

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-104**

JERRY R. HADLEY

APPELLANT

**VS. FINAL ORDER
SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

CABINET FOR HEALTH AND FAMILY SERVICES

APPELLEE

*** **

The Board at its regular January 2016 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated December 2, 2015, and having considered Appellant's exceptions and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 13th day of January, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Matthew Perdue
Hon. David M. Cross
Jay Klein

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-104**

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VS.

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

**CABINET FOR HEALTH AND FAMILY SERVICES
J.P. HAMM, APPOINTING AUTHORITY**

APPELLEE

This matter came on for evidentiary hearing on September 16 and 17, 2015, at the offices of the Kentucky Personnel Board, Frankfort, Kentucky, before Hearing Officer E. Patrick Moores. The proceedings were recorded by audio-video equipment pursuant to the authority found at KRS Chapter 18A.

The Appellant, Jerry R. Hadley, was present and was represented by the Hon. David M. Cross from Albany, Kentucky. The Appellee, Kentucky Cabinet for Health and Family Services, was present and represented by the Hon. Matthew Perdue, of the Cabinet's Office of Legal Services.

I. STATEMENT OF THE CASE

1. Appellant, Jerry R. Hadley, appeals the Cabinet's decision of April 1, 2015, to terminate his services as a Social Service Clinician I of the Kentucky Department for Community Based Services (DCBS). The letter of termination, issued by Howard J. Klein, the Cabinet's Appointing Authority, informed Mr. Hadley that he was being terminated for violation of 101 KAR1:345, Section 1 (lack of good behavior), and KRS 18A.095.

2. The letter of termination from Mr. Klein informed Hadley that the Cabinet had found sufficient evidence that he lied under oath concerning his secondary employment providing DUI program instruction for Accept, Inc., an independent contractor. The letter of termination alleges he failed to comply with the requirements for conducting the DUI treatment program courses entitled "Prime for Life" to be completed by first-time DUI offenders, and that the program clients were not given the full program of instruction and were improperly issued certificates of instruction. The letter from Klein further alleges that when Hadley attended an administrative hearing held on the matter of the failure to properly conduct the training on April 14 and 23, 2014, he subsequently falsified his timesheets concerning his return to work.

3. Hadley timely filed an appeal with the Kentucky Personnel Board on June 1, 2015, in which he alleged that he was wrongfully dismissed from his employment for conduct unrelated to his work for the Cabinet.

4. A pre-hearing conference was held before the Kentucky Personnel Board on July 15, 2015, and the issue presented was whether the Cabinet's decision to terminate Hadley was taken with just cause and that the penalty of termination was neither excessive nor erroneous. The Appellee had the burden of proof, which is by a preponderance of the evidence.

5. The evidentiary hearing was conducted on September 16 and 17, 2015. Prior to the presentation of the evidence, the Cabinet moved to allow the certified record from the Cabinet's administrative hearing to be admitted into evidence, which was overruled. Opening Statements were made by both counsels. At the conclusion of the presentation of the evidence, closing arguments were made by counsel, following which the matter was submitted to the Hearing Officer for a finding of facts, conclusion of law and recommended order.

II. STATEMENT OF FACTUAL EVIDENCE PRESENTED

1. The first witness on behalf of the Cabinet was **Mark Gibson**, Family Services Supervisor and Hadley's supervisor from 2001 until February 2015. Part of his responsibilities included reviewing every timesheet of the employees under his supervision. He introduced into evidence the timesheets for Hadley for the time periods ending April 16 and April 30, 2014. He testified that Hadley brought to his attention that he had to change his timesheets as an error had been found, and that he needed to show that he had taken "comp leave" instead of "sick leave" for April 14, 2014. Gibson stated that there are different procedures for taking leave time; however, he admitted that he did not know the difference economically to the Commonwealth's employees regarding sick leave and comp leave.

2. Gibson testified that he had no knowledge regarding Hadley's involvement with the DUI training with Accept. He said Hadley had made it known to him that he would be out of the office for an administrative hearing in the office of Mr. Perdue. He said that their office and the office of Mr. Perdue and Accept were located in the same building.

