Disclosure with the Executive Branch Ethics Commission for the 2015 calendar year.

Specifically, during the course of his employment as Secretary of the Personnel Cabinet, Longmeyer failed to file a timely and complete Statement of Financial Disclosure within the time period required by statute for the 2015 calendar year. In particular, Longmeyer failed to disclose the name and address of any source of gross income exceeding \$1000 from any one source, failed to disclose the source of retainers received by him relating to matters of the Cabinet, failed to disclose any representation or intervention for compensation by him for any person or business before the Cabinet, and failed to disclose sources of gifts of money or property with a retail value exceeding \$200 from sources other than his family.

These facts constitute a violation of KRS 11A.020(2) and KRS 11A.050(3)(f), (g), (h), and (k).

KRS 11A.020(2) provides:

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

KRS 11A.050(3)(f), (g), (h), and (k) provides:

(3) The statement shall include the following information for the preceding calendar year:

(f) The name and address of any source of gross income exceeding one thousand dollars (\$1000) from any one (1) source to the filer, his spouse, or dependent child, as well as information concerning the nature of the business, and the form of the income.

(g) Sources of retainers received by the filer or his spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would service in a decision-making capacity, including each source's name and address;

(h) Any representation or intervention for compensation by the filer or his spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;

\*\*\*

(k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his spouse, or dependent children except those from a member of the filer's family;

\*\*\*

#### COUNT XLIV

Longmeyer, during the course of his employment as the Secretary of the Personnel Cabinet, used 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 position to influence an agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, between 2011 and 2015, while on state time, Longmeyer directed a subordinate employee to solicit financial contributions for gubernatorial campaigns from

Personnel Cabinet employees under Longmeyer's supervision. These requests for contributions were made in the workplace, during working hours, and a portion of the contributions were collected in the workplace. These facts constitute violations of KRS 11A.020(1)(a), (b) and (d), and KRS 11A.020(2).

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

(1) No public servant, by himself or through others, shall knowingly:

(a) Use his influence in a matter that involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large; or

\*\*\*

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.020(2) provides:

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

#### COUNT XLV

Longmeyer, during the course of his employment as the Secretary of the Personnel Cabinet, used 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 position to influence an agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, between 2012 and 2014, Longmeyer, directed a subordinate employee of the

Personnel Cabinet to solicit financial contributions for a local judicial campaign from other Personnel Cabinet employees under Longmeyer's supervision. These requests for contributions were made in the workplace, during working hours, and a portion of the contributions made were collected in the workplace. These facts constitute violations of KRS 11A.020(1)(a), (b) and (d), and KRS 11A.020(2).

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

(1) No public servant, by himself or through others, shall knowingly:

(a) Use his influence in a matter that involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large; or

\*\*\*

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.020(2) provides:

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

(End of document)

## SETTLEMENT AGREEMENT

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

WHEREAS, this agreement involves the matter styled *Executive Branch Ethics Commission v. Timothy Longmeyer*, Case No. 16-008;

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

WHEREAS, on November 14, 2016, the Commission alleged facts in an Initiating Order that Timothy Longmeyer violated the Executive Branch Code of Ethics codified at KRS 11A.020(1), (2), and (3); KRS 11A.030; KRS 11A.040(1); (2) and (5); KRS 11A.045(1); and KRS 11A.050(3)(f), (g), (h), and (k).

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

WHEREAS, Timothy Longmeyer voluntarily resigned from his employment with the Commonwealth of Kentucky, and

WHEREAS, Longmeyer pled guilty to one count of violating 18 U.S.C. § 666(a)(1)(B), bribery concerning a program that receives federal funds, in *United States of America vs. Timothy M. Longmeyer*, U.S. District Court, Eastern District of Kentucky, Criminal Action No. 16-6-KKC, stemming from some of the conduct that is the subject matter of the above referenced administrative proceeding;

WHEREAS, the Plea Agreement in *United States of America vs. Timothy M. Longmeyer*, U.S. Dist. Ct., Eastern Dist. of Ky., Criminal Action No. 16-6-KKC, requires Longmeyer to pay restitution of \$203,500.00 to the Commonwealth of Kentucky through the U.S. District Court;

WHEREAS, Timothy Longmeyer was sentenced in *United States of America vs. Timothy M. Longmeyer*, U.S. Dist. Ct., Eastern Dist. of Ky., Criminal Action No. 16-6-KKC to serve a 70-month incarceration;

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

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

1. Timothy Longmeyer admits he committed violations of the Executive Branch Code of Ethics codified at KRS 11A.020(1), (2), and (3); KRS 11A.030, KRS 11A.040(1), (2) and (5); KRS 11A.045(1); and KRS 11A.050(3)(f), (g), (h), and (k), as stated in Counts I – XLIII of the Commission’s Initiating Order of November 14, 2016, attached hereto and incorporated by reference herein, subject to the following provisions of this Settlement Agreement.

2. Timothy Longmeyer does not admit that he committed violations of the Executive Branch Code of Ethics at KRS 11A.020(1)(a), (b) and (d), and KRS 11A.020(2) as stated in Counts XLIV and XLV of the Commission’s Amended Initiating Order of November 14, 2016, attached hereto and incorporated by reference herein, but agrees that he will not contest these charges for the purposes of settling this matter.

3. Timothy Longmeyer agrees to pay the Commission a civil penalty of two hundred eight thousand and five hundred dollars (\$208,500.00) which will be offset on a dollar-for-dollar basis by the restitution that Longmeyer has agreed to pay the U.S. District Court, resulting in a remaining civil penalty of five thousand dollars (\$5,000) that Longmeyer agrees to remit to the Commission no later than January 31, 2017 in accordance with an Agreed Final Order.

4. Timothy Longmeyer agrees that upon the Agreed Final Order being issued by the Commission to abstain from seeking future employment with the Executive Branch of the Commonwealth of Kentucky for ten (10) years from the date of approval of this Settlement Agreement by the Commission;

5. Timothy Longmeyer agrees that upon the Agreed Final Order being issued by the Commission he waives all rights to any further administrative process or appeal pursuant to KRS 13B.140 thereon.

6. The parties further agree that the acceptance of this Settlement Agreement and Agreed Final Order by both parties, and the fulfillment of its express terms, is in full accord and satisfaction of the herein referenced *Executive Branch Ethics Commission v. Timothy Longmeyer*, Case No. 16-008.

