



State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908

(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

August 13, 2020

Delivered electronically to Mark Lamb, Legal Counsel for Matt Shea and the Matt Shea Surplus Funds Account

Subject: Complaints regarding Matt Shea, PDC Cases 43573 & 43628

Dear Mr. Lamb:

Below is a copy of an electronic letter sent to Aaron Jarvis and Walter Smith, concerning the two complaints they filed with the Public Disclosure Commission (PDC) against your client, Matt Shea and the Matt Shea Surplus Funds Account. As noted below in the electronic letters sent to Mr. Jarvis and Mr. Smith, the PDC will not be taking further enforcement action concerning these two cases.

On August 7, 2020, your client completed a Statement of Understanding (SOU) and emailed it back to the PDC acknowledging multiple violations of RCW 42.17A.430 by using surplus funds to make 2016 and 2018 Campaign related expenditures. On August 13, 2020, the PDC received a \$750 civil penalty payment in accordance with WAC 390-37-143 (Brief Enforcement Penalty Schedule). The \$750 penalty assessed in these matters resolves the issue of using the Matt Shea Surplus Funds account to make 2016 and 2018 Campaign related expenditures.

The PDC has dismissed the two complaints, PDC Cases 43573 & 43628, in accordance with RCW 42.17A.755(1). Thank you for your cooperation in resolving this matter. If you have questions, you may contact Kurt Young by e-mail at pdcc@pdcc.wa.gov.

Sincerely,

Endorsed by,

/s _____
Electronically Signed, Kurt Young
Compliance Officer

/s _____
Electronically Signed BG Sandahl, Deputy Director
for Peter Lavalley, Executive Director



State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908

(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

August 13, 2020

Delivered electronically to Aaron Jarvis and Walther Smith

Subject: Complaints regarding Matt Shea, an incumbent Washington State Representative in the 4th Legislative District, PDC Cases 43573 & 43628

Dear Mr. Jarvis and Mr. Smith:

The Public Disclosure Commission (PDC) has completed its investigation of the complaints you each filed against Matt Shea, an incumbent Washington State Representative in the 4th Legislative District, may have violated Chapter 42.17A.430 by making prohibited expenditures from the Matt Shea Surplus Funds Account.

PDC staff reviewed the allegations; the applicable statutes, rules, and reporting requirements for a surplus funds account; the responses provided by Mark Lamb, Legal Counsel for Matt Shea and the Matt Shea Surplus Funds account; the Candidate Registrations (C-1 reports), Monetary Contributions reports (C-3 reports), and Summary Full Campaign Contribution and Expenditure reports (C-4 reports) filed by the Matt Shea Surplus Funds Account and the Matt Shea 2016, 2018 and 2020 Campaigns.

Based on staff's review, we found the following:

- On February 11, 2019, Matt Shea filed a Candidate Registration (C-1 report) declaring his candidacy for re-election to the office of State Representative in the 4th Legislative District in 2020, selecting the Full Reporting Option and listing Merri Nickerson as Treasurer (T).
- Representative Shea is an incumbent State Representative in the 4th Legislative District, since being elected to that office in 2008. He was re-elected State Representative in 2010, 2012, 2014, 2016, and 2018. Matt Shea registered the Matt Shea Surplus Fund with the PDC and has been filing Summary Full Campaign Contribution and Expenditure reports (C-4 reports) since the initial C-4 report was filed on June 6, 2011, covering the period April 1 through 30, 2011.
- RCW 42.17A.430 defines surplus campaign funds as being contributions received by a candidate for an election that remain after the election has been held and all expenditures, loans, debts and obligations have been paid.
- An election campaigns surplus funds may only be disposed of in one or more of the ways permitted in the statute that includes depositing those funds into a separate Surplus Funds Account and then using those funds to only pay for non-reimbursed public office related expenses.