3. Gibson testified that Hadley's outside employment with Accept did not interfere with his employment with his Cabinet job. He understood that Hadley was involved with Accept teaching DUI classes. His position with the Cabinet required him to often testify in court, but he did not think that the removal of Hadley's authority to teach DUI classes affected his ability to perform his duties with the Cabinet. He described Hadley as a good employee who was always willing to help where needed, and that he never had any problems with Hadley.

4. **Crystal Siler** works as a personnel associate for the Cumberland Region of DCBS, and meets with employees concerning any disciplinary actions. She testified that she met with Hadley concerning a complaint about a discrepancy in his timesheets. She was notified by Mr. Klein about an issue concerning leave time claimed on Hadley's timesheet. She met with Hadley and Cindy Collier, his second-line supervisor, in Klein's office on May 14, 2014, and that Hadley explained he thought he could use sick leave that he entered on his timesheet for April 14, and that his failure to note his time off on April 23 was an oversight. She said Mr. Klein encouraged him that he needed to submit corrected timesheets.

5. Siler stated that use of sick leave is governed by policy, and that the other forms of leave are scheduled in advance. She testified that that Hadley copied her on a letter he sent to Mr. Klein that he was under the impression that sick time could be used when he needed to take time off. She said that Hadley apologized for his error and submitted amended timesheets.

6. Siler testified that she had met with employees on many occasions concerning errors on their timesheets; however, the incident with Hadley was the only employee she recalled being dismissed for falsification of timesheets. She testified that generally errors concerning timesheet entries are addressed and corrected, and that corrected timesheets are allowed.

7. **Rebecca Wooldridge** serves the Commonwealth of Kentucky as a staff attorney for the Cabinet of Health and Family Services. She became familiar with Hadley in 2014 when she served as the Cabinet's attorney assigned to review the training classes for DUI conducted by Accept and that Hadley was one of their instructors. The agency was investigating whether the training was being properly performed and a hearing was conducted to determine whether Accept's authorization to conduct the training should be revoked. The hearing could not be concluded in one day and had to be scheduled for a second, and that Hadley was present both days. The hearing reconvened on the second day at 10:00 a.m. Central Time and concluded around 12:45 p.m. following which she went across the street to a Mexican restaurant. Hadley was present throughout the hearing. After about an hour, as she was leaving the restaurant, she observed Hadley and some of his associates sitting in the front of the restaurant.

8. Wooldridge testified that approximately a week earlier she had learned from Hadley's attorney that he was also an employee of the Cabinet. She testified that once she became aware that Hadley was a Cabinet employee, in addition to being an instructor for Accept, she became concerned as it came out in the hearing that he was not complying with the conditions of authorization for the training, and that in his secondary employment he had no mechanism in place to assure that there were no conflicts with any DCSB employees that he may have to testify against in matters that Ms. Wooldridge prosecuted before the Personnel Board.

9. **Cynthia Colyer** serves the Commonwealth as a Service Region Administrative Associate for the Cumberland Region of the DCBS, supervising the supervisors in ten counties in the region. She testified that she received an email from Mr. Klein requesting that she review the timesheets of Mr. Hadley. She found a discrepancy on his recorded time for April 14, 2014, where he reported sick leave, and April 23, 2014, where he reported regular time, when he was involved in attending a hearing. As a result, a request was made for a major disciplinary action against him, and she met with Hadley and Ms. Siler, who went over the details of the inquiry, and he refused to sign the acknowledgement of the action.

10. She testified that Hadley stated when he signed the timesheet with sick time that he was under the understanding that he could put any type of coding as any type of leave. Ms. Colyer testified that the types of leave are annual leave, sick leave and comp time. She said that policy required that sick leave only be used for sickness. She stated that annual leave is used for vacations, and that comp time would include most other periods of time off work.

11. **Wilma Terry** is the Cabinet's DUI Program Coordinator and is charged with monitoring the DUI programs and investigating complaints and taking actions necessary to assure program compliance. She is also a certified investigator. She said a complaint was filed against Accept, Inc., which was forwarded to her from Loretta Cummings on September 13, 2013, asking her to investigate the status of the DUI training being provided. She testified that Stephan Shore investigated the site on September 18, 2013, and that she went the following day, September 19, 2013. She went to the site and stopped in the parking lot, she observed that in an adjacent parking lot next to the offices of Accept. She then pulled over to the parking lot of the Mexican restaurant across the street which she said gave her a full view of the Accept parking lot.