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

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

Tim Longmeyer by d. r. c.  
Timothy Longmeyer

November 14 2016  
Date

**EXECUTIVE BRANCH ETHICS COMMISSION:**

  
\_\_\_\_\_  
W. David Denton, Chair

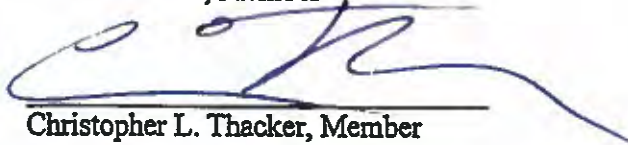
11-14-16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
William G. Francis, Vice-Chair

11-14-16  
\_\_\_\_\_  
Date

Absent  
\_\_\_\_\_  
Sheila R. Isaac, Member

11-14-16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Christopher L. Thacker, Member

11-14-16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Theresa Fritz Camoriano, Member

11-14-16  
\_\_\_\_\_  
Date

COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
AGENCY NO. 16-008

EXECUTIVE BRANCH ETHICS COMMISSION

COMPLAINANT

v.

TIMOTHY LONGMEYER

RESPONDENT

AGREED FINAL ORDER

---

WHEREAS, the parties having reached a settlement in this matter, and the Executive Branch Ethics Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. The executed Settlement Agreement, attached hereto as Exhibit A, is incorporated by reference as if fully stated herein.

2. Timothy Longmeyer shall pay the civil penalty in the total amount of two hundred eight thousand five hundred dollars (\$208,500.00), offset on a dollar-for-dollar basis by the \$203,500 paid to U.S. District Court Clerk as restitution in the matter of *United States. vs. Timothy M. Longmeyer, U.S. Dist. Ct., Eastern Dist. of Ky., Criminal Action No. 16-6-KKC*. The remaining balance of \$5,000 shall be remitted by check or money order payable to the Kentucky State Treasurer, and shall be received by the Executive Branch Ethics Commission on or before January 31, 2017.

3. If Timothy Longmeyer fails to make payment in full in the method described in Paragraph 2 above, then the Executive Branch Ethics Commission may immediately file an enforcement action in Franklin Circuit Court for the unpaid balance of the civil penalty, plus twelve percent (12%) per annum from the date of default, until

the civil penalty is paid in full, as well as any expenses and attorney's fees associated with collecting the judgment.

4. Upon full payment of the civil penalty, this case shall be dismissed as settled.

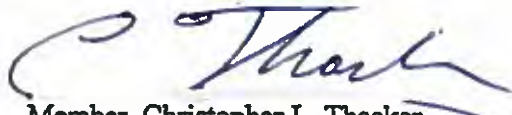
SO ORDERED, this 14th day of November 2016.

EXECUTIVE BRANCH ETHICS COMMISSION

  
Chair, W. David Denton

  
Member, William Francis

Absent  
Member, Sheila R. Isaac

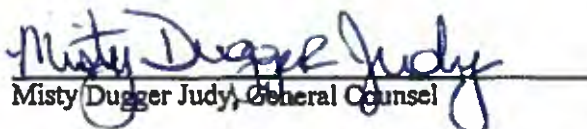
  
Member, Christopher L. Thacker

  
Member, Theresa F. Camoriano

Seen and Agreed by:

  
Timothy Longmeyer, Respondent

  
Brian Butler, Attorney for Respondent

  
Misty Dugger Judy, General Counsel

**DISTRIBUTION**

By hand delivery, for filing on November 14, 2016:

Debbie Briscoe  
Administrative Proceedings Clerk  
Executive Branch Ethics Commission  
3 Fountain Place  
Frankfort, Kentucky 40601

and a copy was hand-delivered to:

Hon. Misty Dugger Judy  
General Counsel  
Executive Branch Ethics Commission  
3 Fountain Place  
Frankfort, Kentucky 40601

By first class mail, postage prepaid:

Mr. Brian Butler  
Dathorne & Butler  
600 West Main Street, Suite 500  
Louisville, Kentucky 40202  
Counsel for Timothy Longmeyer

  
\_\_\_\_\_  
Debbie Briscoe

# **EXHIBIT E**

**Waiver of Indictment, Information,  
Motion to Enter Guilty Plea, and  
Signed Plea Agreement in  
Commonwealth of Kentucky  
v. Timothy M. Longmeyer**

FRANKLIN CIRCUIT COURT  
INFORMATION NO. 16-CR-00404  
DIVISION NO. I

COMMONWEALTH OF KENTUCKY

PLAINTIFF

v.

WAIVER OF INDICTMENT

<sup>A.</sup>  
TIMOTHY W. LONGMEYER  
2811 Newburg Road  
Louisville, KY 40205-2707

DEFENDANT

The defendant, Timothy W. Longmeyer, does hereby waive indictment by the Grand Jury with respect to the following charge:

Charge:

Penalty:

Misuse of Confidential Information,  
KRS 522.040, UOR 50200

Class D Felony

The defendant, Timothy W. Longmeyer, agrees that the Commonwealth of Kentucky may prosecute this charge by Information.

Done this the 8 day of December, 2016.

Timothy W. Longmeyer  
Timothy W. Longmeyer, Defendant

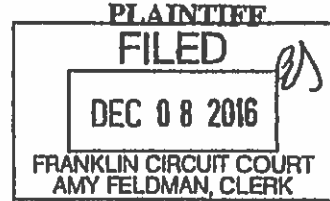
Brian Butler  
Hon. Brian Butler, Attorney for the Defendant

FRANKLIN CIRCUIT COURT  
INFORMATION NO. 16-CR-00404  
DIVISION NO. I

COMMONWEALTH OF KENTUCKY

v.

INFORMATION



DEFENDANT

*M*  
TIMOTHY W. LONGMEYER  
2811 Newburg Road  
Louisville, KY 40205-2707

KRS 522.040  
Misuse of Confidential Information  
Class D Felony  
UOR 50200

Pursuant to RCr 6.04, the Commonwealth Attorney charge as follows:


That between on or about January 1, 2014 and on or about June 30, 2015, in Franklin County, Kentucky, the above-named defendant, Timothy W. Longmeyer, committed the offense of **Misuse of Confidential Information**, when he, being a public servant as defined within KRS 522.010, acting alone or in complicity with another or others, in contemplation of official actions by himself or by a governmental unit with which he was associated, or in reliance on information to which he had access in his official capacity and which had not been made public, accepted a pecuniary interest in property or a transaction or enterprise affected by such information or official action by means of an arrangement with a business entity doing business with the Commonwealth of Kentucky where the defendant, acting alone or in complicity with another or others, obtained business for such business entity and the defendant in return received payments of money from such business entity, in violation of KRS 522.040.

Against the peace and dignity of the Commonwealth of Kentucky.

