



**Portland  
City Auditor**  
Chief Deputy



October 21, 2024

Rene Gonzalez  
c/o Rene Gonzalez for Portland  
P.O. Box 42307  
Portland, Oregon 97242  
**DELIVERED ELECTRONICALLY**  
candidate@reneforportland.com  
amy@reneforportland.com

**Notice of Redetermination**  
Complaint No. 2024-01-RG

Dear Rene Gonzalez:

**I. Introduction and Overview**

On August 16, 2024, the Elections Division, a division within the Auditor's Office, received a complaint alleging that Rene Gonzalez had violated Portland's campaign finance law — which is enforced by the Auditor's Office — by receiving an unlawful contribution. (Ex. 21.) Gonzalez is both a current City commissioner and a candidate for mayor in the November 2024 election. The complaint referred to an Oregonian article reporting that Gonzalez had used \$6,400 in City of Portland funds to “polish his Wikipedia page.”<sup>1</sup> The complaint contended the funds were spent “to edit [Gonzalez’s] Wikipedia page for his run for Mayor.” (Ex. 21 at 4.) The Auditor's Office provided this

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<sup>1</sup> Dixon Kavanaugh, S. (2024, August 7). Portland Commissioner Rene Gonzalez spent thousands in city funds to polish Wikipedia page. *The Oregonian/OregonLive*. <https://www.oregonlive.com/politics/2024/08/portland-commissioner-rene-gonzalez-spent-thousands-in-city-funds-to-polish-wikipedia-page.html>.

1221 SW Fourth Ave, Room 310  
Portland, OR 97204  
reed.brodersen@portlandoregon.gov  
[portland.gov/auditor](https://portland.gov/auditor)  
503-823-4078

complaint to Gonzalez on August 16, 2024, along with two other emails sent to the general Auditor's Office inbox on this topic.

After receiving the complaint, the Auditor's Office conducted an initial investigation. The Auditor's Office then issued an initial determination on September 16, 2024 (the "Initial Determination"). The Initial Determination found no violation of the City's campaign finance law. However, the Initial Determination also noted that this was an exceedingly close call and that investigators were still waiting for additional relevant documents, but that the Auditor's Office had to issue the Initial Determination on the date it did under City law.

The Auditor's Office subsequently received additional evidence that altered the Auditor's Office's conclusions and on October 2, 2024, withdrew its Initial Determination for reconsideration.

The Auditor's Office now re-issues its determination in this matter and finds that **Gonzalez violated the City's campaign finance law** by accepting an unlawful contribution. The contribution is the resources (money, time, and services) spent and employed by the City to promote Gonzalez's candidacy by developing and posting an edit to Gonzalez's Wikipedia page meant to bolster Gonzalez's status as a "Democrat." Gonzalez's political party affiliation is a key issue for his mayoral campaign that is unrelated to his work as a nonpartisan City Commissioner.

The Auditor's Office assesses a **civil penalty of \$2,400** to the Rene for Portland campaign, which, upon payment, will be deposited into the City's general fund. The civil penalty is slightly increased beyond the mandatory minimum due to the presence of aggravating factors, most significantly, Gonzalez's attempt to interfere in the investigation, and the misleading of investigators by Gonzalez's staff.

The Auditor's Office previously referred this matter to the Secretary of State to determine whether any City employees engaged in prohibited political activities pursuant to ORS 260.432 and whether Commissioner Gonzalez violated ORS 260.432 by requesting employees engage in political advocacy during working hours. The Auditor's Office will provide the Secretary of State with this Redetermination and supporting exhibits. In addition, the Auditor's Office refers this matter to the Small Donor Elections program (in which Gonzalez is a participating candidate) to address as it deems appropriate.

## **II. Relevant Procedural Background**

The City Auditor is an elected official who oversees the Auditor's Office. In 2018, Portland voters overwhelmingly (87.4%) voted to enact campaign finance regulations in the City's Charter. These provisions, among other things, cap the contributions that can

be made and received by candidates for City office. (See Charter, Art. 3.) As part of this package of reforms, voters also voted to make the independent City Auditor responsible for enforcing the Charter's campaign finance provisions. (See Charter Section 3-305.)

Under City Charter, the Auditor is required to take written complaints of campaign finance violations from any person. (Charter Section 3-305(c).) Upon receipt of a complaint the Auditor is required, by law, to do the following: examine the complaint, make any investigation necessary, issue a notification of the complaint to every person who is an object of the complaint, accept written materials supporting or opposing the complaint, and render a decision on the complaint. (Charter Section 3-305(e).) The Auditor's Office has also enacted a comprehensive administrative rule to codify the complaint process. (See Auditor's Office Administrative Rule 13.03.)

