

# State of Nebraska

## Accountability and Disclosure Commission

P.O. BOX 95086  
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Phone (402) 471-2522  
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### Synopsis Case #19-39 Action Taken on March 6, 2020

#### **Respondent:** Marvin Kohout

The Respondent is a member of the Saline County Board of Commissioners. A complaint was filed by Saline County resident Charles McKay on July 23, 2019. The complaint generally alleged that the Respondent voted on matters concerning wind energy, when he had a conflict of interest on such matters. An investigation was commenced alleging three violations: (1) Section 49-1496 on or about March 1, 2019, by failing to disclose certain real property he owned on a Statement of Financial Interests; (2) Section 49-1499.03(1) on March 6, 2018, by failing to prepare and file a written statement describing the nature of a potential conflict of interest with respect to his voting to give extensions to conditional use permits, including wind energy firms, to complete projects in Saline County; and (3) Section 49-1499.03(1) on March 20, 2018, by failing to prepare and file a written statement describing the nature of a potential conflict of interest with respect to his voting upon an application for an extension of a conditional use permit for construction of Milligan I, a wind farm in Saline County .

The parties entered into a settlement agreement by the terms of which the Commission could find a violation of §49-1496 and a violation of §49-1499.03(1) for failure to disclose a conflict of interest on March 20, 2018. The agreement provides for a civil penalty of no more than \$1,000. By the terms of the agreement, the allegation of a violation of §49-1499.03(1) on March 6, 2018 would be dismissed. The Commission approved the Settlement Agreement and assessed a civil penalty of \$750.00 with six Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining.

**Violation:** Pursuant to the Settlement Agreement, the Commission found that the Respondent: 1) failed to disclose his ownership of real property on a Statement of Financial Interests in violation of §49-1496; and 2) failed to disclose a conflict of interest as to the extension of a conditional use permit for a wind energy project which potentially resulted in a financial benefit to himself in violation of §49-1499.03(1).

**Civil Penalty:** \$750.00

**Attorney for the Commission:** Neil B. Danberg, Jr.

**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**

**In the Matter of Marvin Kohout,**

**Respondent**

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**Case #19-39**

**ORDER**

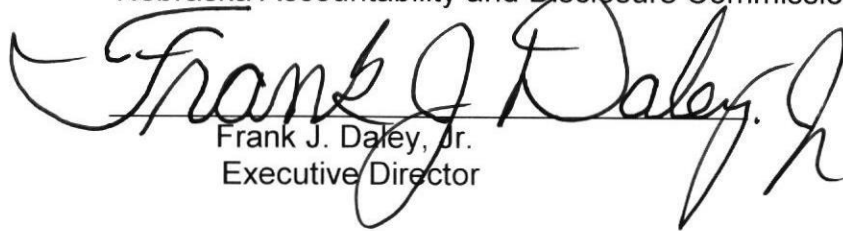
Now on this 6th day of March, 2020, this matter comes before the Nebraska Accountability and Disclosure Commission. Commissioners Carlson, Davis, Enenbach, Evnen, Hegarty, and Sullivan are present with Commissioner Enenbach presiding. Commissioners Callahan and Peetz are excused. The Respondent is not present. The Commission notes the submission of a proposed Settlement Agreement.

Whereupon, the Commission with six 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 finds that the Respondent has committed two violations of Nebraska Revised Statutes: Section 49-1496 and Section 49-1499.03(1), as more fully set forth in the attached Settlement Agreement. Another alleged violation of Section 49-1499.03(1), as more fully described in the Settlement Agreement, is dismissed.

As permitted by the Settlement Agreement, the Commission imposes a civil penalty \$750.00.

Issued this 6th day of March, 2020.