12. Ms. Terry said she observed a man in a red shirt enter the Accept facility and exit 14 minutes later. She said she saw no other vehicles in the lot. The classes were supposed to last three hours and she waited that amount of time but saw no evidence of any classes being conducted. She said that Accept submitted on its letterhead a statement of the training done on the date she observed the facility, signed by the Company's owner, Angela Tucker, and its instructor, Jerry Hadley. Ms. Terry testified she saw no other person drive up, enter or leave the facility, nor did she observe any activity indicating that any training was being conducted. She also said she never saw Mr. Hadley.

13. Ms. Terry testified that her observations were made from the parking lot across the road, which gave her a clear view of the parking lot and Accept entrance into the building. She stated that she did not go into the facility to observe if any classes were being conducted, although she acknowledged that she had the authority to go into the class if her supervisor Ms. Cummings instructed her to do so. Ms. Terry stated that her instructions were to "observe" but

did not instruct her to go into the facility. She also stated that Hadley's employment with the DCBS had nothing to do with the investigation.

14. **Howard J. "Jay" Klein** is the Staff Assistant for the Office of Human Resource Management of the Cabinet for Health and Family Services, and the appointing authority. He oversees disciplinary decisions, and he stated that when he reviewed the record on this matter, he determined that dismissal was appropriate because Hadley lied under oath and submitted false timesheets.

15. Klein testified that the hearing conducted regarding the training done by Accept of the DUI Program, resulted in false certification documents being put into evidence by Accept, which violated the Regulations and ruined the credibility for future DUI Program training by Accept. Klein also testified that Hadley was discharged for turning in false timesheets, in addition to false swearing about the training conducted by Accept. Klein said it brought Hadley's truthfulness into question. Klein testified that Hadley was a Social Services Clinician, who has to appear in court and he is required to keep his truthfulness from being brought into question. Klein stated that the false testimony and documents made his credibility now questionable, impairing his ability to do his job with the DCBS. Klein testified that the Cabinet is absolutely dependent on the government employees being honest.

16. Klein testified that he felt the Cabinet was consistent in its disciplinary action against Hadley, stating that they had previously dismissed employees who submitted false documents, and false timesheets. Once an employee submits the timesheet with his signature on it, that is the fraud. Klein said that he relied on two prior cases in reaching the determination regarding disciplining Hadley. He acknowledged that it does happen that circumstances allow for the correcting of timesheets. However, Klein said that the uniqueness of Hadley's situation was that he was lying under oath in an administrative hearing and submitting false documents.

17. Klein testified that the document signed by Tucker and Hadley on October 18, 2013, allegedly certifying the training done the previous month contained a fraudulent misrepresentation as to the training given and failed to state the names of the clients that took the class.

18. Klein testified that Hadley's timesheets had been brought to light by staff lawyer Rebecca Wooldridge who was the one who got the ball rolling on the inquiry. Klein stated that he recognizes the possibility of mistakes, but given the close proximity in time of the days in question the idea that Hadley just made a mistake was hard to accept. He added that they did not know what economic advantage he gained by stating he was taking a sick day on April 14, 2013.

19. Klein said that Mr. Gibson's testimony that Hadley's involvement as an instructor the DUI classes did not impact his job with the Cabinet was incorrect. Klein testified that the Commonwealth of Kentucky has over a thousand social workers, and that their jobs require that they all be capable of testifying in court and being truthful when subjected to cross-examination. Accordingly, the Cabinet places a high premium on social workers' honesty and anyone who falsifies records impacts his duties with the Cabinet.

20. Klein testified that because of the nature of the employees work and truthfulness or falsity, the Cabinet has to consider that falsified documents and dishonest testimony cannot be allowed; as such falsification is considered an intentional act. Mr. Klein testified that pages 3 through 5 of his April 1, 2015, letter contained the specific testimony from the administrative hearing, and pages 5 through 10 contained the hearing officer's findings of fact that led to his conclusion that Hadley's testimony was intentionally false. He said that the last two bullet points on page 9 formed the basis for his decision to dismiss Hadley, even though the conclusion of the hearing officer specifically was directed at the "corporate Appellant," Accept, Inc.