The Auditor's Office received one official, and two more informal, complaints about Gonzalez's use of City funds on his Wikipedia page. Under City law, the Auditor's Office is required to investigate and issue determinations on abbreviated timelines, designed to give voters as much information as possible before an election. In this case, investigators made multiple attempts to get critical information from Gonzalez but did not receive all documents before the Auditor's Office had to issue its determination. Because of this, the Auditor's Office noted in its Initial Determination that it reserved the right, consistent with Auditor's Office Administrative Rule 13.03(D)(5), to withdraw the Initial Determination for reconsideration within 30 days in the event that additional evidence was received that altered the Auditor's Office's conclusions in the Initial Determination.

On September 5, 2024, the Auditor's Office made a public records request to the City for documents it had requested, but not received, from Gonzalez in the course of the investigation. The Auditor's Office has subpoena authority but elected not to use it in light of the highly unusual circumstances of this matter. It took the City almost six weeks to fully respond to the records request. The Auditor's Office received an initial set of documents on September 26, 2024, but did not receive the full set of records from the City until October 15, 2024.

### **III. Factual Background Relevant to the Redetermination**

#### **A. The initial investigation revealed some, but not all, key facts relevant to this Redetermination.**

The Auditor's Office refers to the extensive factual background in the Initial Determination, attached as Exhibit A, for full details about this determination. However,

this section summarizes key facts in the Initial Determination that are relevant to this Redetermination:<sup>2</sup>

- The “Rene Gonzalez (politician)” Wikipedia page was created on or around November 9, 2022, the day after the general election in which Gonzalez won a seat on Portland’s City Council.
- Gonzalez attempted to edit the Wikipedia page in his candidate capacity in November 2022.
- In November 2022, in the process of attempting to amend the Wikipedia page, Gonzalez shared information about his status as a Democrat with a Wikipedia administrator.
  - At the time, the Wikipedia page stated: “Though both candidates are registered Democrats, during the campaign Hardesty attempted to paint Gonzalez as right wing, with ties to Republican political consultants and conservative school board candidates supported by the political action committee he organized.”
  - On November 23, 2022, Gonzalez shared with a Wikipedia administrator that “the [Gonzalez] campaign sent a cease and desist letter to our opponent during the campaign for what we believed were inflammatory/false statements contributing to threat of political violence.” Gonzalez went on to cite to a Willamette Week article that labeled his opponent’s “mailers as a ‘lie.’” Gonzalez also included a quote from the article that: “The implication [from the mailer is] that Rene Gonzalez is a Republican.... [B]ut he’s a pro-choice Democrat.”
- Gonzalez publicly announced his candidacy for mayor on December 7, 2023. However, it is more likely than not that he became a “candidate,” as that term is used in City law, months before that date.
- On November 25, 2023, Shahriyar (Shah) Smith, in his capacity as the Commissioner’s Chief of Staff, reached out to WhiteHatWiki (whose legal name is Codename Enterprises, Inc.). WhiteHatWiki is a vendor that provides Wikipedia-related services, including Wikipedia strategy and updates. Smith told WhiteHatWiki his project was: “Prominent elected official looking to refresh Wikipedia Page related to 2022 election.”

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<sup>2</sup> Citations to supporting documents for this section can be found in the Initial Determination (Exhibit A). They are removed from this summary for readability.

- On March 12, 2024, a contract securing WhiteHatWiki’s services for Gonzalez was fully executed. The parties were identified as “City of Portland – Office of Portland City Commissioner Rene Gonzalez” and “Codename Enterprises, Inc.” (doing business as WhiteHatWiki and Buzzr.com). The contract provides that WhiteHatWiki would work on assisting with “Request Edits” and/or “Contentious Matters.” Both types of projects involve developing and advocating for edits on the Wikipedia page; what differentiates them is how much controversy or difficulty there is surrounding the edits.
- Ultimately, Gonzalez’s Office chose to ask WhiteHatWiki to provide it with “8 Request Edits” under the terms of the contract. For this, WhiteHatWiki charged the City \$6,400, which the City paid in two installments (one on March 25, 2024, and one on June 17, 2024).
- Harrison Kass, Commissioner Gonzalez’s policy advisor, was assigned to work on the Wikipedia edits with WhiteHatWiki shortly after his arrival at the City (in February 2024) and described his role as a “middleman” between WhiteHatWiki and Gonzalez.
- Kass and WhiteHatWiki exchanged ideas for edits over the course of a few months (March – June, 2024). Kass stated that he did not care for the Wikipedia project, so he “slow-walked” it. As a result, he recalls having several discussions with Gonzalez and others in the office about the status and content of the Wikipedia edits. Kass would relay WhiteHatWiki’s suggested edits to Gonzalez, who would give his feedback, and then Kass would relay that back to the vendor.
- Gonzalez was aware, at a minimum, of the substance and focus of all of the eight “Request Edits” submitted on his behalf to Wikipedia. He formed this knowledge through, at a minimum, more than one conversation with his staff prior to the submission of the edits to Wikipedia. He also provided his feedback on the edits, and they were all run by him to give him an opportunity to comment. While staff stated he did not formally “sign off,” his review and discussion on multiple occasions, and position as leader of the office, qualifies as his assent to the substance of the edits.
- The eight “Request Edits” that were developed in connection with WhiteHatWiki were submitted to Wikipedia (by Harrison Kass) on June 25, 2024. One of the eight edits (Edit No. 3) was as follows:

In the **Portland City Council, Council race** section, please change the first clause of the third paragraph.

