PDC Interpretation

APPROVAL DATE: xxxx, 2023 NUMBER: 23-01

STATUS: New SUPERSEDES: None

APPROVED BY: The Commission

REFERENCES: RCW 42.17A.001

RCW 42.17A.005(51) RCW 42.17A.430 RCW 42.17A.490

THE TRANSFER OF SURPLUS CONTRIBUTIONS TO A CANDIDATE'S CAMPAIGN FOR A DIFFERENT OFFICE

A candidate who solicits or receives contributions for a state, local, or judicial office may not use those contributions to further that same person's candidacy for a different office without first obtaining written approval from the applicable contributor. RCW 42.17A.490. The authorization and required written approval apply to the use of contributions to the original campaign "whether or not surplus". *Id.* Although it is clear from the overall statutory scheme that the authorized transfers of contributions from an active campaign do constitute contributions to the new campaign for a different office, the treatment of surplus contributions used for a different office warrants further consideration in light of the authorized disposal of surplus funds for other purposes.

Surplus funds include the balance of contributions exceeding the amount necessary to pay the remaining campaign debts and expenses after the election. RCW 42.17A.005(51). The law authorizes the ways a candidate may dispose of surplus campaign funds, which are provided under RCW 42.17A.430. The use of surplus contributions for a campaign for a different office, however, is separately authorized under RCW 42.17A.490(2).

While RCW 42.17A.430 provides that the disposal of surplus funds expressly authorized under that section of law, including the transfer of surplus funds to a future campaign for the same office, are not considered contributions, there is no comparable exclusion provided for the uses authorized under RCW 42.17A.490. Indeed, RCW 42.17A.490(2) provides that only where the contributor does not approve the use of their contribution for the candidate's new campaign, the contribution must be disposed as surplus in accordance with RCW 42.17A.430.

Based on the statutory scheme, legislative history, and consistent with the policies and purposes of the law to promote transparency and limit influence in candidate elections — including the law's mandate that "[t]he provisions of this chapter shall be liberally

construed to promote complete disclosure of all information respecting the financing of political campaigns" (RCW 42.17A.001) — the Commission determines that the use of a candidate's surplus contributions for the same person's campaign for a different office are considered contributions to that new campaign. Specifically, when a candidate is transferring surplus contributions from a previously completed election campaign to a new campaign for a different office, those contributions moved to the new campaign must be attributed to their sources, and count toward the contributor's limit for the new campaign. Each contributor whose written approval was obtained must be identified along with their contribution.