



P O R T L A N D
CITY AUDITOR
Elections

January 13, 2021

Next Up Action Fund
dba Next Up Oregon
333 SE 2nd Ave
Portland, OR 97214

DELIVERED ELECTRONICALLY
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margaret@bennethartman.com

**NOTICE OF WITHDRAWAL OF DETERMINATION
AND ISSUANCE OF AMENDED DETERMINATION**

Campaign Regulation Complaint No.: 2020-46-NU

- On Reconsideration: No Violation -

Dear Next Up Action Fund,

On October 22, 2020, the City of Portland Auditor's Office received the complaint named above, alleging campaign disclosure violations of [Portland City Charter Section 3-303](#) and corresponding [Portland City Code Section 2.10.030](#). The complaint also alleged a failure to register in the Oregon Elections System for Tracking and Reporting (ORESTAR) in violation of [City Charter Section 3-302](#) and corresponding [City Code Section 2.10.20](#).

On November 5, 2020, the Auditor's Office issued a determination of this complaint with a Letter of Warning and Education, and a requirement for additional information. The Auditor's Office now withdraws that determination.

On reconsideration, the Auditor's Office finds no violation of City campaign finance regulations.

1. No Violation of City ORESTAR Registration Requirements (No Change on Reconsideration)

Next Up Action Fund Did Not Fail to Complete Required ORESTAR Registration

Complaint 2020-46-NU alleged Next Up Action Fund¹ dba Next Up Oregon failed to register itself in ORESTAR despite allegedly receiving contributions and making expenditures in support of candidate Teressa Raiford. City Charter Section 3-302(b) requires an entity to register as a political committee in ORESTAR within three business days of exceeding \$750 in aggregate independent expenditures² to support or oppose a candidate.

¹ Registry Number 1564676-99 in the Oregon Secretary of State Business Registration database reflects Next Up Action Fund is legally registered as New Progressive Network dba Next Up Action Fund.

² For the definition of "independent expenditure," see ORS 260.005(10).



Next Up Action Fund stated it did not have contributions or expenditures to report during the time period leading up to issuance of this complaint. However, Next Up Action Fund stated that on October 25, 2020, after this complaint was issued, it made an in-kind contribution of \$1,233.10 to the Chloe for Portland campaign for staff time and technology.³ However, this in-kind contribution does not qualify as an independent expenditure for purposes of registering as a political committee in ORESTAR.⁴ **Therefore, I find no violation.**

2. No Violation of City Funding Disclosure Regulations (Amended on Reconsideration)

Next Up Action Fund Was Not Required to Disclose Required Funding Information on Text Message, Social Media, or Website

The complaint also alleged a lack of required funding disclosures on a text message and other communications alleged to have been sent by Next Up Action Fund.

The text message at issue stated it was from “Emily with the Write in Teresa Raiford Campaign,” and included no indication it was from Next Up Action Fund. In its response to this complaint, Next Up Action Fund further denied it sent the text message at issue. The evidence provided supports Next Up Action Fund was not responsible for the text or the text’s funding disclosures.

As for the additional communications, the Auditor’s Office finds that from March 11 through August 31, 2020, Next Up Action Fund endorsed City candidates Teresa Raiford and Chloe Eudaly on its website and on social media, as well as opposed mayoral candidate Ted Wheeler on social media by calling for his resignation. [City Charter Section 3-303](#) requires funding disclosures for each communication to voters related to a City of Portland candidate election. As specifically relevant here, communications by political committees must include disclosures of the committee’s top dominant contributors. Charter Section 3-303(a)(2).

On reconsideration, the Auditor’s Office finds that Next Up Action Fund does not qualify as a political committee. Under ORS 260.005(18), a political committee includes a group that, for the purpose of supporting or opposing a candidate, either (1) receives a contribution or (2) makes a qualifying expenditure.

The Auditor’s Office did not find evidence that Next Up Action Fund received any contributions during the relevant election cycle leading up to the communications in question. Regarding expenditures, Next Up Action Fund informed this office that it made a *de minimis* expenditure of staffing time in the process of announcing its support or opposition of candidates. The Auditor’s Office did not find evidence of qualifying expenditures of more than a *de minimis* value.⁵

³ Chloe for Portland also reported Next Up Action Fund’s \$1,133.10 in-kind contribution for staff time and technology in ORESTAR (See Transaction ID: 3663952).

⁴ See Elections Division, Oregon Secretary of State, [2020 Campaign Finance Manual](#) 13 (Mar. 2020) (adopted by Oregon Administrative Rule 165-012-0005), which specifies that an Independent Expenditure excludes “an expenditure reported as an in-kind contribution by a committee[.]” See also ORS 260.005(18)(b)(A), which excludes expenditures required to be reported by a candidate or political committee from qualifying a group as a political committee. Independent Expenditures also must be expended for a communication in support or opposition to a clearly identified candidate or measure, which is not the case here. See ORS 260.005(10) for definition of “independent expenditure.”

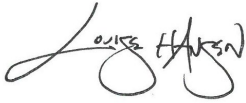
⁵ As described above, there is evidence Next Up Action Fund made a non-*de minimis* in-kind expenditure to a campaign, but this occurred after the communications in question. Also, because the expenditure was required to be reported by the campaign, it would not qualify Next Up Action Fund as a political committee. ORS 260.005(18)(b).

To apply the City Charter in accordance with the First Amendment, the Auditor's Office finds that a *de minimis* expenditure alone does not qualify Next Up Action Fund as a political committee. As a result, it had no dominant contributors to disclose. **On reconsideration, therefore, I find no violation.**

Appeals

Pursuant to City Code Section 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