

# State of Nebraska

## Accountability and Disclosure Commission

P.O. BOX 95086  
Lincoln, Nebraska 68509  
www.nadc.nebraska.gov



Centre Terrace, 1225 L St. #400  
Phone (402) 471-2522  
Fax (402) 471-6599

### Synopsis Case #17-01 Action Taken on June 1, 2018

**Respondent:** Scott Getzschman

Scott Getzschman is the Mayor of the City of Fremont. On January 20, 2017 a complaint was filed by Amy Schaffer. The complaint generally alleged that Scott Getzschman (hereafter the Respondent) had prohibited interests in contracts with the City of Fremont. An investigation was commenced on February 9, 2017.

After the commencement of a preliminary investigation, it was alleged that the Respondent had an interest in six specific contracts with the City of Fremont through Getzschman Heating, LLC, a business with which he was associated. Specifically it was alleged that he failed to cause the matter of the contracts to be made agenda items at a City Council meeting and that he failed to publicly disclose his interest in the contracts in violation of §49-14,103.01 of the Nebraska Political Accountability and Disclosure Act (NPADA).

The parties entered into a settlement agreement by the terms of which the Commission could find two violations of §49-14,103.01 involving contracts of \$400 and \$460. All other allegations would be dismissed. The agreement provides for a civil penalty of up to \$3,500.00. The Commission approved the Settlement Agreement and assessed a civil penalty of \$2,250.00 with nine Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining.

**Violation:** Pursuant to the Settlement Agreement, the Commission found that the Respondent violated §49-14,103.01 of the NPADA on two occasions by failing to make contracts with the City of Fremont, in which he had an interest, agenda items at a City Council Meeting and by failing to publicly disclose his interest in the contracts. The remaining allegations were dismissed.

**Civil Penalty:** \$2,250.00

**Attorney for Commission:** Neil Danberg

**Attorney for the Respondent:** J. L. Spray and David C. Mitchell

**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**

**Scott Getzschman,**

**Respondent**

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**Case #17-01**

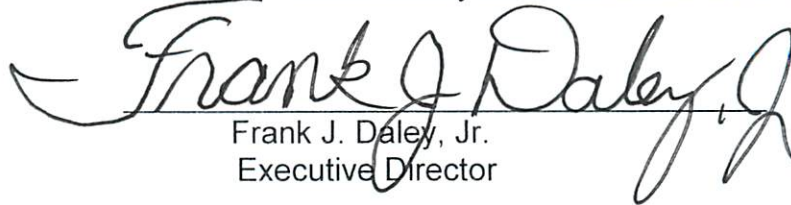
**ORDER**

Now on this 1<sup>st</sup> day of June, 2018, this matter comes before the Nebraska Accountability and Disclosure Commission. Commissioners Callahan, Carlson, Davis, Enenbach, Gale, Hegarty, Loudon, Peetz and Sullivan are present with Commissioner Enenbach presiding. The Respondent is not present. The Commission notes the submission of a proposed Settlement Agreement.

Whereupon, the Commission, with nine Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining, finds that the attached Settlement Agreement should be and hereby is approved and incorporated into this Order. Pursuant to that Agreement, the Commission takes the following actions: The Commission dismisses the alleged violations set forth in subparagraphs (1), (3), (4), (5) and (7) of paragraph 4 of the Settlement Agreement. The Commission finds that the Respondent has committed two violations of Nebraska Revised Statutes, Section 49-14,103.01, as more fully set forth in subparagraphs (2) and (6) of paragraph 4 of the attached Settlement Agreement. Pursuant to the terms of the Settlement Agreement, the Commission imposes a civil penalty against the Respondent in the amount of \$2,250.00.

Issued this 1<sup>st</sup> day of June, 2018

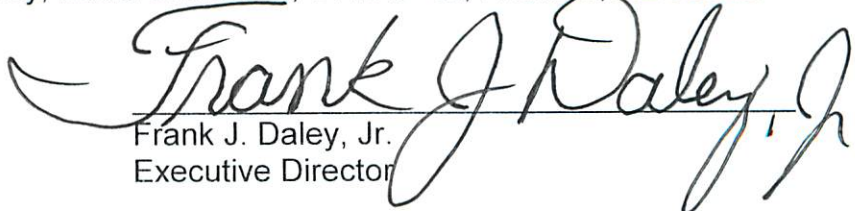
Nebraska Accountability and Disclosure Commission



Frank J. Daley, Jr.  
Executive Director

**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 1<sup>st</sup> day of June, 2018, to the following person at the following address: Scott Getzschman, 1832 Fawn Circle, Fremont NE 68025; and by regular U.S. Mail to his attorney, J.L. Spray, Mattson Ricketts Law Firm, 134 S.13<sup>th</sup> Street, Lincoln, NE 68508 and his attorney, David C. Mitchell, 81 W 5<sup>th</sup> St, Fremont, NE 68025.



