

# 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 #18-03 Action Taken on August 17, 2018

**Respondent:** David Gutshall

David Gutshall is a member of the Stanton County Board of Commissioners. On February 23, 2017 a complaint was filed by Stanton County resident Jena Orlowski. The complaint generally alleged that David Gutshall (hereafter the Respondent) used Stanton County resources for personal financial gain. An investigation was commenced on March 2, 2018.

The allegation against the Respondent was that he authorized a county employee to use county equipment to clear the driveway at his home after a heavy snowstorm and that the activity constituted the use of public resources for personal financial gain in violation of §49-14,101.01(2) of the Nebraska Political Accountability and Disclosure Act (NPADA).

The investigation showed that the Respondent had previously arranged for snow removal with a private vendor. The vendor advised the Respondent that his equipment had broken down. The county removed the snow from the Respondent's driveway on a one-time basis in order to allow the Respondent to fulfill his duty as a County Commissioner to ensure the roads in his district were properly cleared.

The parties entered into a settlement agreement by the terms of which the Commission would find no violation of law and the matter would be dismissed. The Respondent would reimburse the Stanton County the sum of \$125.00 which is the agreed upon cost of the use of the equipment and the time of the county employee. By the terms of the agreement, the matter would be made public even though the Commission made no finding of a violation. The Commission approved the Settlement Agreement with eight Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining.

**Violation:** None

**Civil Penalty:** None

**Other:** Respondent to reimburse Stanton County in the amount of \$125.00

**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**

David Gutshall,

Respondent

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Case #18-03

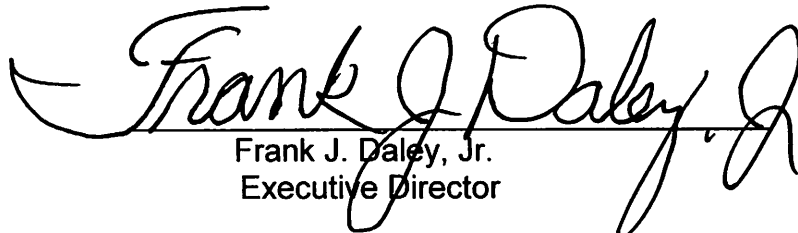
ORDER

Now on this 17<sup>th</sup> day of August 2018, this matter comes before the Nebraska Accountability and Disclosure Commission. Commissioners Callahan, Carlson, Davis, Enenbach, Gale, 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 eight 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 no violation of the Nebraska Political Accountability and Disclosure Act and dismisses the complaint against the Respondent. The Commission notes the obligation of the Respondent to reimburse Stanton County in the amount of \$125.00.

Issued this 17<sup>th</sup> day of August, 2018

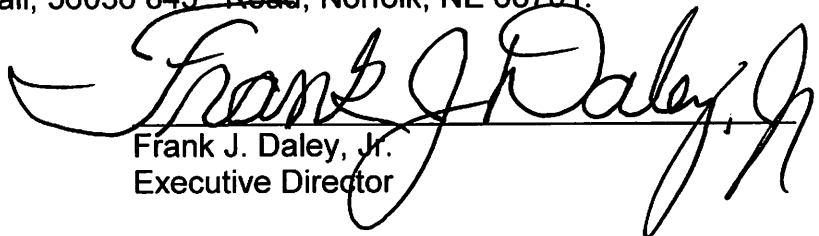
Nebraska Accountability and Disclosure Commission



Frank J. Daley, Jr.  
Executive Director

**Certificate of Service**

I hereby certify that a copy of this ~~Order~~ Order was sent by certified U.S. Mail, postage prepaid, return receipt requested on this 17<sup>th</sup> day of August 2018, to the following person at the following address: David Gutshall, 56036 845<sup>th</sup> Road, Norfolk, NE 68701.



Frank J. Daley, Jr.  
Executive Director

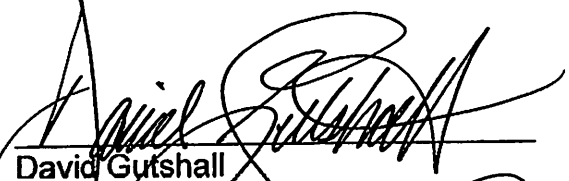
7/6/18  
BEFORE THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION  
CASE No. 18-03

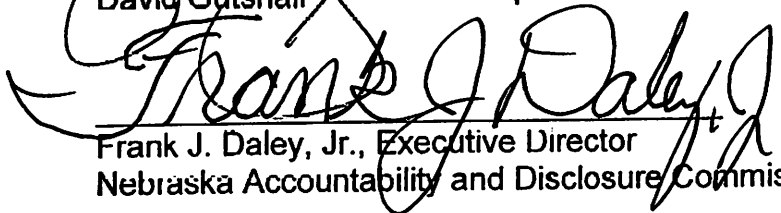
2018 JUL -9) AM 9:30  
In the Matter of David Gutshall SETTLEMENT AGREEMENT

NEBRASKA ACCOUNTABILITY & DISCLOSURE COMMISSION

- Parties: The parties to this Settlement Agreement (hereinafter "Agreement") are the Nebraska Accountability and Disclosure Commission, hereafter referred to as the "Commission" and David Gutshall, 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 Violation: In its Notice of Preliminary Investigation in this case, the Commission alleged the Respondent committed a violation of the NPADA, Section 49-14,101.01(2) on January 23, 2018 by using County resources under his direction and control for purposes other than in accordance with law and for his own financial gain.
  - 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 County Commissioner of Stanton County, Nebraska. As a County Commissioner, the Respondent had certain duties and obligations with respect to ensuring roads in his District were properly cleared after a snowfall.
  - 6) The Alleged Violation: Recompense to the County and Dismissal. With respect to the Violation, as described above in Paragraph 4, the Respondent and the Commission hereby agree that the said violation will be dismissed, in view of the fact that the Respondent, who denies having committed the violation, agrees to pay to Stanton County the sum of \$125, which is the amount agreed upon with the Stanton County Highway Commissioner, for the use of the equipment and County personnel in question in the Allegation. Respondent states that this payment is not an admission of liability, but it is intended to resolve any possible question about the use of County equipment and personnel on the day in question. For its part, the Commission agrees, upon payment of the said sum, to dismiss the allegation described in the Preliminary Investigation in this matter and which is summarized in Paragraph 4, above.

- 7) 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 shall, if it approves the Settlement, enter an Order in accordance with the terms of this Agreement.
  
- 8) 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.
  
- 9) Right to Address the Commission: The Respondent has a right to address the Commission on the matter of the approval of this Settlement Agreement.
  
- 10) 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.

  
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David Gutshall

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

7-5-18  
Date

8-17-18  
Date