

**BEFORE THE
KENTUCKY EXECUTIVE BRANCH ETHICS COMMISSION**

DANIEL LOGSDON

COMPLAINANT

v.

COMPLAINT

**RICHIE FARMER, COMMISSIONER OF
AGRICULTURE**

RESPONDENT

* * * * *

Daniel Logsdon submits the following Complaint outlining the violations of KRS 11A by Commissioner of Agriculture Richie Farmer. Commissioner Farmer has repeatedly abused his official position to personally enrich himself. There are numerous violations that fall in two primary categories:

- Mr. Farmer's knowing and intentional use of his official position to send a state employee to purchase a refrigerator and deliver it to Mr. Farmer's personal residence where he kept it for almost 16 months for his own personal use.
- Mr. Farmer's knowing failure for almost eight years serving the public to report personal miles on his state vehicle either to the Personnel Cabinet (to be subtracted from his pay) or to the IRS (to be reported as income).

Mr. Farmer's violations constitute a class D felony punishable by one to five years in jail.

PARTIES AND JURISDICTION

The Complainant, Daniel Logsdon, is the Chairman of the Kentucky Democratic Party, with a physical address of 190 Democratic Drive, Frankfort, KY, 40601 and a mailing address of P.O. Box 694, Frankfort, KY 40602.

The Respondent is Richie Farmer, Commissioner of Agriculture, with a work address of 111 Corporate Drive, Frankfort, KY 40601.

The Executive Branch Ethics Commission has jurisdiction over this complaint and matter pursuant to KRS 11A.001, *et seq.*

COUNT I:

COMMISSIONER FARMER INTENTIONALLY AND KNOWINGLY VIOLATED KRS 11A WHEN HE ORDERED A STATE EMPLOYEE TO PURCHASE A REFRIGERATOR FOR FARMER'S PERSONAL USE ON A STATE CREDIT CARD.

Richie Farmer is a “public servant” of the Commonwealth of Kentucky based on holding the constitutional office of the Commissioner of Agriculture. *See* KRS 11A.010(9)(f). KRS

11A.005 states:

It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

....

(c) A public servant not use public office to obtain private benefits...

Under KRS 11A.020(1)(c) it is further illegal for a “public servant, by himself or through others” to knowingly “[u]se his official position or office to obtain financial gain for himself...”

As detailed in the August 27, 2011 *Courier Journal* article entitled “Ky.-bought fridge was in Farmer’s home,” reporter Tom Loftus detailed how the state Department of Agriculture bought a refrigerator in February, 2010 that was delivered to Richie Farmer’s personal residence where it remained 16 months “until May of this year [2011], when Farmer moved his belongings from that house after his wife filed for divorce.” *See* 8/27/11 Article, attached as Exh. 1.

According to an August 13, 2011 article in the *Herald Leader*, an email was recently submitted to the Personnel Board claiming Farmer personally called a state employee David Fint who works in the Department of Agriculture under Farmer, at 8 p.m. one night to "go to Lowe's here in Frankfort and purchase a refrigerator for him on his procard and to bring it to his house that evening." *See* 8/13/11 Article, attached as Exh. 2. The email also claims Mr. Flint was accused of putting up political signs on state time.

By engaging in the actions described herein, Mr. Farmer violated the public policy of KRS 11A, as well as the specific provisions of KRS 11A.020(1)(c). The manner in which Mr. Farmer secure a state-purchased refrigerator for his personal use is a prototypical example of Mr. Farmer's "official position or office to obtain financial gain for himself." A personal call from Mr. Farmer to a state employee after work hours with a specific request to use a state credit card to purchase Mr. Farmer a refrigerator for personal use fulfills all requirements to find a knowing and intentional violation of the law.

COUNT II
FARMER INTENTIONALLY VIOLATED KRS 11A.010(9)(F) BY INTENTIONALLY
FAILING TO REPORT PERSONAL MILES FOR ALMOST EIGHT YEARS

As a public servant, KRS 11A.040 specifically prohibits Mr. Farmer, from "knowingly accepting compensation other than that provided by law for public servants, for performance of his official duties without prior approval from the commission." *See* KRS 11A.040(5). Compensation is defined in as "an money, thing of value, *or economic benefit* conferred on, or received by, and person in returned for services rendered....." *See* KRS 11A.010(3).

Mr. Farmer spent almost eight years knowingly failing to report personal miles on his state provided car despite a clear policy and numerous reminders for him to do so. As such, Mr. Farmer knowingly received compensation, *i.e.*, the economic benefit of a state car for personal use, that is not provided for by state law.

The facts to support this claim are as follows:

- As an employee of the Kentucky Department of Agriculture, Mr. Farmer was issued a state-owned vehicle for use in the execution of his official duties.
- At various times during the last eight years, Mr. Farmer has been issued more than five state-owned vehicles including a Ford Crown Victoria (#8898), a Ford Expedition (#0038), a Chevy Tahoe (KA3351), a 2007 Chevy Suburban (#W6532) and a 2010 Chevy Suburban (#W6570).

