



P O R T L A N D
CITY AUDITOR
Elections

August 20, 2020

United Food and Commercial Workers, Local 555
PO Box 23555
Tigard, OR 97281

DELIVERED ELECTRONICALLY

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NOTICE OF DETERMINATION

Campaign Regulation Complaint No.: 2020-28-UFCW
- No Violations -

Dear United Food and Commercial Workers, Local 555,

On July 27, 2020, the City of Portland Auditor's Office received the complaint named above, alleging campaign contribution violations under Portland City Charter sections 3-301 and 3-304, and corresponding Portland City Code (PCC) 2.10.010 and 2.10.040. Specifically, the complaint alleged that the Committee to Elect Loretta Smith's receipt of a \$9,111.95 in-kind contribution from Local 48 Electricians PAC (IBEW 48) together with a \$15,000 in-kind contribution from United Food and Commercial Workers Local 555 (UFCW) exceeded the campaign contribution limits of the Open and Accountable Elections (OAE) Program and thereby also violated City campaign finance regulations.

Because the complaint relied on an alleged violation of the OAE Program, the Auditor's Office forwarded the complaint to the OAE Director on July 29, 2020. On August 5, 2020, the OAE Director informed the Auditor's Office of OAE's determination that there was no violation of contribution limits under its program.¹ After receiving the complaint and determination from OAE, the Auditor's Office conducted its own investigation. **As explained below, and after a careful review, I find no violations of the City's campaign finance regulations.**

City Campaign Regulation Background and Connection to OAE Program

In November 2018, Portland voters passed Portland Charter Chapter 3, Article 3 and City Code Chapter 2.10 (collectively, the "City Campaign Finance Regulations"), which the City Auditor's Office administers and enforces. The City Campaign Finance Regulations include **mandatory** limits on

¹ See OAE's August 5, 2020 determination, "Complaint Determination Smith 8 5 2020."



campaign contributions. See PCC 2.10.010 (Contributions in City Candidate Elections).² Candidates may also **voluntarily** participate in public funding while abiding by other requirements through OAE, and under City Campaign Finance Regulations, “may receive any amount that such system allows a participating candidate to receive.” PCC 2.10.040.

Complaint: No Violation of City Campaign Regulations

In-kind contributions did not violate City Campaign Finance Regulations

Loretta Smith, a participant in the OAE Program, was a City candidate for Commissioner Position No. 2 in the City of Portland’s May 19, 2020 Primary Election and the August 11, 2020 Special Election. City candidate Loretta Smith used the Committee to Elect Loretta Smith for campaign finance purposes.

Complaint No. 2020-28-UFCW alleged that in-kind contributions exceeded the \$20,000 OAE Program limit when the Committee to Elect Loretta Smith received over \$24,000 in in-kind contributions from IBEW 48 and UFCW during the same election subperiod, as defined by the OAE Program. The complaint further alleged that violation of the OAE Program contribution limits thereby violated City Campaign Finance Regulation contribution limits.

For OAE Program participants, City Campaign Finance Regulations allow any contribution that is also allowed to be received under the OAE Program. See City Charter section 3-304 and PCC 2.10.040. The OAE Program found the following related to this complaint:

1. There was a reporting error on the date of receipt for one organization’s in-kind contribution, and that the date should have been May 7, 2020;
2. The date was later corrected in ORESTAR;
3. The change in date resulted in a Secretary of State penalty for late transaction filing;
4. The change in date also moved one of the alleged violating in-kind contributions to a different election subperiod; and
5. As a result of each election subperiod allowing for up to \$20,000 in in-kind contributions, there was no violation under the OAE Program for the Committee to Elect Loretta Smith’s receipt of the two in-kind contributions.³

OAE provided the Auditor’s Office with its determination, informed our office that it interviewed a treasurer and a labor union in its investigation, and provided no additional supplemental documentation. The information received in the Auditor’s Office Investigation, detailed below, supported OAE’s conclusion. **Accordingly, I find no corresponding violations of City Campaign Finance Regulations.**

² Although passed by voters in 2018, the City Campaign Finance Regulations regarding campaign contribution limits were enforced beginning May 4, 2020, following court decisions impacting the regulations. Candidates qualified to appear on the ballot for the May 19, 2020 primary election were given notice on April 29, 2020 of the change in law, the impact of the change on the regulations and the May 4, 2020 enforcement date.

