



**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: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

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

In the Matter of Enforcement Action
Against

Shift Washington
Respondent.

PDC Case 7561

Notice of Administrative
Charges

I. JURISDICTION

The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC. These charges incorporate the Report of Investigation and all related exhibits by reference.

II. ALLEGATIONS

Staff alleges that Shift Washington (Shift WA) violated RCW 42.17A.255 by failing to timely file a C-6 Report disclosing Independent Expenditures made in opposition to Initiative 732 (I-732), a 2016 statewide ballot proposition concerning a carbon tax. The Independent Expenditure were reported 51 days late, and consisted of online advertising that cost \$28,164.50. Staff also alleges that Shift WA violated RCW 42.17A.320 by failing to include complete sponsor identification on its Facebook ads that were political advertising.

III. FACTS

1. Shift Washington's website describes the organization as, "a new online platform for shifting the debate in Olympia." Shift Washington's website provides news and commentary on political issues at the national and state level. Its website states that Shift Washington will cover topics that sometimes get little attention from other media sources, and will shine a light on stories the traditional media does carry, but which might otherwise get lost in the clutter of a person's busy day.
2. Shift Washington is a nonprofit corporation run by a board of directors. Sermo Digital, a company co-founded by Matthew Lundh and Josh Amato, run the day-to-day operations of Shift Washington.
3. On August 10, 2016, the Public Disclosure Commission (PDC) received a complaint from Kyle Murphy alleging that several online advertisements sponsored by Shift Washington explicitly encouraged Washington residents to vote against I-732, but were not being reported as independent expenditures.
4. The online communications appeared on Facebook as advertisements in the news feed of Facebook users. Randy Pepple, one of Shift Washington's board members, instructed Matthew Lund and Josh Amato to create the Facebook ads. The ads identified I-732 on multiple occasions, and included the following statements:
 - a. "Is I-732 a Regressive Tax?"
 - b. "Carbon Tax: Hidden Costs?"
 - c. "Think a carbon tax is fair?"
 - d. "Carbon taxes cause the cost of goods we need most to skyrocket. Those of us who already barely make ends meet will struggle even more to afford our groceries, gas, and heating bills."
 - e. "What does a carbon tax mean for people you care about?"
 - f. "Does I-732's Carbon Tax Hurt Poor People?"
 - g. "Does I-732 = 25 cent Gas Hike?"
 - h. "How much will a carbon tax cost you?"
 - i. "When gas prices go up, everyone feels the pain."
 - j. "I-732 Carbon Tax. Do you support cutting emissions with a 25-cent increase per gallon?"

5. The Facebook ads referenced I-732, and gave the viewer an opportunity to answer “yes” or “no” to a variety of questions about I-732. People who responded to the questions were directed to the Shift Washington website where they were asked for contact information.
6. One of the ads said, “Is I-732 a regressive tax? Gas prices go up. Food costs go up. Boeing gets a tax break. Hurts poor people most. Carbon Tax: Hidden Costs? Carbon taxes cause the cost of goods we need most to skyrocket. Those of us who barely make ends meet will struggle even more to afford our groceries, gas, and heating bills. With our agricultural communities and energy businesses bearing ...”
Learn More [Click Here]
7. Another ad said, “Use our calculator to find out how much a carbon tax will cost you. Does I-732 = 25-cent Gas Hike? [Option given to answer “yes” or “no”] When gas prices go up, everyone feels the pain. Commuting to work, transporting food and taking family road trips, all become more expensive. Supporters of the carbon tax have estimated an increase of 25 cents per gallon if it goes into effect.” Learn More [Click Here]
8. Another ad said, “What does a carbon tax mean for people you care about? [A picture shown of a person holding the hands of an elderly loved one] Carbon taxes cause the cost of goods we need most to skyrocket. Those of us who already barely make ends meet will struggle even more to afford our groceries, gas, and heating bills. With our agricultural communities and energy businesses ...” [Link to Shift Washington website]
9. The ads repeatedly cast I-732 in a negative light and opposed I-732. The ads opposed I-732 and cost \$100 or more, and were, therefore, required to be reported on PDC form C-6 within five days of making the expenditures, in accordance with RCW 42.17A.255.

10. The Facebook ads were reportable no later than August 1, 2016. Shift WA filed a C-6 report of Independent Expenditures at the request of PDC staff, on September 20, 2016. The report was filed 50 days late, but 49 days before the November 8, 2016 General Election. The cost of producing and placing the Facebook ads was \$28,164.50.
11. Political advertising is required to include sponsor identification as detailed in RCW 42.17A.320 and WAC 390-18. The Facebook ads included the name of the sponsor and a link to Shift Washington's website, but did not include the sponsor's address, as required by RCW 42.17A.320.

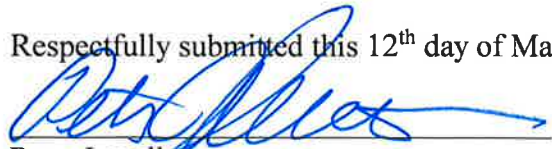
IV. LAW

RCW 42.17A.255 states that for the purposes of RCW 42.17A.255, the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.220, 42.17A.235, and 42.17A.240. Subsection (2) states that within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.

RCW 42.17A.005(36) states, "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

RCW 42.17A.320 states, in part, (1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

Respectfully submitted this 12th day of March 2018.

A handwritten signature in blue ink, appearing to read "Peter Lavalley", is written over a horizontal line.

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.pdcc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH
RCW 42.17 and RCW 42.17A

Shift Washington

Respondent.