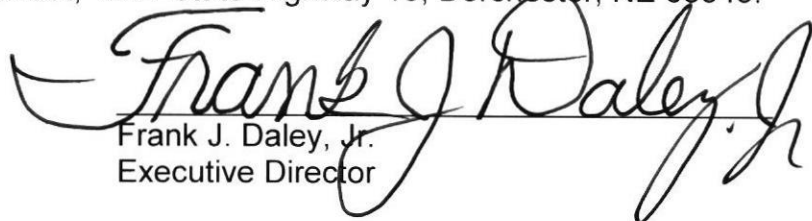
Nebraska Accountability and Disclosure Commission



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 <sup>6<sup>th</sup></sup> day of March, 2020, to the following at the following address or addresses: Marvin Kohout, 1214 State Highway 15, Dorchester, NE 68343.



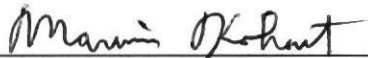
Frank J. Daley, Jr.  
Executive Director

**BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION**

**In the Matter of Marvin Kohout**                    )  
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**CASE No. 19-39**  
**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 Marvin Kohout, hereafter 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 proceedings in this matter, thereby resolving the matter without further delay and expense to the parties.
- 4) The Alleged Violations, Description: In its Notice of Preliminary Investigation in this case, the Commission has alleged certain three (3) violations under the NPADA allegedly committed by the Respondent, and these are summarized hereinafter as follows: (1) Section 49-1496, on or about March 1, 2019, by failing to disclose certain real property he owned on a Statement of Financial Interests, which he was required to file; (2) Section 49-1499.03(1), on March 6, 2018, by failing to prepare and file a written statement describing the nature of his potential conflict of interest with respect to his voting to give extensions to conditional use permits, including wind energy firms, to complete projects in Saline County; and (3) Section 49-1499.03(1), on March 20, 2018, by failing to prepare and file a written statement describing the nature of his potential conflict of interest with respect to his voting upon an application for an extension of a conditional use permit for construction of Milligan I, a wind farm in Saline County .
- 5) The Alleged Violations, Stipulation: The Respondent and the Commission stipulate and agree that: (a) At the time of the alleged violations, the Respondent was a County Commissioner of Saline County, Nebraska; (b) As a County Commissioner, he had an obligation to file an annual Statement of Financial Interests in 2019, covering calendar year 2018; and (c) That at all relevant times, he owned property within Milligan I, a proposed wind farm in Saline County.
- 6) The Alleged Violations, Agreement: With respect to Violation (2), as described above in Paragraph 4, the Respondent and the Commission hereby agree that the said violation will be dismissed.

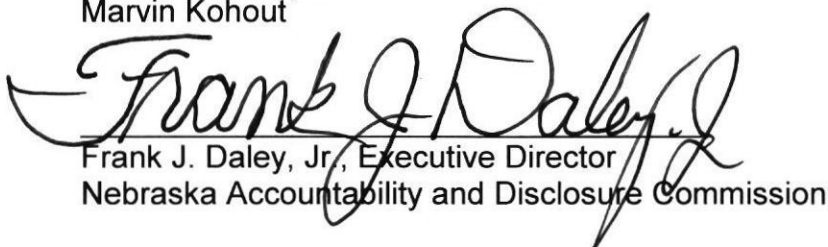
- 7) The Respondent states that it was not his intent to violate the NPADA as alleged, but he agrees and stipulates that: (a) if this matter proceeded to a hearing, there is sufficient evidence from which the Commission could make a finding that there have been violations as alleged in (1) and (3), above, in Paragraph 4, and as more fully set forth in the Notice of Preliminary Investigation; and (b) the Commission may enter an order that there have been violations as alleged in (1) and (3), above, in Paragraph 4, and that 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, Marvin Kohout. The parties further agree that In the event the Commission elects to impose a civil penalty, such penalty will not exceed the amount of \$1,000.00.
- 9) The Commission 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 the Commission 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. The parties further 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 matter of the approval of this Settlement Agreement.
- 12) Advice of Counsel: The Respondent acknowledges that he has had an opportunity to seek the advice of an attorney in connection with the terms of this agreement.



Marvin Kohout

2-21-2020

Date

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

3-6-20

Date

