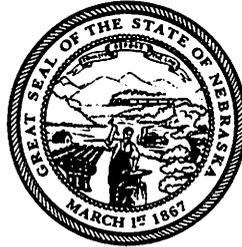


State of Nebraska

Accountability and Disclosure Commission

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



11th Floor, State Capitol
Phone (402) 471-2522
Fax (402) 471-6599

Synopsis Case #17-06 Action Taken on June 9, 2017

Respondent: Patrick Cunningham

The Respondent is a member of the Village of South Bend Board of Trustees. The matter was referred to the Commission by the Auditor of Public Accounts. The Commission's Executive Director commenced a preliminary investigation on March 9, 2017 alleging that the Respondent violated §49-14,103.01(5) of the Nebraska Political Accountability and Disclosure Act (NPADA) in that he: a) had an interest through his spouse in a contract with the Village and failed to cause it to be an agenda item at a Village Board meeting; b) failed to disclose on the record his interest in the contract; and c) voted to make payments under the contract. The allegations stem from a contract between the Village and the Respondent's spouse, Deb Cunningham, by which she would perform the duties of the Village Clerk as an independent contractor.

The parties entered into a settlement agreement by the terms of which the Commission could find a violation of §49-14,103.01 for failing to cause the contract to be made an agenda item and failing to make a disclosure on the record of his interest in the contract. The agreement further provided that the Commission may assess a civil penalty of not more than \$500.00. The Commission approved the Settlement Agreement, found a violation and assessed a civil penalty of \$500.00 with eight Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining.

Violation: Pursuant to the Settlement Agreement, the Commission found that the Respondent had failed to cause the contract to be made an agenda item and failed to disclose an interest in a contract with the Village of South Bend 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

In the Matter of)
PATRICK CUNNINGHAM:)

CASE # 17-06
SETTLEMENT AGREEMENT

RECEIVED
NEBRASKA
2017 MAY 30 AM 10:07
NEBRASKA ACCOUNTABILITY &
DISCLOSURE COMMISSION

- 1) Parties: The parties to this Settlement Agreement (hereinafter "Agreement") are the Nebraska Accountability and Disclosure Commission, hereafter referred to as the "Commission" and Patrick Cunningham, 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 further proceedings including a formal hearing on the alleged violation as described in Paragraph 4 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 in this case, the Commission alleged the Respondent committed a violation of the NPADA, Section 49-14.103.01(5), as follows: On or about January 1, 2016 and thereafter, the Respondent had an interest in a certain contract between the Village of South Bend, Nebraska and his spouse, and he failed to make the contract an agenda item and he failed to make a declaration on the record concerning his spouse's interest in said contract.
- 5) The Alleged Violation: Stipulations and Agreements. The Respondent and the Commission stipulate and agree that at the time of the alleged violation, the Respondent was a public official in that he was Chairman of the Village Board of Trustees of South Bend, Nebraska.
- 6) The Alleged Violation: Findings. With respect to the Alleged Violation, the Respondent states that it was not his intention to violate Nebraska law as alleged, and that it was public knowledge that his wife had a contract with the Village of South Bend. 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 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.
- 7) 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 \$500.00.

- 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. 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.
- 10) Right to Address the Commission: The Respondent has a right to address the Commission on the matter of the amount of civil penalty and approval of this Settlement Agreement.



 Patrick Cunningham, Respondent

5-30-17
 Date



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

6-9-17
 Date