

State of Nebraska

Accountability and Disclosure Commission

P.O. BOX 95086
Lincoln, Nebraska 68509
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11th Floor, State Capitol
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Synopsis of Case 14-09 Action Taken March 6, 2015

Respondent: Dave Heineman

The respondent is the former Governor of the State of Nebraska. A complaint was filed on May 30, 2014 by Vince Powers alleging that the Dave Heineman improperly used public resources in connection with his application for the position of President of the University of Nebraska. A preliminary investigation was commenced on June 2, 2014 alleging that the Governor used personnel, resources, property or funds under his official control other than in accordance with law in violation of §49-101.01(2) of the Nebraska Political Accountability and Disclosure Act. The parties entered into a settlement agreement by which the NADC could find that a violation has occurred. By the terms of the agreement the respondent would pay restitution of \$250 to the State in lieu of a civil penalty. The NADC approved the settlement agreement with seven Commissioners concurring, none dissenting, and none abstaining.

Violation: Pursuant to the settlement agreement, the NADC found the respondent had used public resources other than in accordance with law in violation of §49-14,101.01(2)

Civil Penalty: \$0

Other: Respondent to make restitution of \$250 to State of Nebraska in lieu of civil penalty

Attorney for the Respondent: J.L. Spray

Attorney for the Commission: Neil Danberg

Synopsis Prepared by: Frank Daley, Executive Director
Nebraska Accountability & Disclosure Commission
11th Floor State Capitol, P.O. Box 95086
Lincoln, NE 68509
402-471-2522

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

In the Matter of)
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 Dave Heineman)
 Respondent)
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CASE No. 14-09

ORDER

Now on this 6th day of March, 2015, this matter comes before the Nebraska Accountability and Disclosure Commission. Commissioners Brostrom, Gale, Grant, Mumm, Loudon, Conway, Schulz, and von Gillern are present with Commissioner Brostrom having recused himself, and Commissioner Schulz presiding as Chairman. Respondent is not present. Neil Danberg appears on behalf of the Commission. The submission of a proposed settlement agreement is noted.

Whereupon, the Commission with seven (7) Commissioners concurring, and no Commissioners dissenting, finds that, in accordance with the Settlement Agreement, there is sufficient evidence from which the Commission could find, and the Commission does so find, a violation of Section 49-14,101.01(2) of the Nebraska Political Accountability and Disclosure Act, in that on or about May 28, 2014, the Respondent, utilized personnel, resources, or property under his official care and control other than in accordance with law.

The Commission, pursuant to the terms of the Settlement Agreement, does not assess a civil penalty in view of a payment of restitution to the State of Nebraska by the Respondent in the amount of \$250.00. The attached Settlement Agreement, and the terms thereof are approved and incorporated into this Order as if fully set forth herein.

Issued this 6th day of March, 2015.

Nebraska Accountability and Disclosure Commission



Timothy Schulz Acting Chairman

Certificate of Service

I hereby certify that a copy of this Order was sent by certified U.S. Mail, postage prepaid, return receipt requested on this 6th day of March, 2015 to Governor Dave Heineman, care of his attorney, J.L. Spray, Mattson Ricketts Law Firm, 134 South 13th Street, Suite 1200, Lincoln, NE 68508.



Frank J. Daley, Jr.
Executive Director

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

CASE No. 14-09

In the Matter of DAVE HEINEMAN

SETTLEMENT AGREEMENT

- 1) **Parties:** The parties to this Settlement Agreement (hereinafter "Agreement") are the Nebraska Accountability and Disclosure Commission, hereafter referred to as the "Commission" and Governor Dave Heineman, hereinafter referred to as the "Respondent".
- 2) **Jurisdiction:** The Respondent acknowledges the jurisdiction of the Commission pursuant to the Nebraska Political Accountability and Disclosure Act ("NPADA").
- 3) **Intention:** The parties hereby agree that this Agreement shall constitute a waiver of a formal hearing on the alleged violation as described in Paragraph 6 of this agreement, thereby resolving the matter without further delay and expense to the parties.
- 4) **The Alleged Violation:** In its Notice of Preliminary Investigation, the Commission alleged Respondent violated the NPADA as follows: Section 49-14,101.01(2), which prohibits officeholders from using public resources for private purposes or for personal gain.
- 5) **Stipulations and Findings:** The Respondent and the Commission stipulate and agree that at the time of the alleged violation, the Respondent was the Governor of the State of Nebraska, and that on or about May 28, 2014, he announced in a press conference and in press releases and in other media that he was a candidate for the Presidency of the University of Nebraska, and in doing so he made use of certain State resources.
- 6) **Allegation and Finding:** The single violation, as identified in Paragraph 4 of this Agreement, was identified in the Notice of Preliminary Investigation as follows: The Respondent used personnel, resources, property or funds under his official care and control other than in accordance with law or used the same for personal financial gain by using said personnel, resources property or funds in connection with his application for the position of President of the University of Nebraska and a press conference announcing the same in violation of Section 49-14,101.01(2) of the NPADA. For his part, the Respondent states that it was not his intention to violate Nebraska law as alleged, and that his purpose was to inform the citizens of the State that he intended to seek the office of University President. Nonetheless, the Respondent agrees and stipulates that if this matter proceeded to a hearing,

there is sufficient evidence from which the Commission could find that there has been a violation as alleged and that the Commission may enter an order in accordance with said finding, and that he would not contest such a finding.

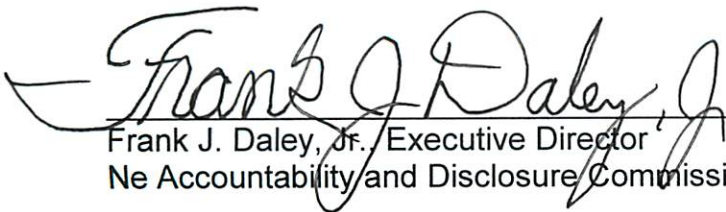
- 7) Restitution in Lieu of Civil Penalty: The parties have agreed that, upon acceptance of this Agreement by the Commission, the Respondent will make a payment to the State of Nebraska in the amount of \$250 in repayment for use of State resources as described in Paragraph 6, above. In view of this payment, the Commission will not impose a civil penalty with respect to this matter.
- 8) The NADC must approve this Agreement in order for it to be Effective: The parties agree that in order for this Agreement to become effective, the Commission must approve it and shall, if it approves the Settlement, enter an Order in accordance with the terms of this Agreement.
- 9) Effective Date of Agreement: This Agreement shall not be binding upon the parties until the date it is approved by the Commission and the Commission issues an order in accordance with the terms of this Agreement. The date upon which the Commission enters its Order approving this Agreement shall be deemed its effective date. If this Agreement is not approved in whole by the Commission, this Settlement Agreement shall be void and may not be used in this or any other proceeding. The parties acknowledge that this Settlement Agreement and any subsequent Order shall be announced at an open public meeting of the Commission and that the vote on such matters shall take place during the Closed Session portion of the meeting. The parties acknowledge that upon adoption, this Settlement Agreement, the Order and the Commission's file pertaining to this matter shall become open and public.
- 10) Right to Address the Commission: The Respondent and his attorney have a right to address the Commission on the matter of the amount of restitution and approval of this Settlement Agreement.
- 11) Advice of Counsel: The Respondent acknowledges that he has had an opportunity to seek the advice of his attorney in connection with the terms of this agreement.



Governor Dave Heineman, Respondent

2-26-15

Date



Frank J. Daley, Jr. Executive Director
Ne Accountability and Disclosure Commission

3-6-15

Date