

## CITY OF PORTLAND

In the Matter of: Violations of Campaign Contribution Limits of Portland Charter Chapter 3, Article 3, and Portland City Code Chapter 2.10

No. \_\_\_\_\_

### COMPLAINT

#### Violations of Portland Campaign Disclaimer Requirements by Campaign of Ted Wheeler on Websites

1. This Complaint is filed by James Ofsink and David Delk, residents and electors of Portland.
2. This Complaint is pursuant to Portland Charter § 3-305 and Portland City Code 2.10.050.
3. The Friends of Ted Wheeler has violated the disclaimer requirements of Portland Charter Chapter 3, Article 3, and Portland City Code Chapter 2.10 ("Portland Campaign Disclaimer Requirements") by failing to include the required disclaimers on:
  - (a) any of the campaign's numerous posts on Twitter under the name #TeamTed, except one; and
  - (b) any of the posts on the campaign's Facebook page (<https://www.facebook.com/teamted2020>), except one; or
  - (c) any of the posts on the campaign's Instagram page (<https://www.instagram.com/explore/locations/1025320430/friends-of-ted-wheeler/>).
4. Each post by #TeamTed or to the TeamTed2020 Facebook page that does not include the disclaimer information is a separate violation of the disclaimer requirements.
5. The one exception to the consistent absence of disclaimers on the Facebook page and Twitter messages by Friends of Ted Wheeler is a video posted in both venues on May 4, 2020. The video is a 49-second campaign message. The disclaimer consists of a full screen

of small font text that appears on the screen for less than 2.5 seconds.

- (a) This violates the requirement of Portland City Charter §3-308(o) that "any video disclosure" must remain "readable on the regular screen (not closed captioning) for not less than 4 seconds."
- (b) This also violates the requirement of Portland City Charter §3-308(o) that "the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, because it is impossible for such a person to read virtually any of the disclaimer within the 2.5 seconds due to the small size of the print and its non-contrasting color.

6. Each posting of the above-noted video is a separate violation of the disclaimer requirements. This video has been posted at least in these places:

[https://twitter.com/ted\\_mayor/status/1257405214245584896?s=20](https://twitter.com/ted_mayor/status/1257405214245584896?s=20)  
<https://www.facebook.com/teamted2020/videos/526890968194850/>

7. In case the Friends of Ted Wheeler delete the video from its locations, the final 11 seconds of the video is available at [https://bit.ly/heport\\_enforce](https://bit.ly/heport_enforce). The filename is Wheeler\_11sec.mp4. It includes a counter showing that the disclaimer is on the screen for less than 2.5 seconds. The full video is also posted there, with filename TeamTedVideo.mp4.

8. The Friends of Ted Wheeler has further violated the disclaimer requirements by failing to comply with the text size and color requirements of Portland City Charter §3-308(o) on any of the campaign's web pages, at [www.tedwheeler.com](http://www.tedwheeler.com), in that:

- (a) The disclaimer text is presented in a font size much smaller than "the majority of text in the message" (§ 3-308(o)(4)).
- (b) The disclaimer text is not presented in "a contrasting color"; white on light blue is not a contrasting color (§ 3-308(o)(1)).

- (c) The disclaimer is presented in a muddled italic font that is not "readily comprehensible to a person with average reading, vision, and hearing faculties" (§ 3-308(o)).
- 9. The penalty for violation of the disclaimer requirements is "imposition of a civil fine which is not less than two nor more than twenty times the amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue." Portland City Charter § 3-305(b).
- 10. The "amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue" is the amount spent by Friends of Ted Wheeler to create, produce, reproduce, print, and distribute the offending web pages, Facebook entries, Instagram entries and Twitter messages, including the cost of producing the 49-second video.
- 11. Complainants request that the City Auditor:
  - (a) Find that Friends of Ted Wheeler is in violation of the Portland Campaign Disclaimer Requirements;
  - (b) Impose the lawfully-required penalty for this violation.
- 12. Because the violation here is blatant, obvious, and egregious, and shows disregard for the requirements of the Portland City Charter, Complainants request that the maximum available penalty be imposed.
- 13. Complainants request that all correspondence to them in this matter be addressed to ofsink@honest-elections.com.

Dated: May 7, 2020

Respectfully Submitted,

/s/ David Delk

David Delk

/s/ James Ofsink

James Ofsink