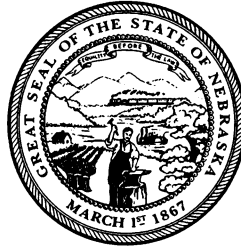


State of Nebraska

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

January 19, 2023

David A. Derbin
Chief Administrative Officer
Lancaster County
555 S 10th Street, Suite 110
Lincoln, NE 68508

Dear Mr. Derbin:

Reference is made to your letter of January 10, 2023 on behalf of County Commissioner Matt Schulte. As I understand it, Commissioner Schulte is the Executive Director of Youth for Christ Lincoln Area, Inc., a Nebraska non-profit corporation.

Periodically, the Lancaster County Board takes actions or makes decisions regarding contracts between the county and Youth for Christ. These actions include the payment of claims submitted by the organization.

Commissioner Schulte wishes to disclose this situation and determine what, if any, other action he needs to take pursuant to the Nebraska Political Accountability and Disclosure Act (NPADA). He has stated his intent to abstain from participating or voting on these matters.

Section 49-14,103.01 of the NPADA generally prohibits certain categories of public officials (including a county board member) from having an interest in a contract with their governing bodies. By this provision, a member of a county board may not have an interest in a contract with the county, unless the requirements set forth below are met.

A county board member is considered to have an interest in a contract with the county if the board member, the board member's parent, spouse or child or a business association of any of them will receive a payment under the contract. See §49-14,103.01(4) of the NPADA.

Section 49-1407 of the NPADA defines the term business as "any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust, activity, or entity."

It should be noted that the definition of business does not distinguish between for profit entities and non-profit entities. Both can fit the definition of business.

David A. Derbin
January 19, 2023
Page 2

By this definition, Youth for Christ Lincoln Area, Inc. is a business.

Section 49-1408 of the NPADA defines the term "business association" in part as a business in which the individual is "...a partner, limited liability company member, director, or officer."

As its Executive Director, Commissioner Schulte has a business association with Youth for Christ. Accordingly, he has an interest in any contract between Lancaster County and Youth for Christ.

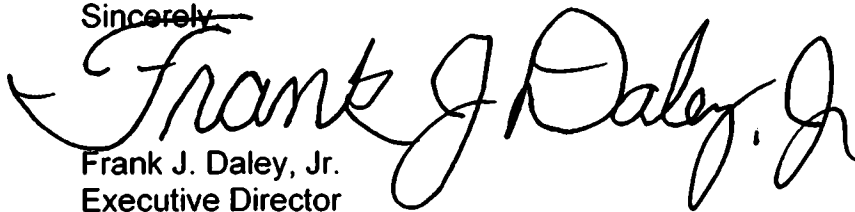
Pursuant to §49-14,103.01(5) the prohibition in the NPADA against having an interest in a contract with Lancaster County would not apply if Commissioner Schulte:

- 1) Ensures that the matter of entering into any contract with Youth for Christ is an agenda item at a county board meeting;
- 2) Makes a public disclosure of his interest in the contract prior to consideration by the county board. This disclosure may be made on Form C-3, Contractual Interest Statement, and filed with the person who normally keeps records for the county board. The disclosure may also be made orally prior to the consideration of the contract. Under such circumstances the disclosure should be recorded in the minutes;
- 3) Abstains from participating or voting on granting the contract or similar matters relating to the contract;
- 4) Does not vote to make any payment under the contract; and
- 5) Does not act on behalf of the county as to inspection or performance under the contract.

It should be noted that failure to adhere to the provisions of §49-14,103.01(5) renders the contract voidable by a court of competent jurisdiction. See §49-14,103.01(2) of the NPADA.

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,



Frank J. Daley, Jr.
Executive Director



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1/11/23
JAN 17 2023

NEBRASKA ACCOUNTABILITY
and
DISCLOSURE COMMISSION

LANCASTER COUNTY BOARD OF COMMISSIONERS

Roma Amundson

Sean Flowerday

Matt Schulte

Rick Vest

Christa Yoakum

David A. Derbin, *Chief Administrative Officer*

Kristy Bauer, *Deputy Chief Administrative Officer*

January 10, 2023

Frank J. Daley, Jr.

Executive Director

Nebraska Accountability and Disclosure Commission

P.O. Box 95086

Lincoln, NE 68509

Dear Frank:

I am writing to you on behalf of County Commissioner Matt Schulte to deliver a written statement to the Accountability and Disclosure Commission ("Commission") that Commissioner Schulte has become aware of a potential conflict arising out of his being required to take an action or make a decision in the discharge of his official duties as County Commissioner for the County of Lancaster, Nebraska, ("County") that may cause financial benefit or detriment to businesses with which he is associated. *See* Neb. Rev. Stat. § 49-1499.03(1).

Specifically, Commissioner Schulte is the Executive Director of Youth for Christ Lincoln Area, Inc., a Nebraska non-profit corporation.

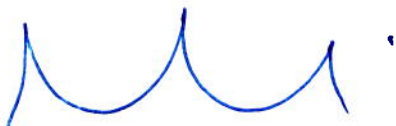
At the same time, as a member of the Board of County Commissioners of the County of Lancaster, Nebraska ("Board"), Commissioner Schulte is required to take actions and/or make decisions regarding contracts entered into between the aforementioned Nebraska non-profit corporation, as well as claims arising out of such contracts, at regular meetings of the Board. Accordingly, Commissioner Schulte is writing to disclose these potential conflicts.

Commissioner Schulte intends to abstain from participating in discussions regarding or voting on such contracts and claims and to follow such additional action as the Commission shall advise.

Please advise on behalf of the Commission what action or actions Commissioner Schulte shall take in these matters, including prescribing that he remove himself from influence over the action or decision on these matters.

As always, your assistance is greatly appreciated. Please do not hesitate to contact me if you have any questions or need additional information to respond to this letter disclosing Commissioner Schulte's potential conflict of interest.

Sincerely,

A handwritten signature in blue ink, consisting of a series of connected loops and curves, representing the name David A. Derbin.

David A. Derbin
Chief Administrative Officer
County of Lancaster, Nebraska

Enclosure

Cc: Matt Hansen, County Clerk