This the *8* day of December, 2016.

A handwritten signature in black ink, appearing to be "Larry Cleveland".

Larry Cleveland  
Commonwealth Attorney

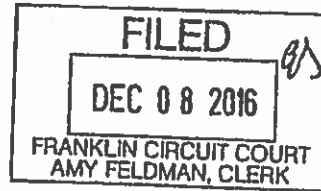
AOC-491 Rev. 2-02 Page 1 of 2 Commonwealth of Kentucky Court of Justice RCr 8.08, 8.10	 <b>MOTION TO ENTER          GUILTY PLEA</b>	Case No. <u>14-CR-404</u> Court <u>Circuit</u> County <u>Franklin</u>
---	--	---

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

*Timothy M. Longmeyer*



DEFENDANT

Comes the Defendant, in person and with aid of counsel, and respectfully moves this Court to allow him/her to withdraw his/her former plea of "NOT GUILTY" and enter a plea of "GUILTY" as set forth below. In support of this motion, the Defendant states as follows:

1. My full name is Timothy Longmeyer  
I am the same person named in the indictment.
2. My judgment is not now impaired by drugs, alcohol or medication.
3. I have reviewed a copy of the indictment and told my attorney all the facts known to me concerning my charges. I believe he/she is fully informed about my case. We have fully discussed, and I understand, the charges and any possible defenses to them.
4. I understand that I may plead "NOT GUILTY" or "GUILTY" to any charge against me.
5. I further understand the Constitution guarantees to me the following rights:
  - (a) The right not to testify against myself;
  - (b) The right to a speedy and public trial by jury at which I would be represented by counsel and the Commonwealth would have to prove my guilt beyond a reasonable doubt;
  - (c) The right to confront and cross-examine all witnesses called to testify against me;
  - (d) The right to produce any evidence, including attendance of witnesses, in my favor;
  - (e) The right to appeal my case to a higher court.

I understand that if I plead "GUILTY," I waive these rights.

5. I understand that if I plead "GUILTY," the Court may impose any punishment within the range provided by law and that although it may consider the Commonwealth's recommendation, the Court may reject it. The legal penalty ranges are set forth on the attached "Commonwealth's Offer on a Plea of Guilty (AOC-491.1)" which I have reviewed and signed.
6. I understand that if the Court rejects the plea agreement, it must so inform me. If this occurs, I may either persist in my guilty plea and possibly receive harsher treatment than I bargained for or I may withdraw my guilty plea and proceed to trial. I further understand the Court shall not impose a sentence for a felony, other than a capital offense, without first ordering a presentence investigation. The Court will consider a written report of the presentence investigation before it informs me whether it will accept the plea agreement.

7. In return for my guilty plea, the Commonwealth has agreed to recommend to the Court the sentence(s) set forth in the attached "Commonwealth's Offer on a Plea of Guilty." Other than that recommendation, no one, including my attorney, has promised me any other benefit in return for my guilty plea nor has anyone forced or threatened me to plead "GUILTY."
8. Because I am GUILTY, and make no claim of innocence, I wish to plead "GUILTY" in reliance on the attached "Commonwealth's Offer on a Plea of Guilty."
9. I declare my plea of "GUILTY" is freely, knowingly, intelligently and voluntarily made; that I have been represented by counsel; that my attorney has fully explained my constitutional rights to me, as well as the charges against me and any defenses to them; and that I understand the nature of this proceeding and all matters contained in this document.
10. I understand that because of my conviction here today, I may be subject to greater/enhanced penalties if found guilty and/or convicted of any future criminal offenses. I understand that if I am not a United States citizen, I may be subject to deportation pursuant to the laws and regulations governing the United States Immigration and Naturalization Service. I understand the complete terms of this plea and all the obligations imposed upon me by its terms.

Signed in open court in the presence of my attorney this 8<sup>th</sup> day of Dec., 2016.

Timothy M. Jangmeyr  
Defendant's Signature

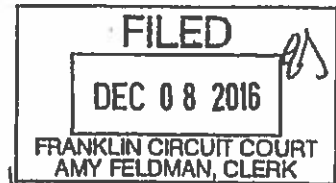
**CERTIFICATE OF COUNSEL**

1. To the best of my knowledge and belief, the defendant understands the allegations contained in the indictment and/or any amendments thereto. I have fully discussed with the defendant the charges and any possible defenses to them and I believe he/she fully understands the charges and possible defenses. I have reviewed with defendant the attached "Commonwealth's Offer on a Plea of Guilty" and the foregoing "Motion to Enter a Plea of Guilty," and I believe he/she understands these documents.
2. To the best of my knowledge and belief, his/her plea of "GUILTY" is made freely, knowingly, intelligently and voluntarily. I have fully explained the defendant's constitutional rights to him/her and I believe that he/she understands them.
3. The plea of "GUILTY" as offered by the defendant is consistent with my advice to him/her, and I recommend to the Court that his/her plea be accepted.

Signed by me in open court in the presence of the Defendant this 8<sup>th</sup> day of December, 2016.

7973  
Attorney for Defendant

COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
INDICTMENT NO. 16-CR-404  
DIVISION



COMMONWEALTH OF KENTUCKY

PLAINTIFF

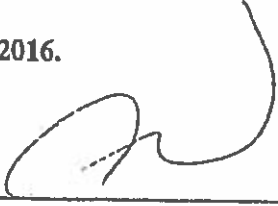
VS COMMONWEALTH'S OFFER ON PLEA OF GUILTY

<sup>M</sup>  
TIMOTHY W. LONGMEYER

DEFENDANT

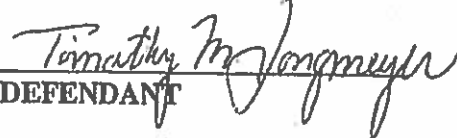
1. **Charge(s):** Misuse of Confidential Information,  
KRS 522.040, UOR 50200  
**Penalty:** Class D Felony
2. **Amended Charge(s) (If Applicable):**  
None
3. **Facts of the Case:**  
The defendant was the Secretary of the Kentucky Personnel Cabinet and was responsible for the administration and oversight of the Kentucky Employees Health Plan. Health insurance for state employees was provided through Humana and Anthem Blue Cross Blue Shield. The defendant caused Anthem and Humana to employ a third party to perform focus groups and telephone survey services to Kentucky Employee Health Plan participants, and the defendant was thereafter paid sums of money from the third party as the result.
4. **Recommendations on a Plea of Guilty (Plea Agreement):**  
Five (5) years, to run concurrently with the defendant's sentence imposed by the United States District Court for the Eastern District of Kentucky in United States v. Timothy W. Longmeyer, Case No. 16-CR-6-KKC, pursuant to KRS 532.115, to be served in federal custody. The defendant will submit to an interview with Commonwealth Attorney Larry Cleveland to discuss his knowledge of criminal acts committed by other persons
5. **Reason(s) for Amended Charge(s) (If Applicable)**  
Not applicable.

