

**Synopsis of Case 12-03**  
Action Taken January 18, 2013

**Respondents:** Svoboda for City Council; Ken Svoboda, Candidate

The respondent Ken Svoboda was a candidate for Lincoln City Council and the respondent Svoboda for City Council was his candidate committee. The respondents were required to file an annual campaign statement in January of 2012 (covering 2011). The campaign statement was not filed in violation of §49-1462 and a preliminary investigation was commenced. The required filing was made on October 16, 2012. The parties reached a settlement agreement. By the terms of the agreement the respondents admitted a violation of §49-1462 and also acknowledged that an earlier campaign statement had been filed late. The Commission approved the settlement agreement with seven Commissioners concurring, none dissenting and none abstaining from participating and voting.

Allegation

The allegation was that the respondents failed to file an annual campaign statement on or before January 31, 2012 as required by §49-1462 of the Nebraska Political Accountability and Disclosure Act.

Civil Penalty: None

Other: Required statement now on file and late fees of \$1,500.00 have been paid

Attorney for the Respondent: None

Synopsis Prepared by:

Frank Daley  
Executive Director  
Nebraska Accountability & Disclosure Commission  
11<sup>th</sup> Floor State Capitol, P.O. Box 95086  
Lincoln, NE 68509  
402-471-2522

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

In the Matter of	)	Case #12-03
Svoboda for City Council;	)	
Ken Svoboda, Candidate	)	<b>Order</b>
	)	
	)	

Now on this 18<sup>th</sup> day of January 2013, this matter comes before the Nebraska Accountability and Disclosure Commission. Commissioners Gale, Grant, Mumm, Nelson, Schultz and Von Gillern are present with Commissioner Brostrom presiding. The Respondents appear neither in person nor through an attorney. Frank Daley appears on behalf of the Commission. The Commission notes the submission of a proposed settlement agreement.

Whereupon, the Commission with 7 Commissioners concurring, 0 Commissioners dissenting, and 0 Commissioners abstaining, approves the attached settlement agreement and the terms thereof are incorporated into this order as if fully set forth herein. As provided by the settlement agreement, the Commission finds that the Respondents have violated §49-1462 of the Nebraska Political Accountability and Disclosure Act. As further provided by the settlement agreement, no civil penalty is assessed, but the receipt of late filing fees in the amount of \$1,500.00 from the Respondents is acknowledged.

Issued this 18th day of January 2013.

Nebraska Accountability and Disclosure Commission

Kevin Brostrom  
Kevin Brostrom  
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 the 18th day of January 2013 to the following at the following address or addresses: Svoboda for City Council and Ken Svoboda, 7309 Skyhawk Circle, Lincoln, NE 68506

Frank J. Daley, Jr.  
Frank J. Daley, Jr.

BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

In the Matter of Svoboda for Council; Ken Svoboda, Candidate Respondents )  
)  
) CASE No. 12-03  
) SETTLEMENT AGREEMENT  
)  
)

- 1) Parties: The parties to this Settlement Agreement are the Nebraska Accountability and Disclosure Commission, hereafter referred to as the "Commission" and Svoboda for Council; Ken Svoboda, candidate, hereinafter referred to collectively as the "Respondent".
- 2) Jurisdiction: The Respondent acknowledges the jurisdiction of the Commission pursuant to the Nebraska Political Accountability and Disclosure Act (the "Act").
- 3) Intention: The parties enter into this Settlement Agreement and agree that this Agreement shall constitute a waiver of further proceedings in the hearing process which has been commenced but not concluded in this case, thereby resolving the matter without further delay and expense to the parties.
- 4) Admissions and Findings Concerning Late Filing Fees: The Respondent admits that he had formed a candidate committee incident to his candidacy for the Lincoln City Council, and that the name of the Committee was the "Svoboda for Council Committee." Respondent further admits that until and unless the Committee was dissolved, he had an obligation to furnish annual campaign reports concerning the status of the Committee and its assets and obligations. Respondent admits that he did not timely file an annual campaign statement for either calendar year 2010 or 2011, and that he incurred a \$750 civil penalty for each year as a consequence of not filing the annual campaign statements when they were due.

He concedes that the said timely filing of the annual campaign reports is required by Section 49-1462 of the Act and that a late filing penalty up to a maximum of \$750 for each annual report is provided by Section 49-1463 of the Act. The amount which the Respondent owes the Commission for late filing of his campaign statement in both 2010 and 2011 is a total of \$1,500.

- 5) Admissions and Proceedings Concerning Failure to File Campaign Statement. Respondent further admits that he failed to file an annual campaign statement in 2012 (for calendar year 2011), in violation of Section 49-1462 of the Act, which requires such a filing. The Commission instituted a preliminary investigation into this failure, and the Commission found probable cause to believe that failure to file the said statement constituted a violation of the aforesaid Section of the Act. The Commission further initiated proceedings concerning the charge by

convening a hearing to address the Respondent's failure to so file, and that the hearing, though commenced, has been continued until final resolution of this Agreement.

- 6) Dismissal of Original Charge in view of this Agreement and the Respondent's payment of accrued late filing fees in the amount of \$1,500. In consideration for Payment by the Respondent and receipt by the NADC of the \$1,500.00 owed by the Respondent for late filing fees as described above in Paragraph 4, and in further consideration of receipt by the Respondent of information constituting an annual campaign statement, the NADC will dismiss the charge and proceedings concerning the charge, as described above in Paragraph 5, alleging failure to file an annual campaign statement for 2011, but subject to the condition as described in the following Paragraph 7, concerning failure of Respondent's consideration.
- 7) Settlement Agreement null and void in the event there is a failure of consideration from the Respondent. This Settlement Agreement may be declared null and void, at the sole discretion of the NADC, in the event Respondent fails to provide all or any portion of the consideration in the amount of \$1,500.00, as described above in Paragraph 6. If there is such failure of consideration by the Respondent, and if, in the sole discretion of the NADC this Settlement Agreement is declared null and void, the NADC may proceed to collect the \$1500.00 in late filing fees, as discussed in Paragraph 5, and may further, upon notice to the Respondent, recommence the proceedings and proceed to a final determination concerning the alleged violation of Section 49-1462, as described in Paragraph 5. In such instance, and if a violation of said Section 49-1462 is found by the NADC, a civil penalty may be affixed by the NADC under the terms of the Act.
- 8) Future Compliance: The Respondent shall, upon approval of this agreement, agree that he will in the future use all reasonable diligence in complying with all the provisions of the NPADA.
- 9) Commission Order: The parties agree that the Commission, if it approves this Settlement Agreement, shall enter an Order accordingly.
- 10) Effective Date of Agreement: This Agreement shall not be binding upon the parties until approved by the Commission. 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, or if there is a failure of consideration by the Respondent, as described in Paragraph 7, above, this Settlement Agreement shall be void and may not be used in this or any other proceeding. The parties acknowledge and agree 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 and agree that upon

adoption, this Settlement Agreement, the Order and the Commission's file pertaining to this matter shall become open and public.

- 11) Waiver of Right to Address the Commission: The parties agree that the Respondent has the opportunity to address the Commission on the matter of the approval of this Settlement Agreement, and he hereby knowingly waives said right.
- 12) Advice of Counsel and Understanding of the Terms of this Agreement: The Respondent acknowledges that he has had an opportunity to seek the advice of an attorney in connection with the terms of this agreement, and that he has read and fully understands the terms of this Agreement.

**Ken Svoboda**

Svoboda for Council; Ken Svoboda,  
Candidate, Respondent

**Frank J. Daley, Jr.**

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