

# State of Nebraska

## Accountability and Disclosure Commission

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### Synopsis Case #20-11

Action Taken on August 12, 2022

**Respondent:** Jody Delaney

Jody Delaney was a member of the Elkhorn Township Board in Dodge County. Floods in 2019 caused severe damage to the roads in the Township. The three member Township Board spent a great deal of time addressing flooding issues. Each member of the Township Board voted, without legal authority, to pay themselves an additional \$1,000 per week for 33 weeks. Prior to the vote, compensation for each board members was \$600 for the entire year.

Based upon information received from the Auditor of Public Accounts, the Executive Director commenced a Preliminary Investigation on June 29, 2020. The allegation was that the Respondent voted to increase her compensation by \$33,000 and that this constituted the use her public office for personal financial gain in violation of §49-14,101.01 of the NPADA. A hearing was held on March 31, 2022 before Hearing Officer Karen Flowers. The Respondent appeared in person with her attorney. Thereafter, Hearing Officer Flowers submitted her recommended Findings of Fact and Conclusions of Law. On August 12, 2022, the Commission with 6 members concurring, no members dissenting and no members abstaining, adopted Findings of Fact and Conclusions of Law. It found 13 violations of §49-14,101.01 by the Respondent, use of public resources for personal financial gain. In assessing a civil penalty, the Commission considered certain mitigating factors. It ordered the Respondent to pay a civil penalty of \$100 per violation or a total of \$1,300.00

**Violation:** The Commission found that the Respondent on 13 occasions voted to pay herself compensation not provided by law, each vote being a violation of §49-14,101.01 of the NPADA.

**Civil Penalty:** \$1,300.00

**Other:** A formal order will be issued.

**Attorney for the Commission:** Neil B. Danberg

**Attorney for the Respondent:** James R. Place

**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**

RECEIVED  
7/16/22  
AUG 17 2022

In the Matter of Jody Delaney

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Case #20-11

Findings of Fact and Conclusions of  
Law and Order

NEBRASKA ACCOUNTABILITY  
and  
DISCLOSURE COMMISSION

**Statement of Case**

The Nebraska Accountability and Disclosure Commission (the Commission) charged Jody Delaney with thirteen violations of the Nebraska Political Accountability and Disclosure Act, Neb. Rev. Stat. §49-1401 et. seq. The Commission found probable cause to believe that on thirteen occasions in 2019 Delaney, while a member of the Elkhorn Township Board in Dodge County, voted for and took compensation greater than that provided by law. Pursuant to notice, a hearing was held on March 31, 2022 before the Honorable Karen Flowers, Hearing Officer. Neil Danberg appeared for the Commission. James Place appeared with Jody Delaney. Evidence was presented and the matter was submitted. Following the hearing, Exhibits N, O and P were submitted by counsel for Ms. Delaney. Exhibit N, an email dated August 30, 2019 from Kevin Blackwell was received. Exhibit O, an Interlocal Agreement between Dodge County and Elkhorn Township for Cost Sharing of the Flood Disaster of 2019 was received. Counsel for the Commission objected to Exhibit P which appeared to be an undated agenda of what was likely an Elkhorn Township Board meeting with handwritten notes by an unknown person. There being no foundation laid, the objection was sustained and Exhibit P was not received.

**Findings of Fact and Conclusions of Law**

In the fall of 2019 the Auditor of Public Accounts alerted the Commission to the possibility that members of the Elkhorn Township Board in Dodge County may have violated certain provisions of the Nebraska Accountability and Disclosure Act (the Act). The Respondent, Jody Delaney, was one of the members of that Board. The Commission filed case #20-11 and sent Delaney a Notice of Preliminary Investigation alleging that Delaney had violated the Act by voting herself additional compensation, not provided by law, and taking that compensation in violation of Neb. Rev. Stat. §49-14,101.01. The

violations were alleged to have occurred on April 3, April 17, May 1, May 19, June 4, June 19, June 29, July 20, and August 6 of 2019. The Notice of Preliminary Investigation was later amended to include additional allegations that Delaney voted for and took excessive compensation on August 19, September 3, September 16 and October 2, 2019. The Commission found probable cause to believe the allegations were true and set the matter for hearing.