6. Offered this the 8 day of December, 2016.

  
\_\_\_\_\_  
Larry Cleveland  
Commonwealth Attorney

7. Accepted and Agreed to, this the 8<sup>th</sup> day of December, 2016.

  
\_\_\_\_\_  
DEFENSE ATTORNEY

  
\_\_\_\_\_  
DEFENDANT

# **EXHIBIT F**

**Governor Matt Bevin Remarks as  
Prepared for Delivery, April 19, 2016**

**April 19, 2016**  
**Governor Matt Bevin Remarks as Prepared for Delivery**

Thank you for being here today.

The citizens of Kentucky deserve an honest and transparent government. All government officials must be good stewards of the taxpayer dollars that fund our state government. The hard-working men and women who send their tax dollars to Frankfort expect nothing less than this.

As Governor of this state, I have carefully and thoughtfully hired public servants who are competent and committed to the Commonwealth. Just as important, we have sought men and women of high character to serve the Commonwealth.

In the first four months of my administration, my staff has uncovered evidence that officials in the prior administration failed to meet the high standards that the law and people of Kentucky demand from state government officials. We are here today to air out some — and I stress some — of the questionable activities that our administration has discovered since taking office 4 months ago.

Even more recently we have learned through a U.S. Department of Justice press conference and media reports that the pay-to-play method of conducting government was alive and well at the very highest levels of the past administration.

This method of government must stop and will not be tolerated in our administration. In fact, it stopped the day I took office.

These discoveries raise questions that must be answered in an open and transparent way. Only then, will the citizens of this Commonwealth begin to have confidence in their government. There must be a shift in culture and the way business is done in Frankfort, if we are to move on from the greedy — even corrupt — practices of the past. Let's be clear: corruption and pay-to-play, or pay-to-stay, will not be tolerated in this administration.

Upon concluding my remarks, I will announce how we, as a state, are taking the initiative to move Kentucky forward into a new day — one in which the public have confidence in, and can be proud of, its elected and appointed officials.

**1. POLITICAL CONTRIBUTIONS BY STATE EMPLOYEES**

Perhaps as disturbing as anything that has come to light is the potential coercion of state employees for political contributions by high-level officials of the last administration.

The Tim Longmeyer federal criminal investigation reveals that apparently ill-gotten gains were directed to Attorney General Beshear's 2015 campaign, to other Democratic candidates and

to the Democratic Party. But what hasn't been publicized is the apparent coercion of employees at the Personnel Cabinet while Longmeyer was Secretary there.

Longmeyer helped found what was called the "Capitol Club," which appears to have solicited contributions from scores of donors to Democratic causes and candidates, including raising money from state employees in the Frankfort area — all while he was a top Beshear administration official.

Public records also show that state employees contributed at least \$140,000 to the Beshear for Attorney General Campaign in 2014 and 2015. We have learned from rank-and-file state employees of closed door demands by high-level Beshear administration officials that they make contributions to Democratic candidates in the last election, including the party's candidates for Governor and Attorney General.

Employees have stepped forward on numerous occasions and explained how they were essentially coerced and that they complied out of fear of loss of their jobs or other retribution. This investigation is preliminary, but we've learned enough to have significant concerns.

This sort of thing was not only wrong — if true, it was illegal. It warrants thorough investigation and exposure in any Cabinet where it may have occurred. And punishment where warranted. These practices will not be tolerated in our administration.

Records also reveal that Tim Longmeyer and his family made contributions to the Beshear for Attorney General 2015 campaign of \$8,000 and substantial sums to other Democratic Party causes.

His alleged co-conspirator, "MC Squared," or its principals, appear to have contributed as much as \$15,500, according to reports.

While our investigation is continuing, we've seen enough at this point to know there is a serious problem. I ask Attorney General Beshear to return those thousands of dollars of questionable contributions if he has not done so already.

Return of those contributions by the Beshear campaign will go a long way toward showing the people of Kentucky that it's not "business as usual" in the new Beshear administration in the Attorney General's office. Attorney General Beshear's refusal to return those contributions will say just the opposite.

To the thousands of public employees who work in state government, thank you for your service. All I ask is that you do your best for Kentucky and take pride in your work. Your job does not require a political contribution.

## **2. SAS INSTITUTE**

During the transition period before I took office, I wrote a letter to Governor Beshear requesting that his administration provide my transition team a copy of all contracts over

\$1,000,000 that they anticipated would be executed before the end of his administration. He refused.

On its last day in office, the Beshear administration awarded a \$3 million no-bid contract for fraud-detection services to SAS Institute, of North Carolina, a company that retained the husband of Beshear's Secretary of the Cabinet as a consultant and employed a former Governor's Office official as a lobbyist.

Rather than put the contract out for bid, this large no-bid contract was extended on the final day of the Beshear administration, December 7, 2015, even though it was not set to expire until December 31.

Furthermore, there is clear evidence that the initial SAS contract was improperly expanded to cover additional state agencies without a competitive bid. In both cases, the no-bid contracts involved the politically appointed Executive Director of Purchasing in the Finance Cabinet.

**No bid contracts should be used only when absolutely necessary and warrant close scrutiny. The awarding of a no-bid contract benefitting the husband of the former Secretary of the Cabinet deserves such scrutiny.**

### **3. MEDICAID IT SYSTEM**

The prior administration issued an RFP for an upgrade of the IT system that is the backbone for Medicaid. It is an enterprise management system requiring the investment of **hundreds of millions of state and federal dollars.** Several Fortune 500 IT consulting firms responded to the RFP.

After eight months, this procurement was abruptly cancelled, presumably after a bidder complained about its treatment during oral presentations. The bid was reissued and, in November 2015, the Beshear administration was preparing to award the contract to the firm whose complaints apparently led to the cancellation of the initial solicitation.

There are serious questions about the propriety of this procurement process. First, the bidder that complained about its treatment was about to lose the initial bid. Second, management of the second bid was taken away from the career merit-system procurement officer who handled the first solicitation and put into the hands of a non-merit, political appointee - the Executive Director of Purchasing in the Finance Cabinet – the same person responsible for the no-bid SAS contracts mentioned earlier. Third, the firm positioned to secure the award following the issuance of the second solicitation had partnered with a firm owned by the husband of former Governor Beshear's Secretary of the Cabinet – yes, the same person who consulted for SAS when it received its no-bid contracts.

