



P O R T L A N D
CITY AUDITOR
Elections

September 4, 2020

Ted Wheeler
PO Box 42307
Portland, OR 97242

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

DELIVERED ELECTRONICALLY

campaign@tedwheeler.com
amy@tedwheeler.com
j.green@c-esystems.com

NOTICE OF DETERMINATION

Campaign Regulation Complaint No.: 2020-31-TW
- Violations and Civil Penalty -

Dear Ted Wheeler and Friends of Ted Wheeler,

On September 9, 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 Friends of Ted Wheeler violated City campaign finance regulations by receiving individual contributions in excess of City campaign contribution limits.

After an investigation, I find seven violations of City campaign regulations. I am issuing Friends of Ted Wheeler a fine in the amount of \$4,500 due September 21, 2020.

Complaint: Violation of City Campaign Finance Regulations

Aggregate individual contributions exceeded contribution limits

Context and Background to the Complaint: On June 25, 2020, the Auditor's Office sent a notice of complaint alleging contribution limit violations by an individual contributor to Friends of Ted Wheeler (Complaint No. 2020-21-TW). On July 8, 2020, the Auditor's Office received a separate email from the campaign stating it had performed a self-audit in efforts to retroactively comply with campaign contribution limits. In good faith, the campaign reported discovering seven excess donations totaling \$3,250 that it then refunded to contributors. On July 27, 2020, the Auditor's Office issued its determination in Complaint No. 2020-21-TW.



On August 7, 2020, the Auditor’s Office issued Complaint No. 2020-31-TW (this complaint) based on the information received from the campaign in the July 8, 2020 email and having formed a reasonable belief of potential unaddressed violation(s) of City campaign finance regulations.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.](#) On May 4, 2020, the City Auditor’s Office began enforcing these provisions,² including enforcement against any contributions after May 4, 2020 that raised an individual’s contribution total to over \$500 for a candidate. 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 and new enforcement date.³

For candidate Ted Wheeler, the current election cycle runs from July 6, 2016⁴ until the date of certification for the results of the November 2020 election. In its investigation, the Auditor’s Office identified the campaign’s seven contributors of concern to be Jim Mark, William R. Swindells, N. Robert Stoll, Vanessa Sturgeon, John Andrews, Charles Swindells, and Warren Rosenfeld.

Please note: Excess contributions connected to Charles Swindells and Warren Rosenfeld were previously resolved by the Auditor’s Office in Complaint Nos. 2020-29-CS and 2020-29-WR, are considered duplicative, and are thereby excluded from this complaint.

Investigation results for contributions from the remaining contributors 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.*
<i>* 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.</i>				
Total Amount of Unlawful Contribution(s): \$500				

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 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).

³ See December 29, 2020 email notification sent from the City Elections Office to candidate Ted Wheeler with email subject line, “City of Portland campaign contributions to be enforced May 4, 2020.”

⁴ July 6, 2016 is the date the last mayoral election results were certified.

Individual Contributor: William R Swindells

Date	Contribution Amount	ORESTAR Transaction Number	Total Amount of Excess Contribution	Details
11/21/19	\$2,500	3294165	\$2,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
5/26/2020	\$500	3478756	\$2,500	Unlawful.
7/1/2020	- \$500 (refund)	3502977	\$2,500	Refund did not negate 5/26/2020 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 5/26/2020 remains unlawful and was not negated.*

Total Amount of Unlawful Contribution(s): **\$500**

Individual Contributor: N. Robert Stoll / N Robert Stoll

Date	Contribution Amount	ORESTAR Transaction Number	Total Amount of Excess Contribution	Details
2/13/2020	\$250	3379363	\$0	No violation: Within \$500 contribution limit.
6/17/2020	\$500	3497980	\$250	Unlawful.
7/1/2020	- \$250 (refund)	3502979	\$250	Refund did not negate 6/17/2020 contribution.*

** Although the campaign issued a \$250 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 6/17/2020 remains unlawful and was not negated.*

Total Amount of Unlawful Contribution(s): **\$250**

Individual Contributor: Vanessa Sturgeon

Date	Contribution Amount	ORESTAR Transaction Number	Total Amount of Excess Contribution	Details
12/21/2018	\$3,000	3106753	\$2,500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
12/10/2019	\$2,500	3311218	\$5,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
6/26/2020	\$500	3502980	\$5,500	Unlawful.
6/30/2020	- \$500 (refund)	3502981	\$5,500	Refund did not negate 6/26/2020 contribution.*

** Although the campaign issued a \$500 refund on 6/30/2020, 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 6/26/2020 remains unlawful and was not negated.*

Total Amount of Unlawful Contribution(s): **\$500**

Individual Contributor: John Andrews

Date	Contribution Amount	ORESTAR Transaction Number	Total Amount of Excess Contribution	Details
1/17/2018	\$2,500	2726288	N/A	Violation Exempt: Received prior passage of City Campaign Finance Regulations.
11/14/2018	\$5,000	3095548	\$4,500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
11/26/2019	\$2,500	3305833	\$7,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
6/26/2020	\$500	3502997	\$7,500	Unlawful.
6/30/2020	- \$500 (refund)	3502998	\$2,500	Refund did not negate 6/26/2020 contribution.*
* Although the campaign issued a \$500 refund on 6/30/2020, 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 6/26/2020 remains unlawful and was not negated.				
Total Amount of Unlawful Contribution(s): \$500				

Based on the findings identified in the tables above, I find Friends of Ted Wheeler received contributions on seven occasions from five individuals during the current election cycle when the \$500 individual contribution limit had already been reached. The corresponding total contribution overage received by the campaign during the Campaign Finance Regulations enforcement period was \$2,250.

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...”⁵ In determining the required penalty within the range allowed, I considered the following factors:

- The campaign voluntarily issued refunds and disclosed the violations to the Auditor’s Office during efforts to amend practices,
- The timing of violation transactions in relation to notices and determinations issued previously,
- The identified individual contributors with violating contributions were first-time violators in this elections cycle,
- The cooperation of the parties with the investigation,
- The amount of any penalties issued in similar circumstances,
- Whether the campaign issued any refunds to the individual contributors, and
- The fact that the City’s definition of Elections Cycle differs from the State of Oregon’s.

⁵ See [City Charter Section 3-305\(b\)](#); see also [City Code Section 2.10.050 B](#).

Based on these factors, the fine issued is the lowest amount allowed, or two times the total unlawful contribution amount of \$2,250 resulting in a fine of \$4,500.

Friends of Ted Wheeler shall pay \$4,500 to the City Auditor's Office by September 21, 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,

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