21. Mr. Klein read from paragraph 17 on pages 27 and 28 in the hearing officer's Findings of Fact, Conclusions of Law, and Recommended Order from the evidentiary hearing conducted on April 14 and 23, 2014 into the DUI Program certification revocation from Accept, Inc. He testified that the hearing officer of the administrative hearing found that Hadley lied under oath as to the clients taking the class.

22. Mr. Klein stated that Hadley's timesheet came to his attention from attorney Rebecca Wooldridge who brought the timesheet falsification to light, and that when it was brought to his attention, he issued the request for a Major Disciplinary Action, which required the staff to gather all the necessary documents. The issue concerning the falsification of the timesheets came up during the April 2014 time period and concerning Hadley reporting his time while attending the administrative hearing. Klein said that he did not know if the timesheet issue would have otherwise been brought to his attention. Mr. Klein testified that the Cabinet recognizes the possibility of mistakes on timesheets, but given the close proximity in time, the idea of a mistake by Hadley was hard for him to accept.

23. Klein testified that pages 3 through 5 in his letter of termination states the specific false testimony by Hadley in the administrative hearing, and pages 5 through 10 summarized the Hearing Officer's Findings of Fact, which led Klein to conclude that Hadley's testimony was intentionally false. This led Klein to agree with the administrative hearing officer's Conclusions of Law summarized in paragraph 17 on pages 27-28 of his report on the hearing that both Accept's President, Angela Tucker, and Hadley made material misrepresentations in their October 18, 2013 letter to the Cabinet. Klein concluded on pages 9-10 of the termination letter that this misrepresentation constitutes a failure to maintain the highest standards of professional conduct and is a violation of the Code of Ethics.

24. Klein testified that he reported to Hadley in the letter of termination that, "In summary, you lied under oath as to clients completing 20 hours of class time and clients completing three hours of class time on September 18 and 19, 2013 . . . As a Social Service Clinician I in the Department of Community Based Services (DCBS), you represent the Commonwealth of Kentucky in your daily interaction with the public and as such, are expected to maintain high standards of conduct and required to always demonstrate the highest level of professional behavior in order to maintain the public's confidence in the integrity of its government and public servants." (Klein letter, April 1, 2015, p. 10.)

25. Mr. Klein testified that because of the nature of the employee's work and his falsity or lack of truthfulness, including the falsified timesheets, he had to consider that falsified documents and dishonest testimony cannot be allowed from state employees. He considered these to be intentional acts and concluded that his actions violated KRS 18A.145 (4) prohibiting the making of false documentation of time worked, and KRS 523.100 prohibiting actions intended to mislead and make material false written statements. He also concluded that Hadley's actions constituted a lack of good behavior justifying disciplinary action pursuant to 101 KAR 1:345, Section 1.

26. **Angela Tucker** is the owner and president of Accept, Inc. She acknowledged preparing the October 18, 2013 letter listing the dates of the DUI education program offered at Accept and instructors present during the month of September 2013, signed by her and Hadley. She stated in her limited testimony that on the dates listed in the letter that she and Hadley provided the required training.

27. **Lee Etta Cummings** is Kentucky's DUI Program Manager that manages a team of six persons who oversee the training and classes in the program, and supervises the investigations into certification process of training providers. She testified that her department received a complaint that Accept Inc.'s program classes were being dismissed early, within 15 minutes after they were supposed to start. She received a request from the program's regional coordinator, Wilma Terry, to observe the training being conducted by Accept, which she did on September 19, 2013. She also instructed Ms. Terry to conduct some "client interviews" of the DUI offenders attending the training and to look at the documentation of class sign-in sheets and records. After reviewing the documentation, she requested Angela Tucker to forward her a document showing the persons providing the training. Ms. Tucker forwarded her the letter dated October 18, 2013, signed by her and Hadley showing that she and Hadley provided the training. After receiving the letter, Ms. Cummings moved for revocation of Accept's certification, and an administrative hearing was conducted on April 14 and 23, 2014. She testified that Mr. Hadley attended both days of the hearing, and at the end of the second day she observed Mr. Hadley and Ms. Tucker having lunch together at the Mexican restaurant across the street.