Elkhorn Township is located in Dodge County. Jody Delaney was a member of the Elkhorn Township Board of Trustees from 2016 until July of 2020. It was the responsibility of the Board to see to it that the 36 miles of road within the Township were maintained. The compensation provided by law for this work was set at \$600 per year. In the spring of 2019 Dodge County, including Elkhorn Township, experienced catastrophic flooding. All of the roads in the Township were either underwater or covered in debris. Many residents were landlocked on their properties for days. Shortly after the flood the Board met with Scott Huppert, the Dodge County Road Supervisor, and Kevin Blackwell, a representative from FEMA. Delaney testified that Huppert and Blackwell told them that the township “could hire whoever we wanted to do the roadwork, the administrative paperwork, the — you know, flood work. We could hire whoever we wanted. We could be inside, outside. It could be us. And that FEMA would pay up to \$175 per hour to pay that person to do that work.” (36:25-37:10) So the Board decided to pay each member \$1000 per week — forty hours per week at \$25 per hour— for whatever work they were going to do. And that is what they did. The problem of course is that Article III section 19 of the Constitution of the State of Nebraska prohibits raising the compensation of any public officer during that officer’s term of office. This prohibition extends to officers of all political subdivisions including Elkhorn Township. While there are some exceptions to this rule, none apply here.

When Delaney was interviewed by the Commission’s staff on December 18, 2020, she admitted the allegations in the Notice of Preliminary Investigation and volunteered that she received additional compensation of which the Commission was unaware. It is fair to say that Delaney made that disclosure knowing it was against her interest. That led to further investigation and the filing of additional allegations against all three Board

members. Delaney testified that in the spring and fall of 2019 she was unaware that the Board could not lawfully raise its compensation while in office. She took that excess compensation because (1) she didn't know it was illegal and (2) believed FEMA was going to pay for it, not the Elkhorn Township or Dodge County. This explanation does not excuse the violations.

Much of Delaney's testimony at the hearing dealt with her belief that Jeremy Moss and, perhaps, Nancy Schlotfeld, may have been defrauding the Township, County and/or FEMA. She recounted her many efforts to bring her concerns to the attention of the authorities who might be able to do something about it, including the Auditor of Public Accounts. None of that is relevant to the allegations against Delaney. The only connection her complaints may have to the case now before the Commission is that it is possible her complaint to the State Auditor about Moss may have been what led to uncovering the excess compensation the Board members gave themselves. She sees herself as a whistleblower. Again, this does not justify the violations.

The Commission finds thirteen violations by the Respondent of §49-14,101.01 of the Nebraska Political Accountability and Disclosure Act as alleged in the Amended Notice of Preliminary Investigation by voting for and accepting additional compensation not provided for by law.


In setting a civil penalty, the Commission considered five mitigating factors. They are: 1) The extreme flooding that took place in Elkhorn Township in 2019; 2) Representations made by FEMA to the Elkhorn Township Board; 3) The good faith efforts of the Respondent to raise the propriety of the payments with the Elkhorn Township Board; 4) The reporting of the actions of the Elkhorn Township Board by the Respondent to the Auditor of Public Accounts; and 5) The voluntary disclosure by the Respondent of an additional \$11,000 distributed to the members of the Elkhorn Township Board.

### **Order**

Wherefore, the Commission, with six Commissioners concurring, no Commissioners dissenting, and no Commissioners abstaining, adopts the foregoing Findings of Fact and Conclusions of Law. It finds thirteen violations by the Respondent of

§49-14,101.01 of the Nebraska Political Accountability and Disclosure Act and orders the Respondent to pay a civil penalty of \$100.00 per violation or a total of \$1,300.00.

Dated this 16 day of August 2022.

  
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Kate Sullivan, Chair  
Nebraska Accountability and Disclosure  
Commission