**After complaints resulting in the cancellation of the first solicitation, a losing vendor receives the highest score following the rebid conducted by a political appointee. This is a convoluted mess that doesn't pass the smell test.**

Thankfully, time ran out on the prior administration. Shortly after uncovering these questionable decisions and relationships, our administration acted quickly to cancel the second bid. We are now moving forward on two fronts: investigating the potential improprieties of the previous bids and preparing a new bid that **will be fair to all potential respondents.**

#### **4. STATE WORKERS' COMPENSATION**

Two major potential irregularities within the Workers' Compensation branch of the state Personnel Cabinet have also come to light.

One involves the claims administrative process for volunteer firefighters. In particular, it appears former officials in the Personnel Cabinet deviated from routine claims handling practice to effectuate potentially unjustified awards of lump sum death benefits, medical benefits, and indemnity benefits to volunteer firefighters. This may have costs millions of dollars over a number of years.

The second irregularity involves certain directives apparently requiring third party administrators hired to administer workers' comp claims against the state to assign the legal handling of all claims to certain specified, hand-picked attorneys rather than proceeding in a fair bidding process. This is yet another example of abuse of the state procurement system.

This investigation is continuing. In fact, Secretary Tom Stephens of the Personnel Cabinet, has recently formally requested the Finance and Administration Cabinet to conduct an investigation into these potential irregularities with an emphasis on auditing all of the claims and billing practices over an extended time period and ensuring compliance with competitive bidding requirements. This will be done.

#### **CONCLUSION**

In light of these areas of serious concern, and still others that are not able to be discussed publicly at this time, I am asking the Secretary of the Finance and Administration Cabinet, Col. Bill Landrum, using the extensive investigative powers given to him in KRS Chapter 45, to prepare and issue an RFP for a thorough, in-depth investigation and report by an attorney or law firm with experience in investigating activities and contracts like I have outlined.

Once selected, this firm will work closely with Secretary Landrum and his staff, including the Cabinet's new Inspector General, whose appointment will be announced in the coming days, to make findings and issue a report.

Under KRS Chapter 45, such investigation will include the ability to subpoena witnesses and records as may be necessary to accomplish the investigative goals.

A thorough, independent investigation like this can expose and cast light upon prior unsavory — and perhaps illegal — practices, but can also provide the public a degree of confidence in a fair and transparent governance that was so glaringly absent in the past administration.

I understand that the FBI might be looking into matters related to these issues, but the FBI is investigating potential violations of federal law. The people of Kentucky also deserve to know whether any Kentucky laws were violated.

When I campaigned for Governor I committed to running the kind of open, transparent and honest government that has not always existed in Frankfort.

I have the highest confidence in the caliber and integrity of Sec. Landrum. He will clean up the mess and get Frankfort's finances and administrative operations running in a way that will restore confidence in government business. Any sign of corruption will be exposed and eliminated.

The people of Kentucky elected us to be good stewards and public servants, not to use their hard-earned taxdollars for political or personal gain. That is our commitment.

# **EXHIBIT G**

**Complaint and attachments in  
*Executive Branch Ethics Commission  
v. Charles Geveden, Sr.***

**BEFORE THE  
KENTUCKY EXECUTIVE BRANCH ETHICS COMMISSION**

**STEVE ROBERTSON**  
Chairman, Republican Party of Kentucky

**COMPLAINANT**

v.

**COMPLAINT**

**STEVE BESHEAR, individually and  
in his official capacity as  
GOVERNOR,  
COMMONWEALTH OF KENTUCKY**

**RESPONDENTS**

**AND**

**CHARLES GEVEDEN, individually and  
In his official capacity as DEPUTY SECRETARY of the  
JUSTICE AND PUBLIC SAFETY CABINET,  
COMMONWEALTH OF KENTUCKY**

**INTRODUCTION**

This Complaint is filed with the Executive Branch Ethics Commission (hereinafter "Commission") in accordance with the provisions of KRS Chapter 11A and Executive Order 2008-454 (amended by Executive Order 2009-882) in the belief that Steve Beshear and his political appointee, Charles Geveden, used their positions and influence as Governor of the Commonwealth of Kentucky and Deputy Secretary of the Justice & Public Safety Cabinet (respectively) to illegally and unethically threaten certain state government employees with the loss of their jobs if they did not contribute to Beshear's re-election campaign. In support of this Complaint, Complainant Steve Robertson hereby states the following:

## FACTS

The undersigned complainant Steve Robertson is Chairman of the Republican Party of Kentucky with a physical address located at 105 W. Third Street Frankfort, Kentucky 40601 and a mailing address of PO Box 1068 Frankfort, Kentucky 40602.

Respondent Steve Beshear is Governor of the Commonwealth with an office address located at 700 Capitol Avenue, Suite 100 Frankfort, Kentucky 40601. He is currently running for re-election and is engaged in a campaign to raise funds for Beshear-Abramson 2011. As a state government official of the executive branch, he is subject to the ethical provisions found in KRS Chapter 11A.

Respondent Charles Geveden is Deputy Secretary of the Justice & Public Safety Cabinet with an office address located at 125 Holmes Street, Frankfort, Kentucky 40601. As a state government official of the executive branch, he is subject to the ethical provisions found in KRS Chapter 11A.

At the end of July, 2011, the undersigned received a letter from a 27-year state government employee detailing some very disturbing criminal and unethical allegations against Governor Steve Beshear (hereinafter "Beshear") and Charles Geveden (hereinafter "Geveden"), a political appointee in his Beshear's administration. The letter alleges that Beshear, and Geveden on his behalf, threatened state government employees with job termination unless they made significant contributions to the Beshear re-election campaign. (Young letter, attached as Exhibit A.) Upon receipt of this letter, the undersigned felt a duty and obligation to turn this information over to the appropriate investigative bodies.

Over the past few months, the Republican Party of Kentucky (hereinafter "RPK") has received numerous reports that Beshear, his campaign and administration officials have pressured state government employees, boards and commissions appointees and government contractors into contributing and/or "bundling" campaign contributions for Beshear's re-election campaign. Those individuals who contacted RPK refused to come forward to report this activity for fear of retaliation. Many complainants said they felt their jobs, appointments or contracts would be in jeopardy if they did not assist in raising campaign money for Beshear.