PDC Case 7561

Report of Investigation

I. BACKGROUND

- 1.1 On August 10, 2016, the Public Disclosure Commission (PDC) received a complaint from Kyle Murphy concerning online advertisements that he alleged were intended to oppose Initiative 732 (I-732), a 2016 statewide ballot proposition concerning a carbon tax, that were not being reported as independent expenditures. The ads were sponsored by Shift Washington (Shift WA).
- 1.2 Shift Washington's website describes the organization as, "a new online platform for shifting the debate in Olympia." The website goes on to state, "So why SHIFT now? Frankly, after watching yet another campaign cycle where a wide variety of liberal special interest groups get away with flooding the airwaves, mailboxes and internet with their predictably shrill and inaccurate attacks, it seemed we needed a new way of shining a light on their lies."
- 1.3 Shift Washington's website provides news and commentary on political issues at the national and state level. Its website states that Shift Washington will cover topics that sometimes get little attention from other media sources, and will shine a light on stories the traditional media does carry, but which might otherwise get lost in the clutter of a person's busy day.

II. ALLEGATIONS IN COMPLAINT

- 2.1 Kyle Murphy's complaint alleged that Shift WA was running large scale political advertisements on Facebook explicitly encouraging Washington residents to vote against Initiative 732. Mr. Murphy said the ads were seen widely, and likely cost thousands of dollars based on the significant number of "likes" and "shares" generated by the Facebook posts. He stated there were seven ads running at the time he filed his complaint. He included screen shots with his complaint showing four of the online ads. Mr. Murphy expressed concern that Shift WA was not

reporting its campaign activity, and was in violation of RCW 42.17A.305 and 42.17A.225.
(Exhibit 1)¹

- 2.2 On August 15, 2016, Mr. Murphy followed up with three additional screenshots showing the “sponsored” stamp from Shift WA. He alleged the screen shots demonstrated that Shift WA paid Facebook to “boost” their posts to other Facebook users. He stated it was “overwhelmingly likely” that Shift WA paid \$100 or more for the sponsored posts, making them reportable on a C-6 report of Independent Expenditures in accordance with RCW 42.17A.255.

III. FINDINGS

- 3.1 The online communications sponsored by Shift Washington appeared on Facebook as advertisements in the news feed of Facebook users. The ads say things like:

- “Is I-732 a Regressive Tax?”
- “Carbon Tax: Hidden Costs?”
- “Think a carbon tax is fair?”
- “Carbon taxes cause the cost of goods we need most to skyrocket. Those of us who already barely make ends meet will struggle even more to afford our groceries, gas, and heating bills.”
- “What does a carbon tax mean for people you care about?”
- “Does I-732’s Carbon Tax Hurt Poor People?”
- “Does I-732 = 25 cent Gas Hike?”
- “How much will a carbon tax cost you?”
- “When gas prices go up, everyone feels the pain.”
- “I-732 Carbon Tax. Do you support cutting emissions with a 25-cent increase per gallon?”

The ads reference I-732, and give the viewer an opportunity to click “yes” or “no.” People who click on the boxes are directed to the Shift WA internet homepage and are asked for contact information.

- 3.2 On August 31, 2016, Matthew Lundh and Josh Amato provided a written response to the complaint, disagreeing with the allegations made by the complainant. They stated that Shift WA was not running political advertising supporting or opposing Initiative 732, noting that nowhere in the ads did they include language about voting for or against I-732. Mr. Lundh and Mr. Amato stated that asking yes/no questions is a common tactic of organizations, like Shift WA, which seek to link people using their personal email with their position on specific issues. They said one of the goals of Shift WA is to develop a database of Washingtonians with their email address and position on a variety of issues. They said this would allow them to more efficiently and economically provide information to individuals, and might encourage their active support of

¹ RCW 42.17A.305 requires electioneering communications to be reported, which, by definition, are certain expenditures about candidates. Because the complaint alleged that expenditures concerning a ballot proposition were not reported, RCW 42.17A.305 is not applicable. RCW 42.17A.225 applies to the reporting requirements of continuing political committees, which is not applicable because Shift Washington is not a political committee. However, RCW 42.17A.255 applies to the allegation that Shift WA failed to report its expenditures as Independent Expenditures opposing I-732.

Shift WA. Mr. Lundh and Mr. Amato stated that Shift WA seeks information in their ads and on their website solely for the benefit of Shift WA. They claimed that Shift WA did not have an obligation to report the cost of its Facebook ads as Independent Expenditures. **(Exhibit 2)**

- 3.3 On September 15, 2016, Matthew Lundh and Josh Amato responded a second time to the complaint, answering staff's question about whether they coordinated their Facebook ads with either of the two committees organized to oppose Initiative 732. Shift WA said their Facebook communications were not coordinated with either of the two political committees registered to oppose I-732. Mr. Lundh and Mr. Amato stated that they did not understand why PDC staff had concluded that Shift WA had sponsored political advertising by directly or indirectly appealing for votes, money or support for a No on I-732 effort, given the totality of their effort. **(Exhibit 3)**
- 3.4 RCW 42.17A.005(36) states that political advertising includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other *means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign*. Political advertising, unless exempted, is required to include sponsor identification as detailed in RCW 42.17A.320 and WAC 390-18. The Facebook ads sponsored by Shift Washington included the name of the sponsor, but not the sponsor's address. The ads did include a link to the sponsor's website, but the website homepage does not include the sponsor's address.
- 3.5 For the purposes of RCW 42.17A.255, the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.220, 42.17A.235, and 42.17A.240. If the advertising meets the definition of an independent expenditure in RCW 42.17A.255, it is reportable on PDC form C-6 within five days of making the expenditure, whether or not it meets the definition of political advertising in RCW 42.17A.005(36).
- 3.6 There were two political committees registered in opposition to I-732. To verify Shift WA's statement that they did not coordinate their ads with any committee, staff spoke with Greg Welch, Campaign Manager, and Gary Chandler, Treasurer, for No on 732 Sponsored by the Association of Washington Business, the primary committee opposing I-732. Staff did not speak with representatives of a second committee, Northwest Pulp and Paper Association No on I732 Campaign, because it was minimally involved, restricting its activities to making contributions to No on 732 Sponsored by the Association of Washington Business.
- 3.7 Greg Welch serves as the Director of Finance for the Association of Washington Business (AWB), and former State Representative Gary Chandler serves as AWB's Vice President of Government Affairs. Mr. Welch and Mr. Chandler stated that No on 732 Sponsored by the Association of Washington Business did not coordinate its activities with Shift Washington. No on 732 Sponsored by the Association of Washington Business used Quinn Thomas Public Affairs and Media Plus to develop and place its political advertising. Shift WA used Sermo Digital, 7605 SE 27th Street, Mercer Island, Washington, 98040, to produce and place its online advertising.