28. **Jerry Robert Hadley** served as a Social Service Clinician for the Clinton and Cumberland County areas, working with children and conducting investigations and evaluations of their homes and environment. This required him to often testify in court on termination of parental custody and juvenile justice matters, which he estimated he had done over 300 times. He testified that he received letters of commendation from many judges of the courts he testified in, and that he had no disciplinary matters in his personnel file from 2001 until this matter in 2015.

29. He testified that he sent a request to the Appointing Authority and his supervisors to obtain approval for secondary employment with Accept, Inc., to do certified DUI training. Hadley testified that the state DCBS office was located in the same facility as the office of Accept, Inc. He stated in his request that he was not involved in any Cabinet matters concerning Accept. Hadley testified that he had been a social worker for over 16 years and that an important part of his job required him to testify in court. He acknowledged that it was important that he testify honestly and that his job could be in jeopardy if he gave false testimony.

30. Hadley testified that he put his time on his timesheet for April 14, 2014, as sick leave, as he was not aware he could not use sick leave for his time away from the office. He did not list any time off for attending the hearing on April 23, which he said was a mere oversight. He said his supervisor, Mark Gibson, knew where he was on both dates and what he was doing, and approved his timesheets. However, he testified that when he received notice from Ms. Colyer about a hearing for a Major Disciplinary Action against him was the first that he became aware that that he was being charged with falsification of his timesheet.

31. Hadley testified that he believed he had substantially completed the training he was required to do, however, he acknowledged that the administrative hearing office had ruled that he had a duty to strictly comply with the training requirements. He said that most of the people who attended the class had to rely on someone to provide their transportation, as their license had been revoked on their DUI conviction. He testified that Ms. Tucker asked him to sign the October 18 letter, which she said was requested by the Cabinet, and acknowledged his signature on the letter. He testified that as shown in the letter he conducted training on September 19, 2013.

32. He testified that the timesheets he filled out had his signature on the bottom, with a certification that his time reported was in accordance with existing law and regulations. He testified that the leave requested is shown as sick leave for April 14, 2014, but that he did not know he could not report the time off as sick leave. His time reported for April 23 was shown with no time off, which he said was an oversight. He admitted that he did not initiate any attempt to correct the timesheets until he was made aware of the problem at the hearing. He said he did not knowingly make any incorrect reports of his time.

III. FINDINGS OF FACT

1. The disciplinary proceedings brought against Appellant Hadley arise out of an administrative hearing on charges brought by the Cabinet to revoke the certification of Accept, Inc., as a DUI program instructor on the grounds that the company and its instructors failed to comply with the requirements established by the regulations of the Commonwealth of Kentucky, and that the actions of the instructors violated the Code of Ethics contained in the application made for instructor certification.

2. Appellant Hadley was employed by the Cabinet of Health and Family Services of the Commonwealth of Kentucky as a Social Service Clinician for the Department of Community Based Services (DCBS) at its regional office in Albany, Kentucky. Hadley's work requirements involved serving the Cabinet's oversight of children under the Cabinet's care in Clinton and Cumberland counties. His duties also required that he testify in courts on matters concerning termination of parental custody and juvenile justice issues, which Hadley estimated he had done over 300 times.

3. In 2008, Appellant Hadley submitted a request for approval for off-duty employment outside the Cabinet, to work as a DUI program instructor for an independent contractor for the state, Accept, Inc. The program provided DUI program treatment courses, entitled "Prime for Life," involving an education and treatment program for first-time DUI offenders.

4. On September 13, 2013, Wilma Terry, the DUI Program coordinator, received a complaint from Lee Etta Cummings concerning the performance of the program's instruction at the Albany location conducted by Accept, Inc. Subsequent investigations done on September 18 and 19 raised questions that warranted a request for documentation from Accept as to the training dates and instructors for the month of September. The request resulted in a written response from Accept dated October 18, 2013, stating that the company's owner and president, Angela Tucker, and Appellant Hadley provided instruction including the two dates investigated by the Cabinet.