The reports at the RPK were corroborated in part by a news article written by Ronnie Ellis in which Ellis cited unnamed government employees who were offended when they were solicited at Christmas to give money to Beshear's campaign. (Ellis article, attached as Exhibit B.) While the campaign denied soliciting merit employees for contributions, it did not comment on whether it (or administration officials on its behalf) had solicited non-merit employees for political contributions. (See Exhibit B.) State law prohibits candidates, their campaigns or anyone acting on their behalf from soliciting contributions from state government employees, whether they are classified, merit employees or unclassified, non-merit employees. KRS 121.150 (22).

The letter I recently received dated July 27, 2011 states that the Beshear administration and campaign has engaged in this exact illegal conduct. The letter details a systematic extortion scheme in which high level Beshear appointee Geveden made phone calls to numerous non-merit state government employees stating that they should have checks written to Beshear's re-election campaign on Geveden's desk by the end of the week or Geveden "didn't know if he could retain them." Consistent with the

information reported by Ellis, these calls were allegedly made around Christmas of 2010.  
(See Exhibit A.)

The individual who sent the undersigned this letter notes that he has reported this activity to the Attorney General's office. The letter is signed by the individual, makes specific and very serious allegations against the sitting Governor, his administration and his campaign. Moreover, a review of the Beshear-Abramson 2011 finance reports shows that a staggering 610 Commonwealth of Kentucky employees or their spouses contributed in excess of \$400,000 to the Beshear's re-election campaign. (Finance report summary, attached as Exhibit C.)

Given all this information, the undersigned finds it necessary and to turn this information over to the Executive Branch Ethics Commission, the Kentucky Registry of Election Finance and the Attorney General's Office with the hope that these bodies will investigate this matter, expose any such activity and hold responsible those who perpetrated it.

#### **LAW AND APPLICATION**

It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. KRS 11A.005 (1). The principles of ethical behavior recognize that public office is a public trust and that the proper operation of democratic government requires that a public servant not use his office to obtain private benefits and the public has confidence in the integrity of its government and public servants. KRS 11A. 005(1) (c)-(d). Standards of ethical conduct for the executive branch of state government are necessary to ensure public servants do not use or attempt to use any means to influence a public agency in derogation of the state at large. KRS

11A.020(1)(b). Additionally, a public servant shall not use his official position to secure or create privileges, exemption, advantages, or treatment for himself or others in derogation of the public interest at large. KRS 11A.020(1)(d).

When a high-level political appointee solicits contributions from his subordinates for a political campaign in violation of state law using threats and intimidation, he attacks the very integrity of public administration. The sole focus of state government employees should be providing the best possible service to the taxpayers of the Commonwealth...not providing political campaigns with contributions from their taxpayer-funded salaries. When public officials solicit these contributions in violation of campaign finance laws, they are securing privileges, advantages and special treatment for themselves and their candidates in violation of the public trust. These officials are, in effect, establishing for themselves and their candidates a built-in, taxpayer-funded political war chest available to them only because state government employees would rather contribute significant sums of money than lose the jobs.

It should be noted that the whistleblower letter provided to the undersigned astutely points out that Geveden is a former high-level employee of the Attorney General's Office whose very job was to investigate illegal treatment and exploitation of state government employees. Therefore, if he solicited state government employees in violation of KRS 121.150 (22), he did so with full knowledge of the illegality of this conduct and the potential consequences of it, making his behavior all the more egregious.

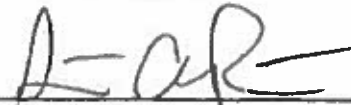
The Beshear-Abramson campaign has, to date, raked in more than \$400,000 from 610 state government employees and their spouses. Evidence now exists that many of these contributions may have been made as a result of illegal solicitation, threats and

intimidation on the part of at least one high-level Beshear political appointee serving at the pleasure and direction of the Governor. If extorting campaign dollars from public servants is not a violation of ethical standards that are in derogation of the public's interest, then no such standards truly exist.

### CONCLUSION

For all these reasons, I request that the Commission immediately conduct a preliminary investigation into the actions of Governor Steve Beshear and his political appointee Charles Geveden, hold hearings to subpoena documents and witnesses in order to determine whether Beshear and/or Geveden violated ethical standards, broke the law and committed criminal acts. If Beshear and his political appointee engaged in a conspiracy to use state government as a vehicle through which to extort money for Beshear's campaign for re-election, I ask that this Commission issue the strictest penalty allowed by law and refer this matter to the appropriate, objective law enforcement agency for prosecution.

Respectfully submitted,



Steve Robertson  
PO Box 1068  
Frankfort, KY 40602  
Phone: 502-875-5130  
Fax: 502-223-5625

Commonwealth of Kentucky

County of Fayette

Sworn to and acknowledged before me by Steve Robertson, based on information and belief, this the 29 day of July, 2011.



JEFFREY W. FORD  
Notary Public, Kentucky  
State At Large  
My Commission Expires  
January 23, 2012

  
Notary Public

My commission expires: 1-23-12

**CERTIFICATE OF SERVICE**

This certifies that the above-styled complaint was filed with the Kentucky Executive  
Branch Ethics Commission, #3 Fountain Place Frankfort, KY 40601 on this the  
1<sup>st</sup> day of August, 2011

  
Complainant

8/1/2011  
Date

**EXHIBIT A**

**Letter from Rodney Young**

July 27, 2011

Mr. Steve Robertson  
PO Box 1068  
Frankfort, Kentucky 40602

Dear Mr. Robertson,

I am a 27-year public servant to the Commonwealth of Kentucky. I began my career in state government as an aid at Central State and worked my way through various positions over the last three decades. In 1991, I earned my doctorate degree and I am now at Hazelwood Center for the Mentally Retarded in Louisville where I remain an LPPA.

I write to you in an effort to bring to light certain mismanagement, abuses of authority, unethical and potential illegal activity that I believe compromises the integrity of state government administration. I hope you will use this information toward the goal of eliminating the now common practice of using state government as an extension of political campaigns.

Around the Christmas holiday of 2010, I began to hear significant complaints from my colleagues at DJJ that Justice & Public Safety Cabinet Deputy Secretary Charles Geveden was making phone calls to non-merit state government employees demanding significant political contributions to Governor Steve Beshear's re-election campaign. In fact, two division directors, Gary Sewell and Sherre Smith-Jones, stated to me that they received calls from Geveden in which Geveden asked them, "How much do you value your job?" and then went on to tell them that they should have a \$500 check to Beshear's campaign on Geveden's desk by the end of the week or, according to Geveden, "I [Geveden] may not be able to retain you." Obviously, these employees were quite upset that their job security would be threatened for political contributions.