- 3.8 Mr. Welch and Mr. Chandler stated that Randy Pepple may have been connected to Shift Washington. Mr. Pepple has operated his own communications firm, and has served various officials holding public office. Shift WA continues to be active in 2018, posting commentary on its website about various policy issues at the federal and state level.
- 3.9 Shift Washington stated their Facebook ads were an attempt to obtain names and addresses of people for their overall mission, and were not an effort to oppose I-732. They said they spent \$26,045.23 on the ads, but denied making a reportable Independent Expenditure to oppose I-732. **(Exhibit 4)**
- 3.10 On September 9, 2016, PDC staff asked Shift Washington to file a C-6 report of Independent Expenditures for their online ads that staff contended opposed I-732. On September 20, 2016, Shift Washington filed the requested C-6 report even though they disagreed with PDC staff's analysis that a C-6 was required. Shift WA first presented its online advertising to the public on July 26, 2016, resulting in a requirement to file a C-6 report no later than August 1, 2016. The C-6 report was filed 50 days late, but 49 days before the November 8, 2016 general election, and disclosed expenditures totaling \$28,164 for Facebook media buys. **(Exhibit 5)**

Matthew Lundh Interview

- 3.11 On March 6, 2018, PDC staff interviewed Matthew Lundh. Mr. Lundh stated that Shift WA is a nonprofit corporation, and that Randy Pepple, who is on the board of directors, is the person most responsible for managing Shift WA. Mr. Lundh said his firm, Sermo Digital, which he co-founded with Josh Amato, runs the day-to-day operations of Shift WA, which includes creative work and making ad placements. He said the purpose of Shift WA is to develop an up-to-date list of people interested in Washington State politics, and to provide them with editorials and news content of interest to them. **(Exhibits 6 & 7)**
- 3.12 Mr. Lundh said that in 2016, Randy Pepple made the decision to run the Facebook ads that asked questions about the I-732 proposed carbon tax. He said Mr. Pepple instructed Mr. Lundh and Mr. Amato to place the Facebook ads.
- 3.13 Mr. Lundh said Shift WA does not take public positions on issues. He could not recall whether, in 2016, their website included articles about the carbon tax issue, but said Shift WA has written many articles about the carbon tax issue, both before and after the 2016 election, because it has been a hot topic for a long time.
- 3.14 Mr. Lundh said Shift WA discussed using topics other than I-732 and the proposed carbon tax, but ultimately decided to use the carbon tax issue for their Facebook ads because it was a local issue that was on the minds of people.
- 3.15 Mr. Lundh said Shift WA filed a C-6 report when their position was that the report was not required because PDC staff indicated that filing the report was the appropriate action to take. Mr. Lundh said he still believes Shift WA was not trying to influence the I-732 election with their Facebook ads.

- 3.16 Mr. Lundh acknowledged that he served as treasurer for the King County Republican Party for a few years, filing C-3 and C-4 reports, but said he did not have experience filing reports of independent expenditures.
- 3.17 Mr. Lundh said Shift WA ran ads prior to 2016 to collect email addresses of people interested in engaging with Shift WA on local political issues. He said Shift WA has not run ads recently to collect email addresses, but could not say definitively whether the 2016 Facebook ads were the last time ads were run for this purpose.
- 3.18 Mr. Lundh said the motive for running the online ads was not to influence the people contacted to vote against I-732. He said Shift WA does not conduct issue-specific follow-up with email contacts generated by online ads, and said he does not believe Shift WA followed up with specific information about I-732. He said Shift WA uses the email addresses to send out their news feeds and to fundraise for their operation.
- 3.19 Mr. Lundh said Shift WA did not have any contact with the No on I-732 committee sponsored by the Association of Washington Business, and did not coordinate their ads with those of the No on I-732 committee. He also said Shift WA did not work with the vendors used by the No on I-732 committee, which were Quinn Thomas Public Affairs and Media Plus.

IV. SCOPE

4.1 PDC staff reviewed the following documents and interviewed the following people:

1. Complaint filed by Kyle Murphy concerning communications sponsored by Shift Washington
2. Initial response from Shift Washington
3. Second Response from Shift Washington
4. Third response from Shift Washington
5. C-6 Report of Independent Expenditures filed by Shift Washington on September 21, 2016
6. Shift Washington website, accessed September 19, 2016, at <https://shiftwa.org>
7. Reviewed relevant statutes: RCW 42.17A.005(19); 42.17A.305; 42.17A.225; 42.17A.255; 42.17A.005(36); 42.17A.320.
8. Interviewed Matthew Lundh on March 18, 2018.

V. LAW

RCW 42.17A.255 states that for the purposes of RCW 42.17A.255, the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.220, 42.17A.235, and 42.17A.240. Subsection (2) states that within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.

