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8 **BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON**

9 In Re: The Matter of Enforcement Action  
10 Against:

PDC CASE NO. 136626

FINAL ORDER

11 ZACK ZAPPONE,  
12 Respondent.  
13 \_\_\_\_\_

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15 This matter was heard by the Washington State Public Disclosure Commission  
16 (Commission) on June 22, 2023, and July 27, 2023, by in-person, telephonic, and online  
17 streaming access. The hearing was held in accordance with Chapters 34.05 and 42.17A RCW,  
18 and Chapter 390-37 WAC.

19 Commissioners present in-person were Fred Jarrett, Commission Chair (presiding),  
20 Nancy Isserlis, Commission Vice-Chair; and Commissioners Allen Hayward and J. Robert  
21 Leach. Also present in-person or online were Assistant Attorney General John S. Meader  
22 representing the Commission, Senior Assistant Attorney General Chad Standifer and Assistant  
23 Attorney General Susie Giles-Klein representing PDC Staff, and Tanya Mercier, PDC  
24 Compliance Officer. Notice was provided to the Respondent and he appeared on his own behalf.  
25 The proceeding was open to the public and recorded.  
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1 The Commissioners had before them the following materials:

- 2 1. Stipulation as to Facts, dated June 16, 2023, and signed by Peter Frey Lavallee,  
3 Executive Director, for the Public Disclosure Commission, and Zack Zappone,  
4 Spokane City Council Member, on his own behalf;
- 5 2. Notice of Administrative Charges, dated June 12, 2023, and signed by Peter Frey  
6 Lavallee, Executive Director, for the Public Disclosure Commission;
- 7 3. Witness and Exhibit List, dated June 14, 2023, and signed by Assistant Attorney  
8 General Susie Giles-Klein;
- 9 4. Exhibit 1, Memo on Issues Relating to Surplus Funds, by Assistant Attorney General  
10 Roselyn Marcus, dated August 28, 1995;
- 11 5. Exhibit 2, Meeting Agenda and minutes for a Special Meeting on August 29, 1995;
- 12 6. Exhibit 3, Formal Interpretation No. 23-01, Transfer of Surplus Contributions to a  
13 Candidate's Campaign for a Different Office, dated May 25, 2023;
- 14 7. Exhibit 4, Complaint filed by Glen Morgan, dated May 4, 2023;
- 15 8. Exhibit 5, Response to Complaint, by Andrew Taylor, Treasurer for Zack Zappone,  
16 dated May 21, 2023;
- 17 9. Exhibit 6, 2020 C-4 Report;
- 18 10. Exhibit 7, 2021 C-4 Report;
- 19 11. Exhibit 8, Report of Investigation dated June 12, 2023, signed by Tanya Mercier,  
20 PDC Compliance Officer.

## 21 22 **I. FINDINGS OF FACT**

23 The matter involves Respondent Zack Zappone, a Spokane City Council Member for  
24 District 3, Position 2. He assumed office on January 1, 2022, and his current term ends on  
25 January 1, 2026. Respondent is alleged to have violated RCW 42.17A.235 and .240 by failing  
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1 to accurately report the receipt of contributions totaling \$7,860 at the start of Respondent's 2021,  
2 City Council Campaign. It was further alleged he violated RCW 42.17A.490, by failing to obtain  
3 written approval from donors to transfer their unused contributions, originally made to the  
4 Respondent's earlier State Representative Campaign, to his 2021 City Council Campaign. The  
5 Respondent has no prior PDC violations.  
6

7 1. In 2020 the Respondent ran unsuccessfully for State Representative in legislative  
8 District 6, Position 1. At the conclusion of that campaign, Respondent had  
9 \$8,411.77 in surplus funds of which he transferred \$7,860 to his 2021 campaign  
10 for Spokane City Council.  
11

12 2. On May 4, 2023, Glen Morgan filed a complaint alleging that the Respondent  
13 failed to accurately report the receipt of contributions to his 2021 campaign and  
14 failed to obtain written approval from donors to transfer those funds.  
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16 3. On May 21, 2023, the Respondent filed a response to the complaint explaining  
17 that he had obtained email authorizations from contributors to the 2020 legislative  
18 campaign to transfer the funds to his 2021 City Council campaign and that the  
19 funds were transferred as "carryover funds" to the new campaign. The surplus  
20 funds were transferred as follows: \$6,115 was transferred on February 10, 2021,  
21 \$745 was transferred on February 28, 2021, and \$1,000 was transferred on April  
22 3, 2021, totaling \$7,860 reported on the C-4 report for the 2021 City Council  
23 campaign.  
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25 4. PDC staff determined that the Respondent's C-4 Reports from the 2020 and 2021  
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1 campaign properly accounted for the transfers under the guidance in place at the  
2 time and has confirmed that permission was properly obtained from contributors  
3 for the transfers.  
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5 5. The PDC adopted Interpretation 23-01 on May 25, 2023, which states in part,  
6 "...the Commission determines that the use of a candidate's surplus contributions  
7 for the same person's campaign for a different office are considered contributions  
8 to that new campaign."  
9

