



P O R T L A N D
CITY AUDITOR
Elections

October 12, 2020

Jim Mark
111 SW Columbia St, Ste 1380
Portland, OR 97201

DELIVERED ELECTRONICALLY
jmark@melvinmark.com

NOTICE OF DETERMINATION

Campaign Regulation Complaint No.: 2020-31-JM
- Violation and Civil Penalty -

Dear Jim Mark,

On September 14, 2020, the City of Portland Auditor's Office issued the complaint named above, alleging campaign contribution violations under [Portland City Charter Section 3-301](#) and corresponding [Portland City Code \(PCC\) Section 2.10.010](#). Specifically, the complaint alleged individual Jim Mark violated City campaign finance regulations by making an individual contribution to the Friends of Ted Wheeler campaign in excess of City campaign contribution limits.

After an investigation, I find one violation of City campaign regulations. I am issuing individual Jim Mark a fine in the amount of \$1,000 due November 12, 2020.

Complaint: Violation of City Campaign Finance Regulations

Aggregate individual contributions exceeded contribution limits

Context and Background to the Complaint: On July 8, 2020, the Auditor's Office received an email from Friends of Ted Wheeler, the campaign committee for City mayoral candidate, Ted Wheeler. The email disclosed that in efforts to retroactively comply with campaign contribution limits, the campaign performed a self-audit and discovered contributions in excess of contribution limits. The campaign reported the discovery in good faith and issued refunds to contributors. As a result of the disclosure, the Auditor's Office issued Complaint No. 2020-31-TW and found violations on August 7, 2020. As a result of the investigation in Complaint 2020-31-TW, the Auditor's Office also determined there was reason to believe City campaign finance



violation(s) by individual contributors, including by Jim Mark, remained unaddressed. This complaint was issued in response.¹

City campaign finance regulations limit total aggregate contributions to \$500 from an individual to a candidate during a current election cycle. See [City Charter Section 3-301\(a\)-\(b\)\(1\)](#) and [PCC Section 2.10.010 A.- B. 1](#). For candidate Ted Wheeler, the current election cycle runs from July 6, 2016² until the date of certification for the results of the November 2020 election.

On May 4, 2020, the Auditor’s Office began enforcing contribution limit provisions,³ including enforcement against any contributions made after May 4, 2020 that raised an individual’s contribution total to over \$500 for a candidate.

Investigation results for contributions from individual Jim Mark are summarized as follows:

*Individual Contributor: **Jim Mark***

Date	Contribution Amount	ORESTAR Transaction Number	Total Amount of Excess Contribution	Details
1/25/2018	\$1,000	2742888	N/A	Violation Exempt: Received prior to passage of City Campaign Finance Regulations.
12/7/2018	\$5,000	3095547	\$5,500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
6/11/2020	\$500	3489151	\$6,000	Unlawful.
7/1/2020	- \$500 (refund)	3502972	\$6,000	Refund did not negate 6/11/2020 contribution.*
* Although the campaign issued a \$500 refund on 7/1/2020, the refund was not issued immediately and the campaign retained possession of the corresponding contribution for a significant period of time. Thus the \$500 contribution on 6/11/2020 remains unlawful and was not negated.				
Total Amount of Unlawful Contribution(s): \$500				

Based on the findings identified in the table above, I find individual Jim Mark violated City campaign finance regulations by unlawfully contributing \$500 to

¹ City Charter Section 3-305(d) and corresponding City Code Section 2.10.050 D., specify that “[t]he City Auditor, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.”

² July 6, 2016 is the date the last mayoral election results were certified.

³ Although passed by voters in 2018, campaign contribution limit regulations were enforced beginning May 4, 2020, following recent court decisions: e.g., see Oregon Supreme Court, *Multnomah County et al v. Mehrwein et al.* (Case No. 5066445) and Court of Appeals Order to vacate and remand for reconsideration, *In the Matter of Validation Proceeding to Determine the Legality of City of Portland Charter Chapter 3, Article 3 and Portland City Code Chapter 2.10 Regulating Campaign Finance and Disclosure* (Case No. A171435).

Friends of Ted Wheeler in the current election cycle, and in excess of the aggregate \$500 contribution limit.

Penalties

The City campaign finance regulations require financial penalties following violations of campaign contribution limits. In particular, each violation of City Charter Article 3 and corresponding City Code Chapter 2.10 requires a fine of “not less than two nor more than twenty times the amount of the unlawful Contribution or Expenditure...”⁴ In determining the required penalty within the range allowed, I considered the following factors:

- This is a first-time violation for individual Jim Mark in this election cycle,
- Cooperation with the investigation,
- The campaign voluntarily issued a refund,
- The amount of any penalties issued in similar circumstances, and
- The fact that the City’s definition of “elections cycle” differs from the State of Oregon’s.

Based on these factors, the fine issued is the lowest amount allowed, or two times the total unlawful contribution amount of \$500, resulting in a fine of \$1,000.

Jim Mark shall pay \$1,000 to the City Auditor’s Office by November 12, 2020.

NOTE: Late payments for fines may be subject to an increase in fee.

Payment must be postmarked by the due date and can be sent by mail to:

City of Portland Auditor’s Office
1221 SW 4th Ave, Rm 130
Portland, OR 97204

Appeals

Pursuant to PCC 2.10.050 I., an appeal may be filed with the Multnomah County Circuit Court within 30 days of the issuance of a decision.

Sincerely,



Louise Hansen
City Elections Officer

⁴ See [City Charter Section 3-305\(b\)](#); see also [City Code Section 2.10.050 B](#).