



P O R T L A N D  
CITY AUDITOR  
**Elections**

April 21, 2020

Ted Wheeler  
PO Box 42307  
Portland, OR 97242-0307

**DELIVERED ELECTRONICALLY**

**RE: City Campaign Regulation Violations (2020-04-TW)  
Warning and Education Letter**

Dear Ted Wheeler,

Complaint and Determination

On March 20, 2020, the City Elections Office received a complaint by a member of the public alleging violations of City campaign regulations by your campaign. Specifically, the complaint claims a lack of full contribution disclosures on the campaign's website and on two of the campaign's social media accounts.

**After an investigation, I have identified three violations of City campaign regulations. I am issuing this letter of warning and education, pending compliance with the required contribution disclosures discussed on page 3 within ten (10) business days or May 5, 2020. Failure to fully comply by May 5, 2020 may result in civil fines of up to \$3,000 for each violation.**

Note that this extended deadline is due to the complexity of the newly adopted campaign regulations and the disruption to business caused by the COVID-19 pandemic. I strongly encourage the campaign to familiarize itself with these campaign regulations and correct the violations on all campaign communications as quickly as possible.

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 City Campaign Regulations require certain campaign contributors and their respective sources of income to be prominently listed on campaign communications. Portland City Code (PCC) 2.10.030 (Timely Disclosure of Large Contributions and Expenditures). The Regulations specifically require disclosures for digital and electronic communications.

Although provisions of the City Campaign Regulations regarding limits on contributions and expenditures in candidate elections were ruled unconstitutional in Multnomah County Circuitry Court and are pending



appeal, the provisions regarding campaign disclosures were upheld and have been in effect and enforceable for all candidates as of September 1, 2019. <sup>1</sup>

Candidates qualified to appear on the ballot for the May 19, 2020, Primary Election were given notice of the City Campaign Regulations and guidance at the time of candidacy determination.<sup>2</sup>

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 ten (10) days of the printing of printed material or within five (5) days of the transmitting of a video or audio communication. (PCC 2.10.030 A-C).

City Campaign Regulations define “communications” needing disclosures and “dominant contributors” that must be disclosed as follows, in relevant part:

**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).

### Violations of City Campaign Regulations

#### *#1: Website lacking disclosures:*

Prior to March 20, 2020, the website operated on behalf of the campaign for Ted Wheeler for Mayor ([www.TedWheeler.com](http://www.TedWheeler.com)) included only a disclosure by the principal candidate committee that states, “Paid for by Friends of Ted Wheeler”. Under City Campaign Regulations, a website that includes campaign communications is required to disclose Dominant Contributors and additional respective income or funding disclosures of each Dominant Contributor. As of the date of the complaint (3/20/2020), Oregon’s Elections System for Tracking and Reporting campaign finance transactions (ORESTAR) identified over 30 Dominant Contributors to Friends of Ted Wheeler (Committee ID 5591).

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<sup>1</sup> 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).

<sup>2</sup> 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).

However, the campaign did not identify the Dominant Contributors whose contributions support operations of the website.

The lack of timely, prominent disclosure of the largest Dominant Contributors to the campaign anywhere on the website, as required, violates the City Campaign Regulations.

*#2-3: Social media accounts lacking disclosures:*

The campaign's social media accounts for candidate Ted Wheeler are on Facebook.com (@TeamTed2020, created in October 2019) and Twitter.com (@ted\_mayor, created in September 2019). Both accounts regularly post campaign communications. Under City Campaign Regulations, an electronic communication that includes campaign communications is required to disclose the entity or Political Committee paying to present it and its largest Dominant Contributors and additional respective income disclosures or funders for each Dominant Contributor. As of the date of the complaint (3/20/2020), ORESTAR identified over 30 Dominant Contributors to Friends of Ted Wheeler.

For each social media account, the lack of prominent disclosure of the Political Entity that paid to provide or present it (Friends of Ted Wheeler) and its largest Dominant Contributors to the campaign, as required, violates the City Campaign Regulations.

True Sources of Funding

Each communication must properly disclose that it was paid for by Friends of Ted Wheeler. I have determined below, and the campaign has confirmed, the five contributors providing the largest amounts of funding to Friends of Ted Wheeler. In order to avoid civil fines, the campaign must fully comply with PCC 2.10.030 – by identifying and providing additional information for each of the five Dominant Contributors – by May 5, 2020.

1. Melvin Mark Brokerage Co.
2. Local 48 Electricians PAC (4572)
3. Portland Metropolitan Association of Realtors PAC (6165)
4. Peter Brix
5. The following individuals or entities appear to be tied for the 5th largest contribution:
  - a. Portland Metro Firefighters PAC (223)
  - b. Charles Swindells
  - c. American Beverage Association
  - d. Kroger
  - e. Robert Warren
  - f. Noydena Brix
  - g. Mark Madden

Appeals

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

Sincerely,



Deborah Scroggin  
City Elections Officer