10 6. The Respondent's 2021 campaign for Spokane City Council did not name the  
11 underlying contributors on its C-3 report as required by Interpretation 23-01 to  
12 account for the original source of the lump sum transfers of surplus funds from  
13 his 2020 campaign to his 2021 campaign for a different office.  
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15 7. Prior to adoption of PDC Interpretation 23-01, PDC staff had provided guidance  
16 that instructed filers who transfer "surplus funds" from one campaign to another  
17 campaign to consider those funds as a "miscellaneous receipt, other receipt." The  
18 PDC in 2021 interpreted the statutes related to surplus funds transfer to require  
19 only written approval from the contributor and reporting of a lump sum amount.  
20 It did not require attribution to their sources or require the contributions count  
21 towards the contributor's limits for the new campaign.  
22

23 8. The Respondent filed the reports from his 2021 campaign approximately two  
24 years before issuance of PDC Interpretation 23-01. PDC staff requested the  
25 Respondent amend these earlier reports to comply with Interpretation 23-01 but  
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1 he declined to do so.

## 2 3 **II. CONCLUSIONS OF LAW**

- 4 1. The Commission has jurisdiction over this proceeding pursuant to Chapter  
5 42.17A. RCW, the State campaign finance and disclosure law; Chapter 34.05  
6 RCW, the Administrative Procedure Act; and Title 390 WAC.
- 7
- 8 2. As noted in PDC Interpretation 23-01, the Commission determines after review  
9 of RCW 42.17A.235, .240, .430, and .490 that use of a candidate's surplus  
10 contributions for the same person's campaign for a different office are  
11 contributions to that new campaign. Specifically, when a candidate is  
12 transferring surplus contributions from a previously completed election  
13 campaign to a new campaign for a different office, those contributions moved to  
14 the new campaign must be attributed to their sources, and count toward the  
15 contributor's limit for the new campaign. Each contributor whose written  
16 approval was obtained must be identified along with their contribution and the  
17 appropriate C-3 and C-4 reports timely filed.
- 18

## 19 **III. ORDER**

20 This Order will be the Final Order. After consideration of the mitigating and  
21 aggravating factors, the Findings of Fact, and the Conclusions of Law, the Commission  
22 unanimously declines to impose a penalty or find a violation of RCW 42.17A.235 or .240.  
23 This matter is DISMISSED for the following reasons:  
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1. a. The Respondent reasonably relied on the guidance of the PDC in place in 2021 when the surplus funds were transferred. The Respondent did not know, nor could have known, of the 2023 interpretation in 2021.
- b. The Respondent complied with the guidance given him in 2021 and the content of his C-3 and C-4 reports was consistent with those instructions.
- c. The 2021 election campaign and general election have concluded. All the campaign funds have been spent or distributed and application of Interpretation 23-01 to completed prior year elections in this case is unwarranted.

SO ORDERED this \_\_27<sup>th</sup>\_\_ day of July, 2023.

WASHINGTON STATE PUBLIC  
DISCLOSURE COMMISSION

FOR THE COMMISSION:

  
Nancy Isserlis (Jul 27, 2023 17:14 PDT)

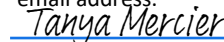
Nancy Isserlis, Chair,  
Public Disclosure Commission

*This order sent by email to:*  
Zack Zappone, Respondent  
P.O. Box 48697, Spokane, WA 99208  
zzappone@spokanecity.org

Susie Giles-Klein,  
Assistant Attorney General  
susie.gilesklein@atg.wa.gov

Tanya Mercier,  
PDC Compliance Officer,  
tanya.mercier@pdc.wa.gov

I, Tanya Mercier, certify that I emailed a  
copy of this order to the Respondent at his respective  
email address.

  
Tanya Mercier (Jul 27, 2023 17:15 PDT)

Jul 27, 2023

Signed

Date

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3 **NOTICE: RECONSIDERATION**

4 Pursuant to the provisions of RCW 34.05.470 and WAC 390-37-150, you may file a Petition for  
5 Reconsideration with the PDC within ten (10) days from the date this Final Order is served upon  
6 you. Any Request for reconsideration must state the specific grounds for the relief requested.  
7 Petitions must be delivered or mailed to the Washington State Public Disclosure Commission,  
8 711 Capitol Way, Room 206, Box 40908, Olympia WA 98504-0908.

9 **NOTICE: PETITION FOR JUDICIAL REVIEW**

10 You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for  
11 Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final  
12 Order must be filed with the court and also served upon both the Commission and the Office of  
13 the Attorney general within thirty (30) days after the date this Final Order is served upon you.  
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