



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.pdcc.wa.gov

July 9, 2019

Sent electronically to Mark Lamb

Subject: Kirk Pearson Complaint Return with Reminder Cover Letter, PDC Case 24636

Senator Pearson:

Below is a copy of a letter sent electronically to Walter Smith concerning the complaint he filed with the Public Disclosure Commission (PDC) against you. As noted below in the letter sent to Mr. Smith, the PDC will not be conducting a more formal investigation into these allegations or taking enforcement action in these matters.

PDC staff is reminding you concerning the importance of timely and accurately filing C-3 and C-4 reports disclosing contribution and expenditure activities undertaken by your 2016 Campaign, including filing reports for the surplus funds account and transfers into the surplus funds account as required by PDC laws and rules, should you declare your candidacy for public office in the future.

Based on this information, the PDC has dismissed this matter in accordance with RCW 42.17A.755(1). If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdcc.wa.gov.

Sincerely,

Endorsed by:

s/_____
Kurt Young, Compliance Officer

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



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July 9, 2019

Sent electronically to Walter Smith

Subject: Complaint filed against Kirk Pearson; PDC Case 24636

Mr. Smith:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on September 1, 2017 against Kirk Pearson, an incumbent State Senator and a candidate seeking re-election to that office in 2016. The complaint alleged that the 2016 Kirk Pearson Campaign for State Senator (Campaign) may have violated RCW 42.17A.235 and RCW 42.17A.240 by failing to timely and accurately file Monetary Contribution Reports (C-3 report), and Campaign Summary Full Campaign Contribution and Expenditure reports (C-4 reports) disclosing contribution and expenditure activities undertaken by the Campaign.

PDC staff reviewed the allegations listed in your complaint, the attached PDF spreadsheet of 35 alleged late filed C-3 and C-4 reports covering the period November of 2013 through December of 2015, the statutes, rules, and reporting requirements, the C-3 and C-4 reports submitted by the 2016 Campaign, and the response from Mark Lamb, legal counsel for Mr. Pearson. Based on staff's review, we found the following:

- On October 7, 2013, Kirk Pearson filed a Candidate Registration (C-1 report) declaring his candidacy for re-election to the office of State Senator for the 39th Legislative District in 2016, selecting the Full Reporting Option, and listing Kaitlin Wynkoop as Campaign Treasurer and the only Campaign officer other than the candidate.
- Senator Pearson was elected State Representative in 2000, and was re-elected to that position 2002 through 2010, before being elected State Senator in 2012. In November of 2017, he was appointed by the Trump Administration as Washington State Director for USDA Rural Development Agency.
- On April 11, 2016, Kirk Pearson filed an amended C-1 report listing Anastasia Smith as Campaign Treasurer and the only Campaign officer other than the candidate.
- While Senator Pearson filed a C-1 report for the 2016 election in October of 2013, the Campaign continued to inadvertently file electronically its C-3 and C-4 reports for the 2016 election disclosing contribution and expenditure activities through the Online Reporting of Campaign Activities (ORCA) filing software for the 2012 election cycle.

- The Campaign filed C-3 and C-4 reports for calendar years 2013, 2015 and 2015, through the 2012 ORCA account. Mr. Lamb stated in his response, that the Campaign discovered the discrepancy in January of 2016 when the Treasurer, Katie Pullen began communicating with PDC Filer Assistance staff concerning the reports. He attached a copy of a PDF email string between Ms. Pullen and PDC staff indicating the Campaign was having issues using the ORCA software and filing the 2016 C-3 and C-4 reports.
- In the email, Ms. Pullen stated for the 2012 Senate Campaign she entered all the contribution and expenditure activities into ORCA and filed the C-3 and C-4 reports, but after the 2012 election had ended, she mistakenly continued entering 2016 contribution and expenditures activities into the 2012 Campaign. In addition, she continued filing C-3 and C-4 reports under the 2012 Campaign.

Staff's review confirmed that the Campaign filed 2016 C-3 and C-4 reports covering the period October 1, 2013, through December 31, 2015, under the 2012 Campaign, and included the 35 C-3 and C-4 reports listed in the spreadsheet you attached to your complaint. The late filed and timely filed initial C-3 and C-4 reports submitted by the 2016 Campaign under the 2012 Campaign and were all subsequently refiled under the 2016 Campaign on January 28, 2016 as follows:

