



State of Washington
PUBLIC DISCLOSURE COMMISSION

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July 20, 2020

Delivered electronically to Sandra Robson

Subject: Complaint regarding Doug Ericksen, an incumbent Washington State Senator from the 42nd Legislative District, PDC Case 33194

Dear Ms. Robson:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on March 6, 2018. The complaint alleged that Doug Ericksen, an incumbent Washington State Senator from the 42nd Legislative District, may have violated Chapter 42.17A.430 by making prohibited expenditures from the Doug Ericksen Surplus Funds Account.

PDC staff reviewed: the allegations; the applicable statutes, rules, and reporting requirements for a surplus funds account; the responses provided by Senator Ericksen and Mark Lamb, legal counsel for Senator Ericksen; and the Candidate Registrations (C-1 reports) and Summary Full Campaign Contribution and Expenditure reports (C-4 reports) filed by the Doug Ericksen Surplus Funds Account to determine whether the record supports a finding of one or more violations. Based on staff's review, we found the following:

- Doug Ericksen is an incumbent State Senator in the 42nd Legislative District, since being elected to that office in 2010. He was re-elected State Senator in 2014 and 2018, and prior to that he served as State Representative, Position 1 in the 42nd Legislative District from 1998 through 2010.
- During the 2016 election, Senator Ericksen served as Washington State Co-Chair for the Donald Trump for President Campaign, along with Don Benton, former Washington State Senator.
- Doug Ericksen registered and established the Doug Ericksen Surplus Funds Account with the PDC sometime prior to January of 2007. The Doug Ericksen Surplus Funds Account has been filing Summary Full Campaign Contribution and Expenditure reports (C-4 reports) since at least February 8, 2008, covering the period January 1 through 31, 2008.
- Senator Ericksen travelled to Washington, DC during 2017 on multiple occasions, including trips in January 2017 and November 2017. Senator Ericksen was appointed by the federal Environmental Protection Agency (EPA) to a Senior Advisory position effective January 21, 2017. That appointment ended 120 days later, on May 20, 2017. Shortly after a November 2017 trip to Washington, DC, Senator Ericksen was offered a similar position by the EPA, to be effective December 17, 2017. In January 2018, he declined that position.

- On February 12, 2020, after PDC staff conducted a preliminary review and assessment of the facts, PDC staff opened a formal investigation and held an Initial Hearing concerning the matter on February 12, 2020, pursuant to RCW 42.17A.755, and WACs 390-37-060 and 390-37-071.
- The complaint alleged violations of RCW 42.17A.430 by the Doug Ericksen Surplus Funds Account for making unauthorized expenditures to travel to Washington DC, in part to procure employment in the Trump Administration EPA. RCW 42.17A.430(7) allows an official to “hold the surplus campaign funds in a separate account for non-reimbursed public office-related expenses”, but not for personal uses.
- A “nonreimbursed public office related expense” is “an expenditure by an elected or appointed official, or a member of the official's immediate family, *solely* because of being an official.” WAC 390-05-518 (emphasis added). If an official incurs a non-reimbursed public office-related expense that also, in any manner, could be considered personal in nature, PDC staff recommends paying the expenditure with personal funds, and then seeking reimbursement from a surplus funds account only for that specific portion that is directly related to his or her elected office.
- On May 21, 2020, Mr. Lamb responded to the complaint on behalf of Senator Ericksen. In addition, on July 8, 2020, Mr. Lamb responded to staff’s follow-up questions concerning Senator Ericksen’s surplus funds expenditures to pay for travel as alleged in the complaint. Concerning a January 2017 trip to Washington, DC, Senator Ericksen, through Mr. Lamb, indicated that he, “*used personal funds for my airplane ticket, for meals (except for those small amounts reported to the PDC), and for ground transportation. A portion of the hotel nights in Washington DC for the Inauguration were paid for out of my personal funds.*”
- Senator Ericksen stated that the purpose of his January 2017 trip to Washington, DC was, “*to participate in the Presidential Inauguration and meet with members of Congress and their staff on issues important to Washington State.*” He further stated that the allegations listed in the complaint referred to the time he spent, “*on EPA transition issues and my role with the EPA. The time spent on EPA items during the week of the Inauguration was a small percentage of the trip. The percentage of personal funds used on this trip far exceed the small amount of time spent on any EPA related activities.*” Senator Ericksen reiterated that the majority of his time spent in the District of Columbia was on Presidential Inaugural related activities, meeting with members of Congress, congressional staffers, and other individuals in the District for the inauguration, and that only a small amount of time was spent talking with EPA officials.
- Concerning the November 2017 trip to Washington, DC, Senator Ericksen made surplus fund expenditures for air travel and lodging. Mr. Lamb stated Senator Ericksen took the trip, “*to work on issues pertaining to his duties in the Washington State Senate. Use of surplus funds for this purpose are allowed under State law.*” He stated Senator Ericksen engaged in “*several discussions with various individuals regarding taking a position with the Trump Administration*”, and briefly visited the EPA offices during his trip “*to meet with and say hello (to) individuals he had worked with during his time on the EPA Transition Team.*” Also concerning the November 2017 trip, Mr. Lamb stated Senator Ericksen “*spoke with some individuals about issues important to Washington state, and with others just to say hello.*”
- Mr. Lamb stated that some people asked if Senator Ericksen was planning on taking an appointment with the Trump Administration. “*His visit to the EPA offices was short, not the focus of the trip, and was not a significant portion of his time in Washington DC.*”

