

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
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Synopsis Case #15-10 Action Taken on June 3, 2016

Respondent: Al Davis

The Respondent is a member of the Nebraska Legislature. A complaint was filed on May 7, 2015 by John Gould alleging that the Respondent: a) had failed to prepare and file a written statement disclosing a conflict of interest upon the introduction of LB 201 in violation of §49-1499 of the NPADA; and b) had failed to prepare and file a written statement disclosing a conflict of interest upon the withdrawal of LB 201 in violation of §49-1499 of the NPADA. The allegations arose when the Respondent introduced LB 201 during the 2015 Legislative Session. LB 201 would have imposed a severance tax on entities mining minerals in Nebraska. Later in the session the Respondent withdrew LB 201 from further consideration. At the time of the introduction and withdrawal of LB 201 the Respondent had a business association through the holding of stock with NioCorp Developments Ltd. At the time NioCorp was planning to commence mining niobium in Southeast Nebraska.

The parties entered into a settlement agreement by the terms of which the Commission could find a single violation of §49-1499 based upon the withdrawal of LB 201 and assess a civil penalty of not more than \$500.00. The other allegation of a violation of §49-1499 based upon the introduction of LB 201 would be dismissed. The Commission approved the Settlement Agreement, found a violation and assessed a civil penalty of \$500.00 with nine Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining.

Violation: Pursuant to the Settlement Agreement, the Commission found that the Respondent had failed to prepare and file a written statement disclosing a conflict of interest in violation section 49-1499 of the NPADA.

Civil Penalty: \$500.00

Attorney for Commission: Neil Danberg

Attorney for Respondent: J. L. Spray, Lincoln

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)
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 Senator Al Davis)
 Respondent)
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CASE No. 15-10

ORDER


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 nine (9) Commissioners concurring, no 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 49-1499 of the Nebraska Political Accountability and Disclosure Act, in that on or about January 20, 2015, the Respondent failed to prepare or deliver a written statement concerning a potential conflict of interest with respect to his filing a Motion to Withdraw LB 201 before the Nebraska Legislature.

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 Senator Al Davis, 66455 Ponderosa Road, Hyannis, NE 69350; and by regular U.S. Mail to his attorney, J.L. Spray, Mattson Ricketts Law Firm, 134 South 13th Street, Suite 1200, Lincoln, NE 68508



Frank J. Daley, Jr.

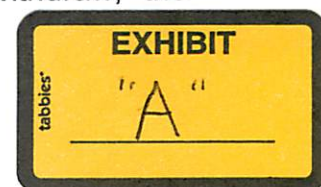
BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

CASE No. 15-10

In the Matter of Senator Al Davis

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 Senator Al Davis, 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 Notice of Preliminary Investigation in this case, the Commission alleged the Respondent committed two separate violations of the NPADA, Section 49-1499, as follows: The First alleged Violation of Section 49-1499, relates to a failure to prepare and deliver a written statement concerning a potential conflict of interest at the time the Respondent introduced LB 201; and the Second alleged violation of Section 49-1499, relates to a failure to prepare and deliver a written statement concerning a potential conflict of interest at the time the Respondent filed a Motion to withdraw LB 201.
- 5) Dismissal of the First Alleged Violation. As part of this Agreement, and in view of its remaining terms as set out below, the Commission agrees to dismiss the First Alleged Violation.
- 6) The Second Alleged Violation: Stipulations and Agreements. With respect to the Second alleged violation, the Respondent and the Commission stipulate and agree that at the time of the Second alleged violation, the Respondent was a Nebraska State Senator. He was also a shareholder in a corporation known as NioCorp Developments, Ltd, hereinafter "NioCorp", and the stock which he then owned, was sufficient for NioCorp to be considered a "business with which he [Respondent] was associated," as defined in the NPADA at Section 49-1408. LB 201 was a bill which would have imposed a severance tax upon the potential operations of NioCorp. On or about January 20, 2015, the Respondent filed a Motion to Withdraw LB 201. At the time of the filing of the Motion to Withdraw, the



Respondent did not deliver a written statement concerning a potential conflict of interest

7) The Second Alleged Violation: Summary, Statements of Respondent; and Findings.

(a) Summary. The Second alleged violation, as identified above, in Paragraphs 4 and 6 relates to the Respondent's failure to deliver a written statement, as required by statute, concerning his potential conflict of interest at the time he filed a Motion to Withdraw LB 201 in the Nebraska Legislature.

(b) Respondent's Statements. Respondent states that he owned stock in NioCorp which had mining interests in Nebraska. LB 201, introduced and subsequently withdrawn by the Respondent, would have created a new severance tax on NioCorp's product, and the Bill was designed to reduce property taxes. The Respondent further states that it was not his intention to violate Nebraska Law as alleged, and that it was public knowledge that he had an interest in NioCorp. Respondent further says that because the mining operation was not yet producing, Respondent believed that the Bill was premature, and he withdrew it only after acquiring a letter from NioCorp that they were not opposed to payment of a severance tax on production once the mine was in operation.

(c) Findings. 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 Second violation, and the Commission may enter an order that there has been a violation as alleged, 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. 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.

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. 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 and his attorney have a right to address the Commission on the matter of the amount of restitution and approval of this Settlement Agreement.

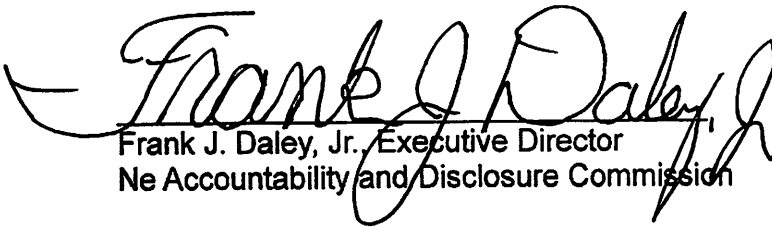
12) Advice of Counsel: The Respondent acknowledges that he has had an opportunity to seek the advice of his attorney in connection with the terms of this agreement.



Senator Al Davis, Respondent

6/2/16

Date



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

6/3/16

Date

/s/ J. L. Spray

Approved as to Form, J.L. Spray,
Attorney for Respondent, Senator Al Davis

06/02/16

Date