

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

April 14, 2023

Kesha D. Eldridge
Jansen Board of Trustees
eldridge.kesha@gmail.com

Dear Ms. Eldridge:

Reference is made to your email of April 11, 2023. As I understand it, you are a member of the Village of Jansen Board of Trustees. You are also an employee of Viking Industrial Painting (Viking) which currently has a contract with the Village. You wish to know what, if anything, you are required to do or refrain from doing as a Village Board Member.

In 2019 the Village of Jansen issued a request for proposals for the painting of the water tower. In December of 2019 Viking submitted a proposal. In January 2020 the Village approved the Viking proposal. As Chairman of the Village Board of Trustees at the time, you signed a contract on behalf of the Village. The work was completed and Viking submitted an invoice for the work in July 2020. Payment was made in three installments by the Village.

Viking proposed to the Village a maintenance contract for the water tower. For an annual fee, Viking would maintain all aspects of the water tower. The Village Board of Trustees approved the maintenance contract in September 2020. The first annual maintenance payment was made in November 2021. The second annual payment was made in November 2022.

In April 2021 you began working part time for Viking. In October 2022 you became a full time salaried employee of Viking.

You are no longer its Chairman, but you remain on the Village Board. Viking will be submitting another claim for payment under the maintenance agreement.

In my view, you may participate and vote on the payment of this claim.

Section 49-1499.03(2) of the Nebraska Political Accountability and Disclosure Act (NPADA) provides that a person holding an elective office of a village has a potential conflict of interest if he or she is faced with taking an official action or making an official decision which may result in a financial benefit or detriment to: a) the public official; b) a

Kesha D. Eldridge
April 14, 2023
Page 2

member of his or her immediate family; or c) a business with which he or she is associated.

Section 49-1408 of the NPADA defines the term "business association" as a business in which the individual is "...a partner, limited liability company member, director, or officer." An individual may also have a business association based upon the ownership of stock.

Viking Industrial Painting is a business. You are an employee. You are not an officer, director, etc. of Viking and you do not hold any of its stock. Mere employment does not rise to the level of a business association.

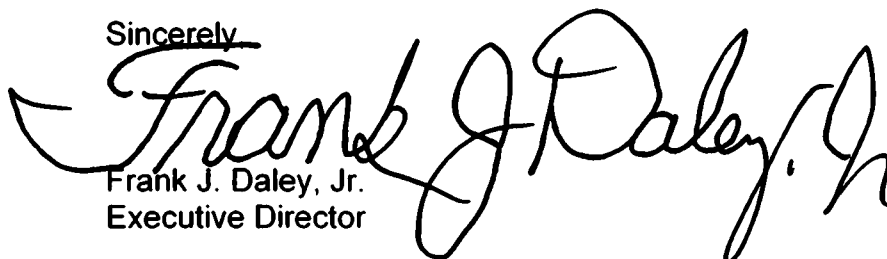
Section 49-14,103.01 of the NPADA prohibits a village board member from having an interest in any contract with the village unless certain prescribed steps are taken. A board member has an interest if he or she, or a business with which he or she is associated will receive a payment under the contract.

You are not a party to the contract and Viking Industrial Painting is not a business with which you are associated.

Summary: You do not have a conflict of interest as to matters between the Village of Jansen and Viking Industrial Painting. You do not have an interest in the contract between the Village and Viking Industrial Painting. You may participate and vote on matters involving Viking as you see fit. This opinion is based upon an understanding that your only connection with Viking is your employment and that the matters between Jansen and Viking will not have a financial effect on you.

Please understand that this is a staff opinion only and not a formal Commission Advisory Opinion. It is based upon the facts that you have provided. If any of these stated facts are incorrect or incomplete, please advise me immediately as this could affect the stated conclusion.

Sincerely

A handwritten signature in black ink, reading "Frank J. Daley, Jr.", with a stylized flourish at the end.

Frank J. Daley, Jr.
Executive Director