RCW 42.17A.005(36) states, "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

RCW 42.17A.320 states, in part, (1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

RCW 42.17A.005(19)(a) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that: (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name; (ii) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of one thousand dollars or more.

Respectfully submitted this 12th day of March 2018.

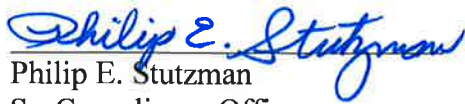

Philip E. Stutzman
Sr. Compliance Officer

EXHIBIT LIST

- Exhibit 1** Kyle Murphy complaint against Shift Washington
- Exhibit 2** Initial response from Shift Washington
- Exhibit 3** Second Response from Shift Washington
- Exhibit 4** Third response from Shift Washington
- Exhibit 5** C-6 Report of Independent Expenditures, filed September 21, 2016
- Exhibit 6** Interview Summary (if applicable) of Matthew Lundh and/or Josh Amato
- Exhibit 7** Recording of Matthew Lundh Interview (available on request)

8/11/2016

[#7523] File a Formal Complaint - Kyle Murphy : Help and Support

File a Formal Complaint - Kyle Murphy

Kyle Murphy reported 19 hours ago (Wed, 10 Aug at 5:12 PM) via Portal Meta

Shift Washington is running large scale political advertisements on Facebook. They are explicitly advertising to Washington residents encouraging them to vote no on Initiative 732 in Washington State. These ads are seen widely, and can be assumed to be to the sum of thousands of dollars worth of advertising. An easy way to gauge reach and viewership is the number of 'likes' and 'shares' the posts have, which is significant.

There are currently 7 ads running, of which we have captured screen-shots and links to 4 of them.

Shift Washington is not filing PDC reports on this political advertising activity.

I am concerned that they are in violation of two laws, RCW 42.17A.305, section 1 and RCW 42.17A.225 section 2, that require timely disclosure of donations and expenditures relating to political advertisements.

Screen-shots with active links are attached.

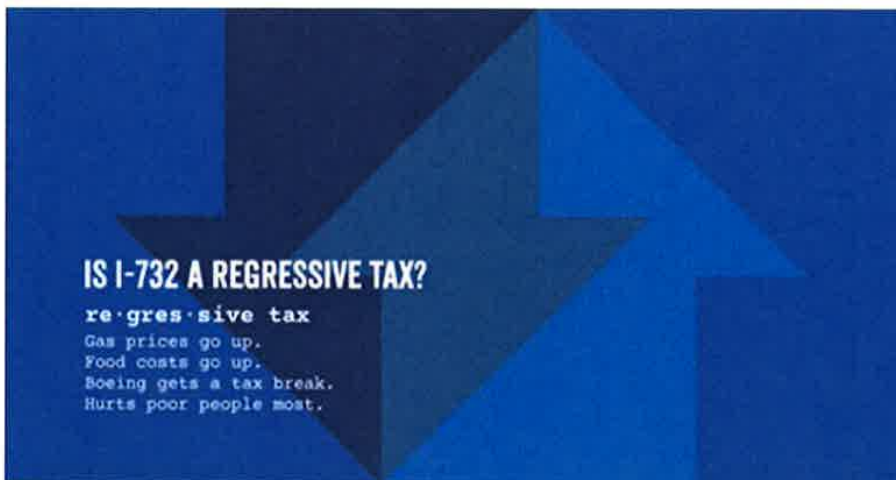
FB Anti732 Add Links



Shift Washington

July 26 at 2:58am · 🌐

Think a Carbon Tax is fair?



Carbon Tax: Hidden Costs?

Carbon taxes cause the cost of goods we need most to skyrocket. Those of us who already barely make ends meet will struggle even more to afford our groceries, gas, and heating bills. With our agricultural communities and energy businesses bearing...

SHIFTWA.ORG

[Learn More](#)

https://www.facebook.com/shiftwa/posts/958372144289493?comment_id=967805860012788&reply_comment_id=969472963179411¬if_t=share_reply¬if_id=1470859839493209



Shift Washington

July 26 at 2.58am · 🌐

What does a carbon tax mean for people you care about? Find out:



Carbon Tax: Hidden Costs?

Carbon taxes cause the cost of goods we need most to skyrocket. Those of us who already barely make ends meet will struggle even more to afford our groceries, gas, and heating bills. With our agricultural communities and energy businesses...

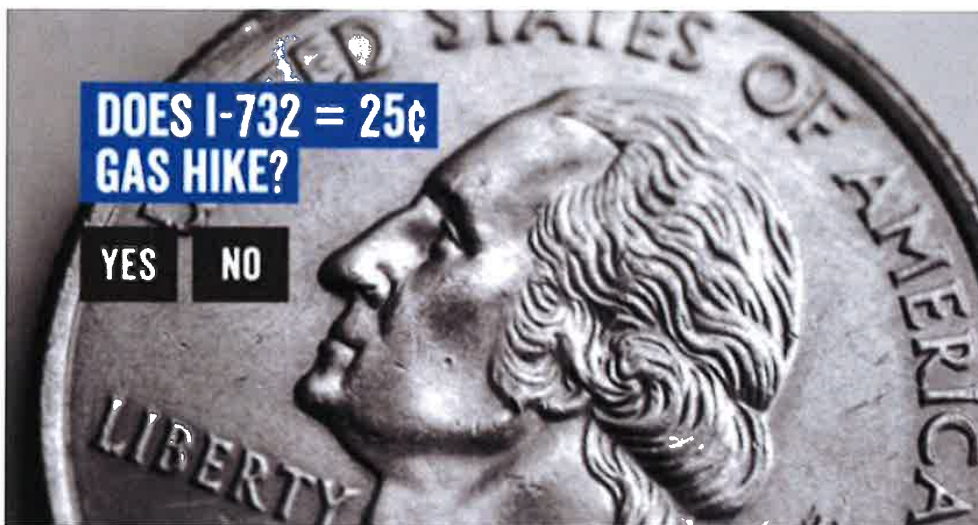
https://www.facebook.com/shiftwa/posts/958372374289470?comment_id=963926787067362¬if_t=like¬if_id=1470775423563311



Shift Washington

July 26 at 2:58am · 🌐

Use our calculator to find out how much a carbon tax will cost you.