5. Based upon the information considered to be falsely documented, an administrative hearing was conducted on April 14 and 23, 2014, on whether to revoke Accept's certification. The hearing officer presiding over said hearing issued a Findings of Fact, Conclusions of Law and Recommended Order on January 29, 2015, in which the hearing officer concluded that Hadley falsely testified under oath concerning the required length of the courses in two and three hour sessions and that he falsely testified under oath that he never allowed clients to leave early. However, testimony was received from Stephen Shore, the Western Kentucky DUI Program Coordinator, that he observed the entry and leaving of program clients within 50 minutes on September 18, 2013, and that he observed no other activity.

6. Wilma Terry, the Eastern Kentucky DUI Program Coordinator, testified that she observed the clients entering the facility for the DUI program training on September 19 2013, and testified in the April 2014 administrative hearing, and in this hearing, that a client arrived and left within 30 minutes, and that she observed no further activity. As indicated above, both Accept's owner, Angela Tucker, and Appellant Hadley had signed a letter submitted for the Cabinet that the full training had been provided by them on those same dates.

7. As a result of the administrative hearing officer's findings concerning the material misrepresentations and falsification of the training given by Accept, including its instructor, Appellant Hadley, the Appointing Authority agreed with the hearing officer's conclusions and determined that Appellant Hadley lied under oath as to clients completing 20 hours of class time. Additionally, the Appointing Authority found that Hadley submitted false timesheets concerning his time giving testimony on the dates of the administrative hearing.

8. As a further result of the findings of the hearing officer in the revocation hearing on Accept's certification as a DUI program instructor, the Appointing Authority, Howard J. Klein, determined that Hadley's dismissal was appropriate. Mr. Klein concluded that Hadley's lying under oath and submitting false documents brought his truthfulness into question and ruined his credibility for future court testimony in his Cabinet functions. Klein testified that the Cabinet was absolutely dependent on government employees being honest and that Hadley had impaired his ability to perform his position with the Cabinet, including the ability to give honest testimony, and that his dismissal was warranted.

IV. CONCLUSIONS OF LAW

1. Appellant Hadley argued that the revocation of his DUI certification had no impact on his testimony requirements as a social worker for the DCBS of the Cabinet. However, as pointed out by Mr. Klein, the evidence of falsification and the lackadaisical attitude of Hadley concerning his duty to provide honesty in his position with the Cabinet demonstrated a clear disregard of his responsibility as an employee of the Commonwealth of Kentucky.

2. KRS 18A.095 (1) requires a showing of just cause for disciplinary action resulting in the dismissal of a classified employee. KRS 18A.145 (1) requires that employees may not make false statements with regard to certifications required to be made in carrying out their duties. KRS 18A.145 (4) requires that employees submit accurate timesheets reporting the hours worked. 101 KAR 1:345(1) provides that the appointing authority may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

3. Mr. Klein clearly stated the Code of Conduct policy of the Commonwealth of Kentucky that where the nature of an employee's work requires truthfulness, the Cabinet must consider that falsified documents and dishonest testimony cannot be allowed under any circumstances.

4. The weight of the evidence under all the surrounding circumstances presents an employee who has worked for the Commonwealth of Kentucky testifying in court on some 300 occasions concerning violations of regulations pertaining to child custody and juvenile justice matters. As such, his testimony that he was not aware of regulations concerning the claiming of sick time is difficult to comprehend. Further, Hadley signed a document prepared by the owner of Accept in his capacity of working in a secondary job for Accept, that was later shown to be false. Such action breached his duty for honesty as an employee of the Commonwealth, which was his primary responsibility.

5. The Hearing Officer concludes that the Cabinet met its burden of proof to establish that the conduct of Appellant Hadley constitutes a lack of good behavior and the unsatisfactory performance of duties, and pursuant to 101 KAR 1:345 and KRS 18A.095, just cause was established for the disciplinary action of dismissal of Appellant Hadley.

IV. RECOMMENDED ORDER

Having considered and weighed all the evidence and the laws of the Commonwealth of Kentucky, and based upon the foregoing Findings of Fact And Conclusions of Law, the Hearing Officer recommends to the Personnel Board that the appeal of **JERRY R. HADLEY VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2015-104)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

ISSUED at the direction of **Hearing Officer E. Patrick Moores** this 2nd day of December, 2015.

KENTUCKY PERSONNEL BOARD


MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Matthew Perdue
Hon. David M. Cross