Frank J. Daley, Jr.  
Executive Director

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

IN THE MATTER OF  
SCOTT GETZSCHMAN

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CASE No. 17-01

SETTLEMENT AGREEMENT

RECEIVED  
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NE. ACCOUNTABILITY &  
DISCLOSURE COMMISSIC

- 1) **Parties:** The parties to this Settlement Agreement (hereinafter "Agreement") are the Nebraska Accountability and Disclosure Commission, hereafter referred to as the "Commission" and Scott Getzschman, 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 any further 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 Alleged Violations.**

(a) **The General Nature of the Violations.** Each of the allegations relates to a violation of Section 49-14,103.01(2), which generally prohibits an officer from having an interest in a contract with his governing body, unless certain statutory prerequisites are observed;

(b) **The Specific Allegations:** As stated in its Amended Notice of Preliminary Investigation, the Commission alleged the Respondent committed violations of the NPADA, Section 49-14,103.01(2), which are summarized as follows:

That Respondent, while the then duly elected Mayor of the City of Fremont, Nebraska, either personally or through a business with which he was associated, had a prohibited interest in a contract or contracts to which the City of Fremont was a party, and he:

- (1) Failed to make certain contracts agenda items and failed to make a declaration on the record concerning the nature and extent of his interest in said contracts;
- (2) On or about January 8, 2015, with respect to a contract in the amount of approximately \$400.00, failed to make said contract an agenda item and

failed to make a declaration on the record concerning the nature and extent of his interest in said contract;

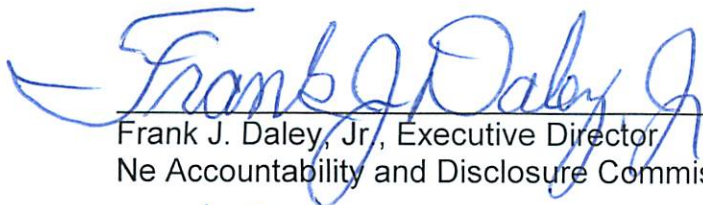
- (3) On or about January 15, 2015, with respect to a contract in the amount of approximately \$54.00, failed to make said contract an agenda item and failed to make a declaration on the record concerning the nature and extent of his interest in said contract;
  - (4) On or about November 25, 2015, with respect to a contract in the amount of approximately \$80.00, failed to make said contract an agenda item and failed to make a declaration on the record concerning the nature and extent of his interest in said contract;
  - (5) On or about December 3, 2015, with respect to a contract in the approximate amount of \$28.00, failed to make said contract an agenda item and failed to make a declaration on the record concerning the nature and extent of his interest in said contract;
  - (6) On or about February 9, 2016, with respect to a contact in the approximate amount of \$460.00, failed to make said contract an agenda item and failed to make a declaration on the record concerning the nature and extent of his interest in said contract;
  - (7) On or about March 1, 2017, with respect to a contract in the approximate amount of \$99.00, failed to make said contract an agenda item and failed to make a declaration on the record concerning the nature and extent of his interest in said contract.
- 5) **Dismissal of certain of the Alleged Violations.** As part of this Agreement, and in view of its remaining terms as set out below, the Commission agrees to dismiss the following five alleged violations, as they have been described in the Amended Notice of Preliminary Investigation and summarized in the preceding Paragraph 4, above: 1, 3, 4, 5, and 7.
- 6) **The Second and Sixth Alleged Violations: Stipulations and Agreements.** As noted in the Amended Notice of Preliminary Investigation, and as summarized in Paragraph 4 above, the second and sixth allegations relate to violations of the NPADA, Section 49-14,103.01(2). The Respondent and the Commission stipulate and agree, with respect to violations 2 and 6, that at the time of these alleged violations, the Respondent was the duly elected and acting Mayor of the City of Fremont. At the same time, the Respondent also had an ownership interest in Getzschman Heating, LLC, a Nebraska heating and air conditioning company. The parties to this Agreement further agree and stipulate that the Respondent, with respect to the contracts described in allegations 2 and 6 did not make said contracts an agenda item or make a declaration on the record concerning the nature and extent of his interest in said contracts.

- 7) **The Second and Sixth Alleged Violations: Findings** With respect to the second and sixth alleged violations, as referenced and described above, the Respondent states that it was not his intention to violate Nebraska law as alleged. The second violation involved providing an emergency service to the City and the sixth violation involved a service call following work that had originally been performed by Getzschman Heating, LLC as a sub-contractor. Further, that it was public knowledge that Respondent had an interest in Getzschman Heating, LLC. 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 of a violation with respect to both the second and sixth alleged violations. He further agrees that the Commission may enter an order in accordance with said finding, and he would not contest such a finding or order.
- 8) **Limitation of 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 \$3,500.00
- 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 upon which 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 and his attorney have a right to address the Commission concerning both a possible civil penalty as well as the approval of this Settlement Agreement.
- 12) **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.



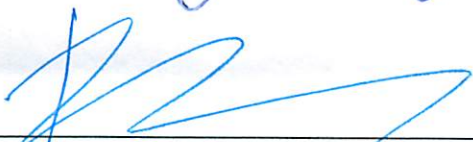
Scott Getzschman, Respondent

  
Date

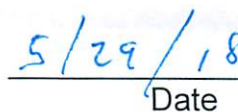


Frank J. Daley, Jr., Executive Director  
Ne Accountability and Disclosure Commission

  
Date



Approved as to Form, J.L. Spray,  
Attorney for Respondent, Scott Getzschman

  
Date



Approved as to Form, David C. Mitchell,  
Attorney for Respondent, Scott Getzschman

  
Date