How Much Will A Carbon Tax Cost You?

When gas prices go up, everyone feels the pain. Commuting to work, transporting food and taking family road trips, all become more expensive. Supporters of the carbon tax have estimated an increase of 25 cents per gallon if it goes into effect.

SHIFTWA.ORG

[Learn More](#)

https://www.facebook.com/shiftwa/posts/958372327622808?comment_id=969341243192583¬if_t=like¬if_id=1470862986722663



Shift Washington

July 26 at 2:58am

Use our calculator to find out how much a carbon tax will cost you.



How Much Will A Carbon Tax Cost You?

When gas prices go up, everyone feels the pain. Commuting to work, transporting food and taking family road trips, all become more expensive. Supporters of the...

SHIFTWA.ORG

[Learn More](#)

https://www.facebook.com/shiftwa/posts/958372177622823?comment_id=969006183226089¬if_t=like¬if_id=1470865693946093

8/17/2016

[#7523] File a Formal Complaint - Kyle Murphy : Help and Support

Kyle Murphy replied 2 days ago (Mon, 15 Aug at 3:52 PM)
to : pdc@pdc.wa.gov

Hi Jacob,

I am attaching 3 additional screenshots that show the 'sponsored' stamp from SHIFTWA - this means that they have financed with Facebook to 'boost' their post. You can see in one of the screenshots a comment from someone saying they see this ad 'every single day' (you can also use this link to the SHIFTWA post to see his comment, its about the 10th on down).

It is overwhelmingly likely that the sponsored posts exceed \$100, judging by the number of engagements with each post. I can also provide a handful of witnesses who can attest to seeing the sponsored posts, and some would even be willing to go to the PDC office and open their facebook accounts to show you if that is what it takes.

Here is a guide showing Facebook's pricing, but without having access to their account info I cannot determine exactly how much they are spending.

It is impossible that these posts are generating this much organic attention because they are not posted on ShiftWA's Facebook homepage. ShiftWA's regular followers are not seeing these posts - the way they are reaching people who are commenting and liking the posts is through 'sponsored' posts that they are hiding from their timeline.

Please let me know if this is enough to re-open the complaint.

3 Attachments





Dale Hjelm Everyday I see this post asking me if I know how much the carbon tax will cost me. Funny I haven't seen any asking if I know how much sea level rise, climate change, and everything that goes along with that will cost me, my children, and generations to come.

Like · Reply · August 4 at 8:59pm · Edited



Greg Rock Help this important campaign at www.yeson732.org and like our FB page Yes On I-732



Yes On Initiative 732

Initiative 732 makes taxes fairer. It taxes carbon to fight climate change, boost clean energy & save...

YESON732.ORG

Like · Reply · Remove Preview · 1 min



Write a reply...





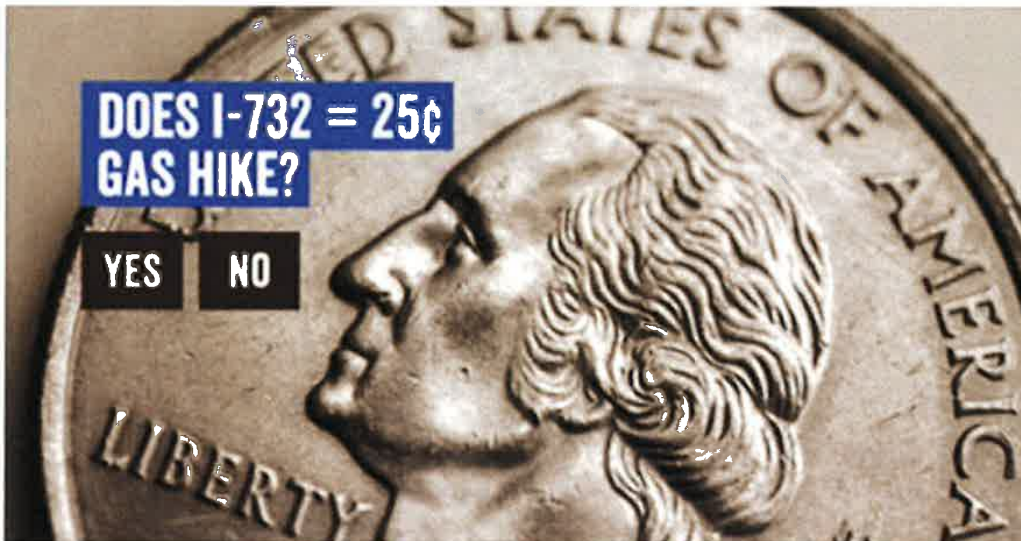
Shift Washington

SHIFT

Sponsored

Like Page

Use our calculator to find out how much a carbon tax will cost you.



How Much Will A Carbon Tax Cost You?

When gas prices go up, everyone feels the pain. Commuting to work, transporting food and taking family road trips, all become more expensive. Supporters of the carbon tax have estimated an increase of 25 cents per gallon if it goes into effect.

SHIFTWA.ORG

[Learn More](#)

Info replied 19 days ago (Wed, 31 Aug at 10:46 AM)
to : pdc@pdc.wa.gov

Mr. Berkey,

Thank you for your email of August 17. We apologize for the tardiness of our reply, however the person who monitors the e-mail account where you sent your email was on paternity leave, and just returned this week. We trust that this email is an appropriate response to the allegations made against Shift WA which were contained in your email.