- Mr. Lamb further stated that the *“purpose of the trip was to work on issues relevant to his duties as a State Senator. Use of surplus funds for this type of trip are allowed under state law. At the time of his visit to Washington, DC in November of 2017, Sen. Ericksen served as the Chair of the Senate Energy, Environment and Telecommunications Committee. Several important issues were being worked on at that time including new Federal Water Standards, new Federal Air Standards, energy production issues, and issues involving internet access. Sen. Ericksen met with Members of Congress, staff and non-government individuals on these topics.”*

PDC staff found no evidence of a material violation that would require conducting a more formal investigation into the complaint or pursuing enforcement action in this instance. Staff found that the surplus fund expenditures identified in your complaint included activities and related travel for meetings with members of Congress and congressional staffers that reasonably relate to the Senator’s official office. Senator Ericksen, however, also personally benefitted from the activities and travel based on his actual or contemplated job appointments with the EPA.

During his trips to Washington, DC, Senator Ericksen attended EPA orientation and training, and met with EPA officials. Staff found that a potential conflict of interest exists where, as in this instance, Senator Ericksen used surplus funds to pay for a portion of his travel to Washington, DC in his official capacity as a State Senator, but at the same time benefitted from that travel based on his January 2017 appointment with the EPA and a separate appointment he was contemplating in or around November 2017. Compounding the issue, insufficient record-keeping by the Surplus Funds Account regarding these trips makes it difficult to apportion the expenses appropriately.

There are, however, mitigating factors in this specific instance that renders this conduct to be a minor violation of RCW 42.17A, including that: (1) Senator Ericksen appears to have used personal funds to pay for a portion of the trips taken to Washington, DC, and thus not all of the travel costs were paid using the Doug Ericksen Surplus Funds Account; (2) Senator Ericksen appears to have conducted official Washington state business during his trips to the District of Columbia; and (3) the surplus funds expenditures involved relatively small dollar amounts.

To resolve this violation, pursuant to WAC 390-37-060(1)(d), Senator Ericksen will receive a formal written warning concerning the prohibition of making expenditures using surplus funds that have a personal use component, and the requirement that he maintain the books of account, including the invoices and receipts for surplus funds expenditures made by the Doug Ericksen Surplus Funds Account in accordance with RCW 42.17A. Senator Ericksen will be informed that the Commission will consider the formal written warning in deciding on further Commission action, should there be future violations of PDC laws or rules.

The PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact Kurt Young by e-mail at pdcc@pdc.wa.gov.

Sincerely,

Endorsed by,

/s

Electronically Signed Kurt Young
Compliance Officer

/s

Electronically Signed, Peter Lavalley, Executive Director

cc: Mark Lamb, legal counsel