- Mr. Farmer is entitled to use his state-owned vehicle for personal use but is required to record any personal mileage on his Vehicle Report. The Vehicle Report should be submitted to the Personnel Cabinet, which then deducts the value of the personal mileage from Mr. Farmer's paycheck. The Cabinet requires this because allowing Mr. Farmer to use a state vehicle for personal use without an offset in salary would provide him an extra economic benefit or compensation for which he is not entitled under state law.
- Vehicle reports filed by Mr. Farmer for more than four years dating from March, 2004 until December, 2008, reported **zero** personal miles driven in his state-owned vehicles.
- During this time period, Mr. Farmer submitted 25 individual Vehicle Reports. **18 of these Vehicle Reports were signed personally by Mr. Farmer.**
- In a May 5, 2011 article published in the *Louisville Courier-Journal*, Kentucky Department of Agriculture Spokesman Bill Clary stated that Mr. Farmer "failed to track personal mileage during his first term in office."
- Beginning March, 2008, Mr. Farmer claims to have submitted Vehicle Reports indicating personal mileage on his state-owned vehicle; however, these reports were not submitted to the Kentucky Personnel Cabinet, .
- In a May 5, 2011 article published in the *Louisville Courier-Journal*, Department of Agriculture spokesman Bill Clary blamed the failure to report personal mileage on "**complete breakdown of management**" of the Department of Agriculture. The Department is managed by Mr. Farmer.
- Mr. Clary stated that Mr. Farmer was unaware that his personal mileage was going unreported. However, later emails obtained by the *Lexington Herald-Leader* show Mr. Clary was lying, and that Mr. Farmer had been knowingly and intentionally refusing to report and pay for his personal mileage.. In an article published in the *Lexington Herald-Leader* on May 27, 2011 the paper published emails obtained under the Open Records Act that stated that, when told in 2008 about his obligation to report personal mileage for his state-owned vehicle, Mr. Farmer first claimed he did not use his state-owned vehicle for personal reasons.
- However, in that same article, the *Lexington Herald-Leader* reported that the Kentucky Personnel Cabinet had already advised the Department of Agriculture that Mr. Farmer "**must** report personal mileage for wage and tax purposes just like any other state worker." It quoted an email, dated April 8, 2008 and written by Ms. Tina Keene, Mr. Farmer's payroll supervisor. Ms. Keene stated that Mr. Farmer was displeased to learn he was obliged to report personal use of his state-owned vehicle. Ms. Keene wrote "Like I thought, he (**Mr. Farmer**) **did not like the idea at all**. Jamie (another agriculture payroll employee) said he hasn't turned anything in regarding vehicle yet. Ohh Well!!!!"
- In a May 27, 2011 article published in the *Lexington Herald-Leader*, an email from Ms. Keene to the Kentucky Personnel Cabinet stated that Mr. Farmer was reporting to the Department of Agriculture that he was not using his state owned vehicle for any personal

business. She stated in her email “we received vehicle information from the commissioner (and) none of his mileage is used for personal use.”

- Since getting caught, Amended Vehicle Reports filed by Mr. Farmer for the time period covering March 29, 2008 to June 29, 2008 indicate that Mr. Farmer drove his state-owned vehicle 150 miles during this period, contradicting his May, 2011 claim that he did not use his state-owned vehicle for personal use.
- In the May 27, 2011 article published in the *Lexington Herald-Leader*, it was indicated that payroll employees at the Department of Agriculture were aware of their duty to report Mr. Farmer’s personal use of his state-owned vehicle, had indicated that they informed Mr. Farmer of his duty to report personal use of his state-owned vehicle and aware that Mr. Farmer was using his vehicle for personal use. Thus, Mr. Farmer was well aware that he should have listed his personal mileage on the Vehicle Reports.

The reporting by the various newspapers shows that Mr. Farmer was aware of his responsibility to report personal mileage and that it was not part of his compensation. Mr. Farmer first refused, then claimed he did not use the vehicle for personal use. Only after being caught by the state auditor did Mr. Farmer admit his violation. Mr. Farmer has therefore knowingly and intentionally received additional compensation not provided for by law. He has further attempted to cover up and in fact repeatedly made false statements about the issue. By so doing, Mr. Farmer has committed a class D felony which is punishable by one to five years in jail.

CONCLUSION

Farmer has knowingly and intentionally violated state law by using his official position to secure personal benefits and by securing compensation to which he was not entitled. These violations are a Class D felony. An immediate investigation is needed into Mr. Farmer. The fact that a constitutional officer personally called a state employee ordering him to purchase a refrigerator and bring it to his home cannot be tolerated. Nor can such an officer drive a state vehicle for eight years while intentionally failing to report miles. An immediate investigation is required..

This Complaint is signed under the penalty of perjury

Daniel Logsdon