We disagree with these allegations. Shift WA is not running advertising supporting or opposing the initiative. As you can see, nowhere on any of the advertisements is there any language about voting for or against Initiative 732.

Asking yes/no questions is a common tactic of organizations, like Shift WA, which seek to link people using their personal email with their position on specific issues. One of the goals of Shift WA is to develop a database of Washingtonians which includes their emails and their position on a variety of issues. This will allow us to more efficiently and economically provide them information which might encourage their active support of our organization.

Shift WA is seeking information in our ads and on our website solely for the benefit of our own organization. We appreciate the opportunity to provide this information to you, and hope it allows you to answer the allegations against Shift WA.

Sincerely,

Matthew Lundh

Josh Amato

Info replied 4 days ago (Thu, 15 Sep at 2:16 PM)
to : pdc@pdc.wa.gov , cc : matthew@shiftwa.org

Hi Jacob,

Thank you for your prompt reply to our email from August 31. We appreciate that you took time to review our response to the complaint against Shift, and we can answer the question you posed to us very simply: no, we have not coordinated with either of the No-on-732 committees about our work.

We would also like to say that we do not quite understand why staff has concluded that Shift was directly or indirectly appealing for votes, money or support for a No-on-732 effort, if they consider the totality of what we were doing. As we said in our reply to the complaint, we undertook the advertising effort that generated the complaint for the benefit of Shift, not a campaign, and to help acquire email addresses and identify respondents on a specific issue. This type of effort often requires provocative or partisan language, such as that you cite in your reply.

However, if we were seeking to truly appeal for votes, money or support for a No-on-732 campaign, we would have kept the focus on the campaign throughout our advertising, in addition to actually asking for those things. Instead, while I-732 was mentioned in the initial page of the ads – to get people's attention and hopefully encourage them to answer a poll question on a current issue – we did not mention the initiative on the page where people provided us their email information. There we just asked about a generic carbon tax, not I-732, because our goal was information gathering, not campaign advocacy. That's why we also did not ask for votes, money, or support for the campaign.

We continue to believe we are in compliance with PDC regulations, because Shift was not trying to impact the I-732 campaign with the advertising we did. In fact, prior to receiving your initial communication, we were developing an advertisement that the Yes-on-732 campaign would likely have approved of, focusing on the revenue neutrality issue which we hoped to utilize to identify people on that taxation question. In our efforts to build a better data base, we often test a variety of issues, and responses, to determine what is most compelling to potential respondents, and that is what we were doing here.

Thank you for your consideration of our reply.

Sincerely,

Matthew Lundh Josh Amato

9/19/2016

[#7561] Shift Washington - Alleged violations of RCW 42.17A.255 for failure to report independent expenditures. : Help and Support

Info replied 3 days ago (Thu, 15 Sep at 9:51 PM)
to : pdcc@pdc.wa.gov , cc : matthew@shiftwa.org

Hi Jacob,

We spent 26,045.23 on the ads.

Thanks

Reporting Form for: (check one)

Instructions on Page 3

- ☒ **INDEPENDENT EXPENDITURES** (Occurring at any time) — **\$100 or more**
☐ **INDEPENDENT EXPENDITURE ADS** (Appearing within 21 days of an election) — **\$1,000 or more**
☐ **ELECTIONEERING COMMUNICATIONS, Except Contributions** (Appearing within 60 days of an election) — **\$1,000 or more**

1. Name and complete postal mailing address of sponsor: Shift Washington PO Box 406 Woodinville, WA 98072	E-mail info@shiftwa.org
	Telephone 747-22SHIFT

2. Itemize expenditures of more than \$100 associated with the independent expenditure or electioneering communication.

Date Made	Date First Presented/ Mailed	Name and Address of Vendor or Recipient	Description of Expenditure (e.g., direct mail or newspaper, TV or radio ad)	Amount or Value (*See Below)
8/18/2016	7/26/2016	Sermo Digital 7605 SE 27th St Ste 204 Mercer Island, WA 98040	Online Ad Placement Online Ad Production	\$27,414.50 \$750.00
Expenditures \$100 or less not itemized above				\$

Amount or Value *If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.	Total this report	\$ 28,164.50
	Total independent expenditures and electioneering communications made during this election campaign. Include amounts shown in this report and previously submitted C-6 reports.	\$ 28,164.50

3. List of candidate(s) or ballot proposition(s) identified in the advertising.				Show portion of current expense attributable to each candidate or proposition	Show total C-6 expenses related to each candidate/ proposition during election campaign
Candidate/Proposition	Office/District/ Proposition No.	Party	Check Support or Oppose		
I-732			<input type="checkbox"/> <input checked="" type="checkbox"/>	\$ 28,164.50	\$ 28,164.50
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
Continued on attached sheet <input type="checkbox"/>				\$	\$

Filer Name: Shift Washington

4. If reporting an Electioneering Communication, it is necessary to disclose information concerning the source of funding for the communication. Select the description that applies:

- a) ___ An individual using only personal funds.
 b) ___ An individual using personal funds and/or funds received from others.
 c) ___ A business, union, group, association, organization, or other person using only general treasury funds.
 d) ___ A business, union, group, association, organization, or other person using general treasury funds and/or funds received from others.
 e) ___ A political committee filing C-3 and C-4 reports. (RCW 42.17A.205 - .240)
 f) ___ A political committee filing C-5 reports. (RCW 42.17A.250)
 g) ___ Other

If (b), (d), (f), or (g) applies, complete section 5 below. If (e) applies, also complete section 5 if the committee received funds that were requested or designated for the communication.

