



P O R T L A N D
CITY AUDITOR
Elections

July 27, 2020

Ted Wheeler
PO Box 42307
Portland, OR 97242

DELIVERED ELECTRONICALLY
campaign@tedwheeler.com
amy@tedwheeler.com

Friends of Ted Wheeler
3321 SE 20th Avenue
Portland, OR 97202

**City Campaign Regulations –
Violation and Penalty (2020-22-TW)**

Dear Ted Wheeler and Friends of Ted Wheeler,

Complaint and Determination

The City Elections Office received a complaint June 26, 2020 alleging disclosure violations of City Campaign Regulations, Portland City Charter Section 3-303, and Portland City Code (PCC) Chapter 2.10. Specifically, the complaint alleged a lack of disclosure of campaign contributions in an email sent out by the campaign, Friends of Ted Wheeler.

After an investigation, I have identified one violation of City Campaign Regulations, and I am issuing a penalty of \$1,000 for failure to prominently disclose campaign contributions on an email to Portland voters sent out by Friends of Ted Wheeler on May 14, 2020.

Although the communication to voters included the political committee that funded the email (i.e., Friends of Ted Wheeler), the disclosure did not include required information regarding the top five dominant contributors to Friends of Ted Wheeler and additional information pertaining to each top contributor. As a result, the disclosure was not a prominent and timely disclosure, and, therefore, constitutes a violation of City Campaign Regulations.

The financial penalty considers the overall budget and resources available to the campaign, the number of similar previous warnings and violations within this elections cycle, and the size of the intended audience of the email. ¹

¹ See Auditor's Office Administrative Rule 13.02 Campaign Finance: Complaint Process, Section G. "Auditor's Office Decision" : <https://www.portlandoregon.gov/auditor/article/760087>



City Campaign Regulations

Portland Charter Chapter 3, Article 3 and City Code Chapter 2.10 (collectively, the “City Campaign Regulations” or “regulations”) were passed by voters in November 2018 and are administered and enforced by the City Auditor’s Office. The regulations require certain campaign contributors and their respective sources of income to be prominently listed on campaign communications. (See PCC 2.10.030 Timely Disclosure of Large Contributions and Expenditures). The Regulations specifically require disclosures for digital and electronic communications, such as emails.

Provisions regarding campaign disclosures were upheld and have been in effect and enforceable for all candidates as of September 1, 2019.² Candidates qualified to appear on the ballot for the May 19, 2020, primary election were given notice of the regulations and guidance at the time of candidacy determination.³

City Campaign Regulations require disclosures on communications as follows (in relevant part):

- A.** Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:
 - 1.** The names of any Political Committees and other Entities that have paid to provide or present it; and
 - 2.** For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
 - a.** The name of the Individual or Entity providing the Contribution.
 - b.** The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
- B.** If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit organization, the prominent disclosure shall include its top three funders during the current Election Cycle.
- C.** The disclosure shall be current to within 10 business days of the printing of printed material or within 5 business days of the transmitting of a video or audio communication. (PCC 2.10.030(A)–(C)).

City Campaign Regulations also define “communications” needing disclosures and “dominant contributors” that must be disclosed as follows:

- D.** “Communication” means any written, printed, digital, electronic or broadcast communications[.]
- F.** “Dominant Contributor” means any Individual or Entity which contributes more than \$1,000 during an Election Cycle to a Candidate Committee or Political Committee. (PCC 2.10.080 D, F).

² See *In re. 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* (Multnomah County Circuit Court Case No. 19CV06544).

³ See email and letter including guidance on the City Campaign Regulations sent by the City Elections Office to candidate Ted Wheeler on November 11, 2019 (Candidacy Determination: Wheeler).

Violations of City Campaign Regulations

Email lacked required disclosures:

Friends of Ted Wheeler sent out an email communication May 14, 2020, to more than 500 email recipients. The email included only the following disclosure: "Paid for by Friends of Ted Wheeler".

An email sent on May 14, 2020, by the campaign identified Friends of Ted Wheeler as the funding political committee. However, the communication did not identify the top five contributors to Friends of Ted Wheeler nor include the required income or funder information related to each of the top five contributors. As of the date of the complaint, June 25, 2020, ORESTAR identified disclosable dominant contributors to Friends of Ted Wheeler (committee ID 5591). The failure to meet the requirements for full disclosure violates City Campaign Regulations.

Prior to the May 14, 2020, email to Portland voters, the Friends of Ted Wheeler campaign was issued a Letter of Warning and Education in Complaint No. 2020-04-TW, for three disclosure violations.

Sources of Funding and Required Follow-Up

After finding a violation, the Auditor's Office determined the top five dominant contributors for the communications in question, as required. As of the date of the complaint, June 25, 2020, there were disclosable dominant contributors identified for and confirmed by Friends of Ted Wheeler; they are as follows:

1. Local 48 Electricians PAC
2. SEIU Local 49 Melvin Mark Properties LLC
3. Melvin Mark Properties LLC
4. Portland Metro Firefighters PAC
5. Melvin Mark Brokerage Co.

Required Follow-Up

Additional required associated funders for each PAC and income information for each dominant contributor, as required by the regulations, shall be disclosed and send to the Elections Office for public posting by August 10, 2020. The follow-up information shall include:

- 1) For all contributors listed above, the types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
- 2) For any PACs or non-profit entities listed above, disclose the top three funders during the elections cycle.

Penalty

A penalty in the amount of \$1,000 shall be paid to the City Auditor's Office. Payment and required information shall be provided to the City Auditor's Office by August 10, 2020. Payment can be sent by mail to:

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

Appeals

Appeals for this decision can be made to the Multnomah County Circuit Court within 30 days of this letter, as provided by PCC 2.10.050 I.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Scroggin", with a horizontal line extending to the right.

Deborah Scroggin
City Elections Officer