³ See OAE’s August 5, 2020 determination, “Complaint Determination Smith 8 5 2020.”

Auditor's Office Investigation and Findings

Loretta Smith and the Committee to Elect Loretta Smith did not assist with this investigation; no response was provided to the complaint allegations during the material submission period nor following several follow-up requests for information. Information provided by ORESTAR, IBEW 48, UFCW, Morel Ink, and C&E Systems supported the following timeline of events:

- April 21, 2020:
 - Morel Ink distributed prepared mailers to Portland voters on behalf of the Committee to Elect Loretta Smith.
 - Morel Ink also sent invoice 20-3254 to UFCW to pay \$10,000 for the mailers shipped on April 21, 2020.
 - Morel Ink sent invoice 20-3253 for the remaining \$9,111.95 for the mailers distributed April 21, 2020 to the Committee to Elect Loretta Smith and the company acting as its treasurer, C&E Systems. The invoice acknowledged credit for a \$10,000 in-kind contribution and identified the remaining balance of \$9,111.95.
- April 22, 2020:
 - Morel Ink distributed another shipment of mailers to Portland voters on behalf of the Committee to Elect Loretta Smith.
- May 7, 2020:
 - UFCW contributed \$10,000 in-kind to the Committee to Elect Loretta Smith. This was originally reported in ORESTAR on May 14, 2020 (See Transaction ID: 3519170). While the ORESTAR entry was amended, the May 7, 2020 transaction date was never altered. The timing of the May 7, 2020 transaction fell within the special nominating election period under OAE's program.
 - Committee to Elect Loretta Smith reported knowledge of a \$9,111.95 debt owed to Morel Ink reflecting a transaction date of May 7, 2020 (ORESTAR Transaction ID: 3468870).
 - Committee to Elect Loretta Smith texted IBEW 48 to request a \$10,000 in-kind contribution.
 - IBEW 48 contributed \$9,111.95 in-kind to the Committee to Elect Loretta Smith. This entry was originally reported in ORESTAR on June 16, 2020, with a transaction date of June 10, 2020 (Transaction ID: 3490073). The entry was later amended on July 27, 2020 to reflect a transaction date of May 7, 2020 (Transaction ID: 3519171). The change in transaction dates moved the contribution from the special runoff election period to the special nominating election period under OAE's program.
- June 10, 2020:
 - Morel Ink invoiced IBEW 48 for \$9,111.95 for the mailers distributed April 22, 2020.
 - IBEW 48 paid the invoice the same day.
- June 24, 2020:
 - The Committee to Elect Loretta Smith solicited UFCW to ask for an in-kind contribution payment for ads.
- June 26, 2020:
 - UFCW contributed \$15,000 in-kind to the Committee to Elect Loretta Smith. This was reported in ORESTAR on June 30, 2020 (Transaction ID: 3501342). According

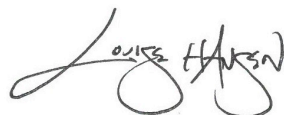
to UFCW, this was for a televised ad-buy from a different media company, Forward Solution Strategy Group. The timing of the June 26, 2020 transaction fell within the special runoff election period under OAE's program.

The evidence and timeline of events most strongly supports the following: Morel Ink provided its mailer-related services on April 21 and 22, 2020. IBEW 48 and UFCW had knowledge in April or early May of the two respective in-kind contributions related to the mailers. The in-kind contribution transactions for \$9,111.95 and \$10,000 related to the mailers fell within OAE's "special nominating election period" and amounted to \$19,111.95 for that period, which was below the \$20,000 OAE limit. In June 2020, UFCW contributed an additional \$15,000 in-kind to the Committee to Elect Loretta Smith. This transaction occurred in the "special runoff election period" and amounted to less than the \$20,000 OAE limit for that period.

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,

A handwritten signature in black ink that reads "Louise Hansen". The signature is written in a cursive style with a large initial "L" and "H".

Louise Hansen
City Elections Officer