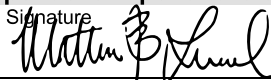
5. Sources giving in excess of \$250 for the electioneering communication:

Date Received	Source's Name, Address, City, State, Zip	For individuals, Employer's Name, City and State	Amount
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
		Sub-Total	\$
	Continued on attached sheet <input type="checkbox"/>	Amount from attached pages	\$
TOTAL FUNDS RECEIVED			\$

Sponsor of Independent Expenditure or Electioneering Communication

I certify (or declare) under penalty of perjury under the laws of the State of Washington that this expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or an agent of a candidate nor does it otherwise constitute a contribution under RCW 42.17A.005. I further certify that the above information is true, complete, and correct to the best of my knowledge.

Signature



Printed Name

Matthew Lundh

Street address

PO Box 406

City/State/Zip

Woodinville, WA 98072

Date Signed

9/19/2016

Place Signed (city and county)

Mercer Island, WA

*RCW9A.72.040 provides that "(1) A person is guilty of false swearing if he makes a false statement, which he knows to be false, under an oath required or authorized by law. (2) False swearing is a misdemeanor."

C-6 Independent Expenditure and Electioneering Communication Filing Instructions

Who must report:

- Any individual, business, union, organization or other person who makes independent expenditures totaling \$100 or more supporting or opposing a candidate or ballot measure and does not file C3 and C4 reports as a political committee.
- Any individual, business, union, organization or other person, including PACs and parties, sponsoring independent expenditure ads that 1) support or oppose a candidate or ballot measure, 2) are valued at \$1,000 or more, and 3) are presented to the public within 21 days of a primary, general or special election.
- Any individual, business, union, organization or other person, including PACs and parties, sponsoring electioneering communications.

How to Complete the Form

Identify the type of advertising expenditure by checking the box that applies. If in doubt, see the PDC's Electioneering Communications brochure and guide or contact PDC staff at 360-753-1111 or 1-877-601-2828 for assistance.

No. Explanation

1. Provide the sponsor's full name and U.S. mail address, as well as your email address and telephone number, including area code. If two or more sponsors are jointly paying for advertising, each sponsor needs to file a C6 reporting their respective financial activity and swearing to the independence of the expense and accuracy of the report.
2. Itemize each payment of more than \$100 associated with the advertising. "Date Made" is the date the expense was first obligated. Itemize payments made to consultants.

Also show the aggregate of payments of \$100 or less in the space provided.

Place the sum of all expenditures in the space provided.

Also show the aggregate total of all C6 reported expenditures made by this sponsor during this election campaign, regardless of which candidates or ballot measures were referenced in the advertising.

3. List all candidates and/or ballot measures identified in the advertising. Regarding candidates, identify the office and district being sought (e.g., Leg. 22 - House), and the party affiliation if the candidate is seeking partisan office. For both candidates and ballot measures, indicate:
 - whether the ad supports or opposes them;
 - the dollar amount attributable to each; for example, if an ad cost \$12,000 and three-fourths of it related to a candidate and one-fourth to a ballot measure, attribute \$9,000 to the candidate and \$3,000 to the ballot measure; and
 - the aggregate dollar amount of all C6 reportable expenditures during the election campaign attributable to the candidates and ballot measures identified in the ad.

On the top of page 2, repeat the sponsor's name.

Sponsors of independent expenditures do not need to complete sections 4 and 5. Proceed to certification section at the bottom of the form.

4. Sponsors of electioneering communications do, however, have to choose the description that most accurately applies and put a check on the adjacent line. Some sponsors will also have to disclose funding sources. Follow the directions in section 4 of the form carefully.
5. Sponsors who received funds from any source in excess of \$250 for the communication must disclose the information required by the form for each source giving more than \$250. Also show the total funds received from these sources.

Certification: The individual accountable for the accuracy of the information reported and the truthfulness of the certification statement needs to sign the report. Provide all the information required by the form.

When and Where to Report

If an advertising expense qualifies both as an independent expenditure and an electioneering communication, complete the entire form, including sections 4 and 5.

Independent Expenditures of \$100 or more in the aggregate:

- Postmark within 5 days of making the expenditure(s).

If additional expenditures are made (that do not qualify for the special reporting discussed below), file:

- on the 10th of the month preceding the election*;
- 21 days prior to the election*;
- 7 days prior to the election*; and
- on the 10th of the month after the election*.

*Reporting is only required when expenditures have been made since the last report was submitted.

Send original C6 to PDC. If expenditure relates to a city candidate or ballot measure, contact the city clerk to learn if local filing is required by local ordinance. Always keep a copy for your records.

Special Reporting of Independent Expenditure ads appearing within 21 days of an election

If one or more ads costing \$1,000 or more are presented to the public within 21 days of an election, deliver** in electronic, fax or paper format to PDC within 24 hours of, or on the first working day after, the date the advertisement was first published, mailed, or otherwise presented to the public.

Additional independent expenditure ads presented during this 21 days costing any amount must be reported within 24 hours of, or on the first working day after, the date the additional advertising is first published, mailed, or otherwise presented to the public.

**To file electronically, go to PDC's website at www.pdc.wa.gov or call 360-753-1111 or toll free at 1-877-601-2828. If using facsimile, fax a copy of the signed C6 report to 360-753-1112 within 24 hours. If the expenditure relates to a city candidate or ballot measure, contact the city clerk to learn if local filing is required by local ordinance. Always keep a copy for your records.

Electioneering Communications

Advertising must have all of the following four characteristics in order to qualify as an electioneering communication.

1. The communication clearly identifies at least one candidate for state, local or judicial office;
2. appears within 60 days of an election in the candidate's jurisdiction;
3. in one or more of the following media – radio, television, postal mailing, billboard, newspaper or periodical; and
4. either alone, or in combination with other communications by the sponsor identifying the candidate, has a fair market value of \$1,000 or more.

