



P O R T L A N D
CITY AUDITOR
Elections

January 29, 2021

Ted Wheeler
PO Box 42307
Portland, OR 97242

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

DELIVERED ELECTRONICALLY

HarryWilson@MarkowitzHerbold.com
DallasDeLuca@MarkowitzHerbold.com
campaign@tedwheeler.com
danny@tedwheeler.com
j.green@c-esystems.com

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

Campaign Regulation Complaint No.: 2020-31-TW

- ***On Reconsideration: Violation and Civil Penalty*** -

Dear Ted Wheeler and Friends of Ted Wheeler,

On August 7, 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.

On September 4, 2020, the Auditor's Office issued a determination finding seven violations of City campaign regulations and issued a mandatory civil penalty. By this letter, the Auditor withdraws that determination. **On reconsideration, the Auditor's office finds one violation and issues a mandatory civil penalty of \$1,000.**

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 each 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 relevant election cycle ran from July 6, 2016⁴ until July 29, 2020. 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: Contributions in question connected to Charles Swindells and Warren Rosenfeld are addressed in Complaint Nos. 2020-29-TW (Amended), 2020-29-CS, and 2020-29-WR. As such, those contributions are considered duplicative, and are thereby excluded from this complaint.

Violation of City Campaign Finance Regulations

Aggregate individual contribution exceeded contribution limits

The investigation results for contributions from the remaining contributors are summarized as follows:

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 the decision in *Multnomah County v. Mehrwein*, 366 Or. 295 (2020).

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: Jim Mark

Date	ORESTAR Transaction ID	Amount	Total Contribution Overage	Details
1/25/2018	2742888	\$1,000	\$500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
12/7/2018	3095547	\$5,000	\$5,500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
6/11/2020	3489151	\$500	\$6,000	Potential Violation: Contribution was made after the 5/4/2020 enforcement date and was in excess of the aggregate \$500 limit.
7/1/2020	3502972	-\$500 (refund)	\$5,500	Violation Cured: Contribution occurred more than 42 days in advance of the general election, and the refund was issued within 30 days.

Individual Contributor: William R Swindells

Date	ORESTAR Transaction ID	Amount	Total Contribution Overage	Details
11/21/2019	3294165	\$2,500	\$2,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
5/26/2020	3478756	\$500	\$2,500	VIOLATION.
7/1/2020	3502977	-\$500 (refund)	\$2,500	Invalid Refund: Contribution occurred more than 42 days in advance of the general election, and refund was not issued within 30 days.

Individual Contributor: N. Robert Stoll / N Robert Stoll

Date	ORESTAR Transaction ID	Amount	Total Contribution Overage	Details
2/13/2020	3379363	\$250	\$0	No Violation: Received prior to 5/4/2020 enforcement date and within \$500 contribution limit.
6/17/2020	3497980	\$500	\$250	Potential Violation: Contribution was made after the 5/4/2020 enforcement date and was in excess of the aggregate \$500 limit.

7/1/2020	3502979	-\$250 (refund)	\$0	Violation Cured: Contribution occurred more than 42 days in advance of the general election, and the refund was issued within 30 days.
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Individual Contributor: Vanessa Sturgeon

Date	ORESTAR Transaction ID	Amount	Total Contribution Overage	Details
12/21/2018	3106753	\$3,000	\$2,500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
12/10/2019	3311218	\$2,500	\$5,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
6/26/2020	3502980	\$500	\$5,500	Potential Violation: Contribution was made after the 5/4/2020 enforcement date and was in excess of the aggregate \$500 limit.
6/30/2020	3502981	-\$500 (refund)	\$5,000	Violation Cured: Contribution occurred more than 42 days in advance of the general election, and the refund was issued within 30 days.

Individual Contributor: John Andrews

Date	ORESTAR Transaction ID	Amount	Total Contribution Overage	Details
1/17/2018	2726288	\$2,500	\$2,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
11/14/2018	3095548	\$5,000	\$7,000	Violation Exempt: Received prior to 5/4/2020 enforcement date.
11/26/2019	3305833	\$2,500	\$9,500	Violation Exempt: Received prior to 5/4/2020 enforcement date.
6/26/2020	3502997	\$500	\$10,000	Potential Violation: Contribution was made after the 5/4/2020 enforcement date and was in excess of the aggregate \$500 limit.
6/30/2020	3502981	-\$500 (refund)	\$9,500	Violation Cured: Contribution occurred more than 42 days in advance of the general election, and the refund was issued within 30 days.

The following table summarizes the number of violations and corresponding fine from the findings above:

Individual Contributor's Name	Finding	Amount of Excess Contribution	Corresponding Mandatory Fine Amount
Jim Mark	No Violation	\$0	\$0
William R Swindells	1 Violation	\$500	\$1,000
N. Robert Stoll / N Robert Stoll	No Violation	\$0	\$0
Vanessa Sturgeon	No Violation	\$0	\$0
John Andrews	No Violation	\$0	\$0
		\$500	\$1,000

As identified in the tables above, there were five instances in which individuals made contributions to Friends of Ted Wheeler during the same election cycle and in excess of the \$500 contribution limit. In four of those instances, the campaign refunded the excess of those contribution amounts within the 30-day window in which the state requires the campaign to report its contributions in ORESTAR, including refunded contributions. ORS 260.057(2). Because the campaign refunded four of the five contributions within the applicable reporting timeframe, on reconsideration I find the only unlawful contribution received by the campaign for purposes of City Code Section 2.10.010 A. was the \$500 contribution from William R. Swindells on May 26, 2020. **Therefore, I find one violation of the City's campaign finance regulations.**

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 \$500 resulting in a fine of \$1,000.

Friends of Ted Wheeler shall pay \$1,000 to the City Auditor's Office by March 1, 2021.

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, looping initial "L".

Louise Hansen
City Elections Officer