State of Nebraska
Accountability and Disclosure Commission

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Synopsis Case #16-05
Action Taken on June 3, 2016

Respondent: John Lutz

The Respondent is a member of the Village of Sutherland Board of Trustees. A complaint was filed on March 17, 2016 by Sutherland resident Michael Rhoades alleging that the Respondent: a) had failed to disclose an interest in a contract with the Village prior to consideration by the Village Board of Trustees in violation of §49-14,103.01 of the NPADA; and b) used his public office for personal financial gain or that of a business with which he was associated in violation of §49-14,101.01 of the NPADA. The allegations arose when the Village of Sutherland sought proposals for the replacement and installation of doors at a Village Maintenance Shop. The Respondent, doing business as John's Repair, submitted a proposal. It was alleged that he did not, prior to consideration by the Village Board, make a declaration of or file a written statement disclosing his interest in the contract. It was further alleged that at the time of consideration by the Village Board of the proposals, the Respondent used his position on the board to argue against acceptance of the other two proposals and in favor of the proposal by John's Repair. The contract, with a value of $17,300, was awarded to John's Repair.

The parties entered into a settlement agreement by the terms of which the Commission could find a violation of §49-14,103.01 and assess a civil penalty of not more than $500.00. The allegation of a violation of §49-14,101.01 would be dismissed. The Commission approved the Settlement Agreement, found a violation and assessed a civil penalty of $500.00 with six Commissioners concurring, three Commissioners dissenting, and no Commissioners abstaining.

Violation: Pursuant to the Settlement Agreement, the Commission found that the Respondent had failed to disclose an interest in a contract with the Village of Sutherland in violation of section 49-14,103.01 of the NPADA.

Civil Penalty: $500.00

Attorney for Commission: Neil Danberg

Synopsis Prepared by:

Frank Daley
Executive Director
Nebraska Accountability & Disclosure Commission
P.O. Box 95086
Lincoln, NE 68509
402-471-2522

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

	)	**CASE No. 16-05**
In the Matter of	)	
	)	
John Lutz	)	**ORDER**
Respondent	)	
	)	
	)	

Now on this 3rd day of June, 2016, this matter comes before the Nebraska Accountability and Disclosure Commission. Commissioners Gale, Peetz, Loudon, Conway, Schulz, Enenbach, Ziebarth, Davis, and von Gillern are present with 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 six (6) Commissioners concurring, three (3) Commissioners dissenting, and no Commissioners abstaining, 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 49-14,103.01 of the Nebraska Political Accountability and Disclosure Act, in that on or about February 10, 2016, the Respondent failed to make a declaration on the record disclosing his interest in a bid and a contract, prior to consideration of same by the Board of Trustees of Sutherland, Nebraska.

The Commission, pursuant to the terms of the Settlement Agreement, elects to assess a civil penalty in the amount of $500.00. The attached Settlement Agreement, and the terms thereof are approved and incorporated into this Order as if fully set forth herein.

Issued this 3rd day of June, 2016.

Nebraska Accountability and Disclosure Commission

Timothy Schulz 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 3rd day of June, 2016 to John Lutz, 550 Fern Street, Sutherland, Nebraska 69165.

Frank J. Daley, Jr.
Executive Director

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

IN THE MATTER OF JOHN LUTZ	)	**CASE No. 16-05**
	)	
	)	**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 John Lutz, a member of the Board of Trustees of Sutherland, Nebraska, 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 and intend that this Agreement shall constitute a waiver of a formal hearing on the alleged violations as described in Paragraph 4 of this Agreement, thereby resolving the matter without further delay and expense to the parties.

4) The Two Alleged Violations: In its Amended Notice of Preliminary Investigation in this case, the Commission alleged the Respondent committed two separate violations of the NPADA, as follows: The First alleged Violation is of Section 49-14,103.01 in that on or about February 10, 2016, the Respondent presented a bid or proposed contract for work which he, as the owner of "John's Repair", proposed to do on behalf of the Village, but he did not make a declaration on the record concerning the nature and extent of his interest in the bid and proposed contract prior to official consideration of it. The Second alleged violation is of Section 49-14, 101.01(1) in that on or about February 10, 2016, he used his office to obtain financial gain for himself by using his position as a member of the Board of Trustees to oppose contractual bids from other contractors for work to be done on Village property, while advocating his own bid.

5) Dismissal of the Second Alleged Violation. As part of this Agreement, and in view of its remaining terms as set out below, the Commission agrees to dismiss the Second alleged violation. This Second alleged violation relates to the Respondent's use of his office for financial gain. A summary and a description of the Second alleged violation has been stated above in Paragraph 4.

6) The First Alleged Violation: Stipulations and Agreements. With respect to the First alleged violation, as described above in Paragraph 4 as well as in the Notice of Preliminary Investigation, the Respondent and the Commission stipulate and agree that: (a) At the time of the First alleged violation, the Respondent was a member of

the Board of Trustees of the Village of Sutherland, Nebraska. (b) The Respondent had a direct financial interest in the proposed contract with "John's Repair" since he is its owner; and (c) he did not make a declaration concerning the nature and extent of his interest in the proposed contract prior to its consideration by the Board of Trustees.

7) The First Alleged Violation: Findings The First alleged violation, as identified, above, in Paragraphs 4 and 6, relates to the Respondent's failure to make a declaration and a written disclosure. For his part, the Respondent states that it was not his intention to violate Nebraska law as alleged. Nonetheless, the Respondent agrees and stipulates that if this matter proceeded to a hearing, there is sufficient evidence from which the Commission could make a finding, with respect to the First alleged violation, that there has been a violation as alleged. The Commission may enter an order in accordance with said finding, and he would not contest such a finding.

8) Civil Penalty: The parties have agreed that, upon acceptance of this Agreement by the Commission, the Commission may, but is not required to, impose a civil penalty upon the Respondent. The parties further agree that In the event the Commission elects to impose a civil penalty, such penalty will not exceed the amount of $500.00.

9) 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.

10) 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.

11) Right to Address the Commission: The Respondent has a right to address the Commission on the subject of the civil penalty and approval of this Settlement Agreement.

John Lutz, Respondent

5-13-16
Date

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

6-3-16
Date

05/14/16.
MAY 16 2016