- WAC 390-24-032 defines a "non-reimbursed public office-related expense" as an expenditure incurred by an elected or appointed official, or a member of his or her immediate family, solely because of being an official.
- On February 14, 2019, after PDC staff conducted a preliminary review and assessment of the facts, PDC staff opened a formal investigation and held an Initial Hearing (Case Status Review Hearing) for Matt Shea for this case and PDC Case 43573 and PDC Case 43628 on February 14, 2019, pursuant to RCW 42.17A.755, and WACs 390-37-060 and 390-37-071.
- Concerning the Matt Shea Surplus Funds expenditures to charitable organization, Mr. Lamb stated that many bona fide charities, like some churches or groups that do not solicit donations in Washington State, so they don't need not register with the Washington Secretary of State's Office in accordance with RCW 19.09.020(2). He stated that the plain reading and common-sense interpretation of the "statute is that surplus funds may only be donated to charities that, if the statute requires them to register, are registered. All of the organizations listed are bona fide 501(c)(3) charitable organizations."
- In addition, Mr. Lamb stated that "RCW 42.17A.430(4) permits donations to "a charitable organization registered in accordance with chapter 19.09 RCW". He stated that the three charitable organizations identified in the complaints are 501(c)(3) charitable organizations and added that Daniels' Prayer Ministry is a church affiliated (entity) and the other two entities did not solicit contributions generally in Washington State and thus were not required to register under RCW 19.09."
- Mr. Lamb stated that three of the surplus fund expenditures that were made in June of 2019 to Office Depot and Sears were for office equipment and supplies for Rep. Shea's Legislative District office "where he conducts legislative business while in district." He stated Merri Nickerson's (T) understanding of surplus funds was that she was required to transfer remaining campaign funds into the Matt Shea Surplus Funds Account as soon as possible after the primary or general election for which they had been solicited was held. He stated Ms. Nickerson made campaign-related expenditures using surplus fund "in subsequent years with the understanding that such expenses were for the same office."
- Mr. Lamb stated that the campaign regrets "this administrative error and, as I indicated to you in our conversation today, seeks guidance as to how to amend and correct this issue and appreciate sincerely your offer to assist in the same. However, because the items listed below are campaign expenses, it is our position that there is no need to respond to the requests for additional details on them as that request was to determine compliance with 42.17A.430(7)."
- Mr. Lamb stated the surplus funds expenditures made during calendar year 2014 and in the early part of calendar year 2015, were outside the five-year statute of limitations in accordance with PDC statutes and rules, but that those expenditures generally fall under the same category.
- Between 2015 through 2018, the Matt Shea Surplus Funds Account acknowledged making expenditures using surplus funds that should have been made out of the 2016 and 2018 Re-election Committees to Elect Matt Shea. Those expenditures made from the Matt Shea Surplus Funds Account for 2016 and 2018 re-election campaign activities included the following:
 1. A total of 11 expenditures were made to the American Christian Network and totaling \$12,000 for Representative Shea's monthly Patriot Radio broadcast.

2. A \$2,248.23 surplus funds expenditure was made to Broadcast Supply on June 10, 2015, to purchase recording equipment for broadcasts.
3. A \$1,000 surplus funds expenditure was made to Power Player Productions on August 17, 2016, for opposition research.
4. A \$1,000 surplus funds expenditure was made to Redoubt Broadcasting on September 11, 2016, for radio spots broadcast covering the period September 1, 2017 through August 31, 2018.
5. A \$775 surplus funds expenditure was made to Jay Pounder on December 27, 2016, for database maintenance.
6. A total of four surplus funds expenditures were made totaling \$1,110.30 between July of 2015 through October 9, 2017 for campaign related travel that included the following: (1) a \$184.16 expenditure made on June 12, 2017 to Scott Heather to attend a Drain the Swamp rally; (2) a \$183.90 expenditure made on June 12, 2017 reimbursing Matt Shea for airfare to the Patriot Academy in Boise, Idaho; and (3) a \$593.40 expenditure made on June 13, 2015 reimbursing Matt Shea for mileage to attend speaking events.

On August 7, 2020, Matt Shea completed a Statement of Understanding (SOU) and emailed it back to the PDC acknowledging multiple violations of RCW 42.17A.430 by using surplus funds to make 2016 and 2018 Campaign related expenditures. In addition, on August 13, 2020, the PDC received a \$750 civil penalty payment in accordance with WAC 390-37-143 (Brief Enforcement Penalty Schedule).

PDC staff's review found that had Matt Shea transferred surplus funds back into both his 2016 and 2018 Campaigns, and then made the expenditures listed above and in the Report of Investigation using 2016 and 2018 campaign funds, the expenditures would have been permissible. Staff also noted that Representative Shea made a decision to not seek re-election and is no longer a candidate for State Representative in 2020.

The \$750 penalty assessed in these matters resolves the issues of using the Matt Shea Surplus Funds account to make 2016 and 2018 Campaign related expenditures. Based on this information and the mitigating factors listed above, PDC staff found no evidence of material violations that would require pursuing any additional enforcement action in these two cases.

The PDC has dismissed the complaints for PDC Cases #43573 and #43628, in accordance with RCW 42.17A.755(1). If you have questions, you may contact Kurt Young by email at pdcc@pdc.wa.gov.

Sincerely,

/s _____
Electronically Signed, Kurt Young
Compliance Officer

Endorsed by,

/s _____
Electronically Signed BG Sandahl, Deputy Director
for Peter Lavalley, Executive Director

cc: Mark Lamb, Legal Counsel for Matt Shea and the Matt Shea Surplus Funds account