I was also present when non-merit state government employee Dr. Patrick Sheridan confirmed that he received a similar call from Geveden. Dr. Sheridan was quite offended over the demand to give significant money to the Beshear campaign and stated that he may just retire rather than succumb to political pressure.

The complaints in the workplace regarding these political solicitations were widespread and it is my understanding that every single non-merit employee in the service of the DJJ received similar calls from Geveden. These employees include:

Stacy Floden (DJJ Director of Communications)  
Alfreddie Hasan Davis (DJJ Deputy Commissioner)  
Ronald Haws (DJJ Commissioner)  
Bob Hayter (DJJ Division Director)  
Dr. Bill Heffron (DJJ Chief of Mental Health Services)  
Sherre Smith-Jones (DJJ Deputy Commissioner)  
Anthony Payne (DJJ Division Director)

Joe Payne, Sr. (DJJ Division Director)  
Diana McGuire (DJJ Director of Legal Services)  
Gary Sewell (DJJ Division Director)  
Dr. Patrick Sheridan (DJJ Medical Director)  
Grace Smith (DJJ Division Director)  
John Weyers (DJJ Division Director)

It is my understanding that all of these calls were made between Christmas of 2010 and January 1, 2011.

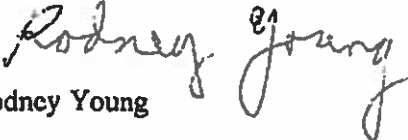
I have been told that campaign finance laws prohibit solicitation of all state government employees, whether they are merit or non-merit. Furthermore, the threatening manner in which these calls were made (where employees were threatened with termination if they did not contribute to Gov. Beshear's campaign) was at the very least, unethical.

I am aware that Deputy Secretary Geveden is an attorney who served in a management role at the Attorney General's Office during the investigation of the previous administration. He is certainly well aware of the laws regarding political solicitation of state government employees and the ramifications of extorting contributions from employees by threatening their jobs. It is disturbing that a man with such an extensive law enforcement background would so brazenly break the law.

I have submitted a letter to the Attorney General reporting this activity, thereby requesting whistleblower status. However, I will be able to retire in March so at this point in my career, I simply wish to do what I can to expose and change the pervasive practice of extorting political contributions from state employees who should be under pressure to do one thing...serve the people of Kentucky to the best of their abilities.

In my 27 years in state government, I have never seen such an audacious and systematic approach to using state government as an arm to raise money for a political campaign. Again, it is my hope that you will use the information in this letter to bring attention to this activity and to permanently separate public service from political solicitations.

Sincerely,

  
Rodney Young

**COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
CASE NO. 12-009**

**IN RE: CHARLES GEVEDEN, SR.  
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER  
Initiation of Administrative Proceeding  
And Formal Complaint**

The Executive Branch Ethics Commission (the "Commission"), upon a sworn complaint, initiated a preliminary investigation of Charles Geveden, Sr., (the "Respondent"), pursuant to KRS 11A.080(1), on September 19, 2011.

At all relevant times the Respondent was a "public servant" as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether it has sufficient probable cause to believe the Respondent violated provisions of KRS Chapter 11A (also referred to herein as the "Ethics Code").

The Commission focused its investigation upon the Respondent's possible violation of the Ethics Code 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; and using his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

The Commission notified the Respondent of the preliminary investigation by letter dated September 26, 2011. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on December 3, 2012, to initiate an administrative proceeding, pursuant to

KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the Allegations of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

**IT IS THEREFORE ORDERED** that:

1. The Respondent shall file his answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.
2. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that he committed the Ethics Code violations set forth in the Allegation of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.
3. A Hearing Officer will be designated by the Administrative Hearings Branch of the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.
4. The Commission is represented by Kathryn H. Gabhart, General Counsel, and John R. Steffen, Executive Director. They may be contacted through the Commission's office at (502) 564-7954.
5. All original material shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. A copy of all materials shall be served on the designated Hearing Officer at the Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-8204.
6. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the

Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.

7. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence that will be used at the hearing and any exculpatory information in the Commission's possession.

8. The Respondent has the right to subpoena witnesses on his own behalf. If the Respondent subpoenas witnesses, he shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.

9. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

10. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

11. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 3rd day of December 2012.

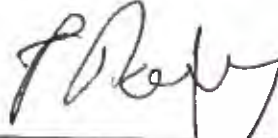
**EXECUTIVE BRANCH ETHICS COMMISSION:**



W. David Denton, Vice-Chair



William G. Francis, Member



Lewis G. Paisley, Member

Absent

Martin E. Johnstone, Member



Richard L. Masters, Member

**APPENDIX A  
CASE NO. 12-009  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Charles Geveden, Sr., was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Justice and Public Safety Cabinet. As such, the Respondent was subject to the jurisdiction of the Commission. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Charles Geveden, Sr., committed the following violations:

**COUNT I**

Charles Geveden, Sr., during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, during the final months of 2010, Geveden contacted multiple employees of departments within the Justice and Public Safety Cabinet to influence these individuals to make donations in support of Governor Steve Beshear's re-election campaign. During these conversations, Geveden referred to the individual's position and provided a specific dollar amount for the individual 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.

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

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

- (1) No public servant, by himself or through others, shall knowingly:

- (a) Use his influence in a matter that involves a substantial conflict between his personal or private interest and his duties in the public interest; or

\*\*\*

- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

## COUNT II

Charles Geveden, Sr., during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest and used confidential information acquired in the course of his official duties to further the economic interest of another person.

Specifically, during the final months of 2010, Geveden contacted multiple employees of departments within the Justice and Public Safety Cabinet on their privately-listed home phone numbers and personal cell phone numbers to influence these individuals to make donations in support of Governor Steve Beshear's re-election campaign. Geveden gained access to these individuals' private phone numbers and cell phone numbers through the personnel files and internal agency documents maintained at the Justice and Public Safety Cabinet, over which he was Deputy Secretary.

These facts constitute violations of KRS 11A.020(1)(d) and KRS 11A.040(1).

KRS 11A.020(1)(d) provides:

- (1) No public servant, by himself or through others, shall knowingly:

- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for

himself or others in derogation of the public interest at large.

KRS 11A.040 provides:

- (1) A public servant, in order to further his own economic interest, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

### COUNT III

Charles Geveden, Sr., during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, used 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 position to influence an agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, during the final months of 2010, Geveden, while on state time, 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.

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

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

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use his influence in a matter that involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use an means to influence a public agency in derogation of the state at large; or

\*\*\*

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

**(End of document)**

## SETTLEMENT AGREEMENT

This agreement made and entered into between the Executive Branch Ethics Commission (hereinafter the "Commission") and Charles Geveden, Sr.