- On December 31, 2013, the Campaign filed three C-3 reports and three C-4 reports disclosing: (a) One C-3 report disclosed two contributions totaling \$750 that were received and deposited on October 7, 2013, and the October 2013 C-4 report disclosed the \$750 in contributions received and \$324 in expenditures made. Both reports were filed 51 days late; (b) One C-3 report disclosed two contributions totaling \$700 received and deposited on November 27, 2013, and the November 2013 C-4 report disclosed the \$700 in contributions received and \$234 in expenditures made. Both reports were filed 21 days late; (c) One C-3 report disclosed one \$900 contribution that was received and deposited on December 12, 2013, and the December 2013 C-4 report disclosed the \$900 contribution received and \$150 in expenditures. Both reports were timely filed 11 days early.
- On July 18, 2014, the Campaign filed one C-3 report, and three C-4 reports disclosing: (a) The May 2014 C-4 report disclosed no contributions were received and \$162 in expenditures made. The C-4 report was not statutorily required and was not filed late; (b) The combined May-June 2014 C-4 report disclosed no contributions were received and \$639 in expenditures made. The C-4 report was filed eight days late; and (c) The C-3 report disclosed three contributions totaling \$3,800 that were all received and deposited on July 16, 2014, and the June 2014 C-4 report disclosed the \$3,800 in contributions received and \$352 in expenditures made. Both reports were timely filed 23 days early.
- On December 31, 2014, the Campaign filed two C-3 reports, and two C-4 reports disclosing: (a) One C-3 report disclosed two contributions totaling \$950 that were received and deposited on November 13, 2014, and the November 2014 C-4 report disclosed the \$950 in contributions received and \$2,285 in expenditures made. Both reports were filed 21 days late. (b) One C-3 report disclosed two contributions totaling \$1,250 that were received and deposited on December 2, 2014, and the December 2014 C-4 report disclosed the \$1,250 in contributions received and \$1,269 in expenditures made. Both reports were timely filed 12 days early.
- On September 20, 2015, the Campaign filed one C-3 reports, and three C-4 reports disclosing: (a) The C-3 report disclosed two contributions totaling \$1,750 that were received and deposited on September 8, 2015, and the September 2015 C-4 report disclosed the \$1,750 in contributions received and \$324 in expenditures made. Both reports were timely filed 20 days early. (b) The April 2015 C-4 report disclosed no contributions were received and only \$95 in expenditures made, The C-4 report was not statutorily required or filed late.

(c) The combined April-August 2015 C-4 report disclosed no contributions were received and \$393 in expenditures made, and the C-4 report was filed ten days late.

- On April 26, 2016, after taking over the Treasury duties for the Campaign Ms. Smith filed C-4 reports covering January 1 through March 31, 2016, disclosing no contributions had been received or expenditures made by the Campaign during that timeframe. The Campaign timely filed the April and May 2016 C-4 reports, the 21-Day and 7-Day Pre-Primary Election C-4 reports and the Post-Primary Election C-4 report, the 21-Day and 7-Day Pre-General Election C-4 reports and the Post-General Election C-4 report.
- The largest Campaign expenditures for the 2016 election was a \$45,000 primary surplus funds and a \$30,000 general election surplus fund transfer into the Kirk Pearson Surplus Funds Account, a \$3,529 expenditure to Ink Nutz for Campaign advertising for buttons, shirts and mugs, nine expenditures totaling \$2,334, and a \$2,000 Victory bonus paid to Ms. Smith.
- While reviewing the alleged late filed C-3 and C-4 reports, staff discovered some apparent discrepancies concerning the Campaign transferring \$2,700 in 2016 active campaign funds into the Kirk Pearson Surplus Funds Account during calendar year 2014. However, staff determined those discrepancies were related to the ORCA filing issues concerning the 2012 and 2016 Campaigns.
- Mr. Lamb stated that Ms. Pullen timely and accurately entered all the Campaign contribution and expenditure information to file the reports for the 2016 campaign, but “they were simply labelled with an incorrect election year for the same candidate.” He stated Ms. Pullen acted appropriately by consulting with PDC staff when she had questions” and that she “acted in good faith and worked collaboratively with the PDC.”
- Kirk Pearson has no prior PDC violations.

Based on these findings and the facts that Kirk Pearson has no prior PDC violations dating back to 2000, the Campaign timely filed the C-3 and C-4 reports for the period April 1 through December 31, 2016, including all of the pre-2016 election reports, and Senator Pearson is no longer in office, staff has determined that, in this instance, the Campaign’s failure to timely and accurately file C-3 and C-4 reports, disclosing contribution and expenditure information, does not amount to an actual violation warranting further investigation.

PDC staff is reminding Kirk Pearson concerning the importance of timely and accurately filing C-3 and C-4 reports disclosing contribution and expenditure activities undertaken by his Campaign, should he again declare his candidacy and file with the PDC as a candidate seeking public office in the future.

Based on this information, the PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdc.wa.gov.

Sincerely,

s/_____
Kurt Young, Compliance Officer

Endorsed by:

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

cc: Mark Lamb, legal counsel for Kirk Pearson