Electioneering communications must be reported electronically within 24 hours of, or on the first working day after, the date the communication was first broadcast, mailed, erected, or published. To file, visit www.pdc.wa.gov or call PDC at 360-753-1111 or toll free at 1-877-601-2828.

January 2012

Interview Summary
Matthew Lundh, Case 7561
3/6/18 (18 min. 50 seconds)

- (Background) Phil Stutzman, Sr. Compliance Officer, interviewed Matthew Lundh under oath on March 6, 2018. Mr. Stutzman conducted the interview by telephone from his office at the Public Disclosure Commission in Olympia, Washington. PDC staff members Fox Blackhorn-Delph and Micaiah Ragins were also present for training purposes, but did not participate in the interview. Dan Brady, attorney, was present by telephone, and represented Shift Washington (Shift WA).
- During the summer of 2016, Shift WA sponsored a series of Facebook ads that asked readers questions about Initiative 732, a statewide initiative concerning a proposed carbon tax. Readers answering the questions were transferred to the Shift WA website where they could see content on a variety of topics or join Shift Washington. A complaint was filed, alleging that the ads should be reported, and eventually, at the request of PDC staff, Shift WA reported \$28,164.50 for Facebook media buys, on a C-6 Report of Independent Expenditures. The report was filed 51 days late, but 49 days before the November 8, 2016 general election.
- Matthew Lundh stated that Shift Washington was a nonprofit corporation registered with the Internal Revenue Service as a 501C-4 organization. He said Shift WA is managed by a board, and said his firm is paid to run the day to day operations of Shift WA. He said his firm name is Sermo Digital, from Mercer Island, and acknowledged that his company is listed on Shift WA's C-6 Report of Independent Expenditures as the vendor paid to produce and place the online ads that are the subject of the complaint.
- Mr. Lundh said Shift WA was formed in 2013 or 2014. He said the purpose of Shift WA is to keep an up-to-date list of people interested in politics in Washington State, and to provide them with editorials and news content.
- Randy Pepple is on the Board of Directors of Shift WA, and is the person most responsible for managing Shift WA.
- Mr. Lundh said he and his firm run the day-to-day operations of Shift WA, which includes making ad placements, and performing creative work, including graphics. He said Josh Amato is a co-founder of Sermo Digital and shares with him the responsibilities of running the day-to-day operations of Shift Washington.
- Matthew Lundh acknowledged that he worked on campaigns prior to 2016. He said that in 2016, Randy Pepple made the decision to run the Facebook ads that cost \$28,164.50. He said while there is a board of directors, ultimately, it was Mr. Pepple who gave Mr. Lundh and Mr. Amato the marching orders to place the Facebook ads.
- Mr. Lundh said Shift WA creates ads about various public policy topics in Washington State for the purpose of finding citizens who are likely interested in joining their organization, who would find their editorial content interesting, and to gather data from

the people identified. He said the Facebook ads were aimed at Washington citizens who were likely interested in politics. He said Facebook has third-party data they can make available to customers that identifies people who would likely engage in political activities. He could not recall the exact criteria for the people Shift WA contacted, but said, generally, they seek people who are interested in Washington State political issues.

- When asked if Shift WA took a position on I-732 during 2016, Mr. Lundh said Shift WA does not take public positions on issues. He could not recall whether, in 2016, their website included articles about the carbon tax issue, but said Shift WA has written many articles about the carbon tax issue, both before and after the 2016 election, because it has been a hot topic for a long time. He acknowledged that Shift WA has a conservative viewpoint, but did not recall the specific viewpoint written about the carbon tax in 2016.
- When asked why Shift WA decided to ask questions about a carbon tax when it was the subject of a statewide ballot proposition, rather than ask questions about an issue that was not the subject of a ballot proposition, Mr. Lundh said Shift WA discussed other topics for the online ads, but decided to pick the carbon tax issue because it was a local issue that was on the minds of people.
- When asked why Shift WA filed a C-6 report when their position was that the report was not required, Mr. Lundh said Shift WA filed a C-6 report because PDC staff member Jacob Berkey indicated that filing the report was the appropriate action to take. Mr. Lundh said Mr. Berkey determined that Shift WA was engaging in political activity, and informed him that filing a C-6 report would be the appropriate action to take. Mr. Lundh said he still believes Shift WA was not trying to influence the I-732 election with their Facebook ads.
- When asked if he had prior experience filing reports with the PDC, Mr. Lundh acknowledged that he served as treasurer for the King County Republican Party for a few years, filing C-3 and C-4 reports, but said he did not have experience filing reports of independent expenditures.
- When asked if Shift WA had engaged in similar online ad placement before or after 2016, Mr. Lundh said Shift WA ran ads prior to 2016 for the same purpose, to collect email addresses of people interested in engaging with Shift WA on local political issues. He said Shift WA has not run ads recently to collect email addresses, but could not say definitively whether the 2016 Facebook ads were the last time ads were run for this purpose.
- Mr. Lundh said the motive for running the online ads was not to influence the people contacted to vote against I-732. He said Facebook provides analytics on the number of people contacted by the ads. He said Shift WA does not conduct issue-specific follow-up with email contacts generated by online ads, and said he does not believe Shift WA followed up with specific information about I-732. He said Shift WA uses the email addresses to send out their news feeds and to fundraise for their operation.

- Mr. Lundh said Shift WA did not have any contact with the No on I-732 committee sponsored by the Association of Washington Business, and did not coordinate their ads with those of the No on I-732 committee. He also said Shift WA did not work with the vendors used by the No on I-732 committee, which were Quinn Thomas Public Affairs and Media Plus.

A recording of the interview of Matthew Lundh, conducted March 6, 2018, is available upon request.