WHEREAS, this agreement involves the matter styled *Executive Branch Ethics Commission v. Charles Geveden, Sr.*, Case No. 12-009;

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

WHEREAS, on December 3, 2012, the Commission alleged facts in an Initiating Order that Charles Geveden, Sr., violated the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b), and (d), and KRS 11A.040(1);

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

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

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

1. Charles Geveden, Sr., while stating that he was not aware at the time that his actions were in violation of the provisions of KRS Chapter 11A, admits that he committed violations of the Executive Branch Code of Ethics codified at KRS 11A.020(1)(a), (b), and (d), as stated in Appendix A to the Commission's Initiating Order of December 3, 2012, attached hereto and incorporated by reference herein.

2. The Commission withdraws the allegation from Count II of the Commission's Initiating Order of December 3, 2012, that Charles Geveden, Sr., violated KRS 11A.040(1). The remainder of Count II remains unchanged.

3. Charles Geveden, Sr., agrees to pay the Commission a civil penalty of five thousand dollars (\$5,000.00) concurrently with the execution of this Settlement Agreement.

4. Charles Geveden, Sr., agrees that upon a Final Order being issued by the Commission that he waives all rights to any further administrative process or appeal pursuant to KRS 13B.140 thereon.

5. The parties further agree that the acceptance of this Settlement Agreement by both parties, and the fulfillment of its express terms, is in full accord and satisfaction

of the herein referenced *Executive Branch Ethics Commission v. Charles Geveden, Sr.*, Agency Case No. 12-009.

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

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

  
\_\_\_\_\_  
Charles Geveden, Sr.

January 28, 2014  
Date

**EXECUTIVE BRANCH ETHICS COMMISSION:**

  
\_\_\_\_\_  
Chair, William David Denton

3/21/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Vice Chair, William G. Francis

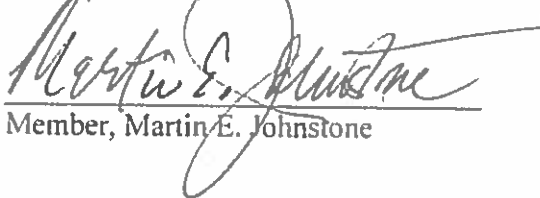
3-21-14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Member, Lewis G. Paisley

3/21/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Member, Richard L. Masters

3/21/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Member, Martin E. Johnstone

3/21/14  
\_\_\_\_\_  
Date

**APPENDIX A  
CASE NO. 12-009  
INITIATING ORDER**

**ALLEGATION OF VIOLATIONS**

The Respondent, Charles Geveden, Sr., was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Justice and Public Safety Cabinet. As such, the Respondent was subject to the jurisdiction of the Commission. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Charles Geveden, Sr., committed the following violations:

**COUNT I**

Charles Geveden, Sr., during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, used his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, during the final months of 2010, Geveden contacted multiple employees of departments within the Justice and Public Safety Cabinet to influence these individuals to make donations in support of Governor Steve Beshear's re-election campaign. During these conversations, Geveden referred to the individual's position and provided a specific dollar amount for the individual 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.

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

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

- (1) No public servant, by himself or through others, shall knowingly:

- (a) Use his influence in a matter that involves a substantial conflict between his personal or private interest and his duties in the public interest; or

\*\*\*

- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

## COUNT II

Charles Geveden, Sr., during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest and used confidential information acquired in the course of his official duties to further the economic interest of another person.

Specifically, during the final months of 2010, Geveden contacted multiple employees of departments within the Justice and Public Safety Cabinet on their privately-listed home phone numbers and personal cell phone numbers to influence these individuals to make donations in support of Governor Steve Beshear's re-election campaign. Geveden gained access to these individuals' private phone numbers and cell phone numbers through the personnel files and internal agency documents maintained at the Justice and Public Safety Cabinet, over which he was Deputy Secretary.

These facts constitute violations of KRS 11A.020(1)(d) and KRS 11A.040(1).

KRS 11A.020(1)(d) provides:

- (1) No public servant, by himself or through others, shall knowingly:

- (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for

himself or others in derogation of the public interest at large.

KRS 11A.040 provides:

- (1) A public servant, in order to further his own economic interest, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

### COUNT III

Charles Geveden, Sr., during the course of his employment as the Deputy Secretary of the Justice and Public Safety Cabinet, used 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 position to influence an agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, during the final months of 2010, Geveden, while on state time, 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.

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

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

- (1) No public servant, by himself or through others, shall knowingly:
  - (a) Use his influence in a matter that involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large; or

\*\*\*

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

**(End of document)**

COMMONWEALTH OF KENTUCKY  
EXECUTIVE BRANCH ETHICS COMMISSION  
AGENCY NO. 12-009

EXECUTIVE BRANCH ETHICS COMMISSION

COMPLAINANT

vs.

CHARLES GEVEDEN, SR.

RESPONDENT

FINAL ORDER

---

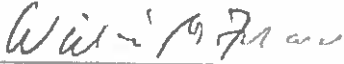
WHEREAS, the parties having reached a settlement in this matter, all terms of the settlement having been met by the parties, and the Executive Branch Ethics Commission being otherwise sufficiently advised,


IT IS HEREBY ORDERED AND ADJUDGED, this matter is hereby dismissed as settled.

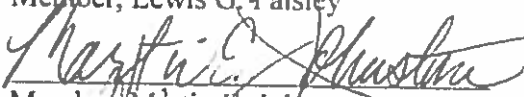
SO ORDERED, this 21st day of March 2014.


EXECUTIVE BRANCH ETHICS COMMISSION

  
Chair, W. David Denton

  
Vice-Chair, William Francis

  
Member, Lewis G. Paisley

  
Member, Martin E. Johnstone

  
Member, Richard L. Masters

DISTRIBUTION

By hand delivery, for filing on March 21, 2014:

Debbie Briscoe  
Administrative Proceedings Clerk  
Executive Branch Ethics Commission  
3 Fountain Place  
Frankfort, Kentucky 40601

and a copy was hand-delivered to:

Hon. Kathryn H. Gabhart  
General Counsel  
Executive Branch Ethics Commission  
3 Fountain Place  
Frankfort, Kentucky 40601

By first class mail, postage prepaid:

Hon. Guthrie True  
True, Guarnieri, & Ayer, LLP  
124 West Clinton Street  
Frankfort, Kentucky 40601

  
\_\_\_\_\_  
Debbie Briscoe