From:

Though both candidates were registered Democrats,

*To this:*

Though both candidates were Democrats,

Rationale: Replaces Primary source that is a broadcast debate with a well-regarded secondary source, The Oregonian. Removes “registered” as that is not reflected in the source.

- At the time of the Initial Determination, the Auditor’s Office concluded that the evidence pertaining to the origin of Edit No. 3 — removing the word “registered” before “Democrats” — was inconclusive. But Kass said the intention behind Edit No. 3 was:

There's a yeah, there's a misunderstanding that [Gonzalez is] a Republican and that kind of related to the, this idea that he was supporting Patriot Prayer or whatever. So I know that's bothered him for a long time. And obviously it's a kind of Portland-specific problem, though [unintelligible] so far to the left. But yeah, I think it was just addressing something that was an inaccuracy, like emphasize that he's a registered Democrat. He's I think he like voted for Biden. So yeah, that was bugging him.

**B. Information received after the Initial Determination gave more context to Edit No. 3, regarding Gonzalez’s political party affiliation.**

This section outlines new information discovered in the records provided to the Auditor’s Office in response to its public records request.

- In the Initial Determination, the Auditor’s Office explained that Edit No. 3 — the edit about Gonzalez’s political party affiliation — could be considered a campaign contribution, but that the evidence the Auditor’s Office had received to date was not sufficient to establish that it was more likely than not a contribution.
- It is now clear that the Auditor’s Office did not have a complete evidentiary record, despite multiple attempts to get a key document from Gonzalez and his staff, and that the resources spent to secure Edit No. 3 do, in fact, constitute a campaign contribution.
- Specifically, since issuing the Initial Determination, the Auditor’s Office has learned that Kass emailed WhiteHatWiki a marked-up version of the Gonzalez Wikipedia page on March 21, 2024 (and that Smith received this on March 22, 2024). (Ex. 23, Ex. 26.) Kass’s email—which the Auditor’s Office received in the

initial investigation as part of a longer chain *without the attachment* (Ex. 39)— says, “Here’s an initial scan of proposed changes that can be made to the existing Wikipedia text.” (Ex. 26 at 1.)

- The Auditor’s Office expressly asked Gonzalez in writing for the attachment to this specific email. (Ex. 24 at 2.) Specifically, the Auditor’s Office asked: “Please provide all attachments to this email, including the ‘scan’ referenced.”
- Gonzalez referred the Auditor’s Office to Kass for the information requested. (Ex. 25 at 2.)
- Kass responded in writing on September 3, 2024: “The ‘scan’ I refer to is just a visual scan of Wikipedia page.” (Ex 25 at 1.) This was a false statement.
- This explanation did not make sense to the Auditor’s Office’s investigators, so a member of the Auditor’s Office staff asked Smith orally, on September 4, 2024, for this scan and any other missing attachments to emails provided in the investigation. Smith a) responded that there were no missing attachments to any emails and b) reiterated the specific statement that Kass had made that Kass’s email “here’s a scan” did not refer to something attached but to a “visual scan.” This was a false statement.
- The Auditor’s Office received the first of two installments of emails in response to its public records request on September 26, 2024. Among the batch of emails was Kass’s March 21, 2024, email to WhiteHatWiki stating: “Here’s an initial scan of proposed changes that can be made to the existing text.” This email had an attachment (contrary to what both Kass and Smith told investigators). (Ex. 26.)
- The document attached to Kass’s March 21, 2024, email to WhiteHatWiki reflects the initial edits that Gonzalez’s Office asked WhiteHatWiki to assist it in making to Gonzalez’s Wikipedia page. This included the following proposed addition: “Gonzalez has been registered as a Democrat for X years.”<sup>3</sup> (Ex. 26 at 3.)

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<sup>3</sup> At the time the Auditor’s Office had to issue the Initial Determination, we knew only that Gonzalez’s staff had emailed internally about suggesting this edit. (See Exs. 6A-6C.) As mentioned in the Initial Determination, we could not confirm whether or not this requested edit was shared with WhiteHatWiki. (Ex. A at 13, 20.)

- Commissioner is a nonpartisan position in the City of Portland.<sup>4</sup> A commissioner’s political party affiliation is irrelevant to their job duties.
- On September 26, 2024, the Auditor’s Office also received a key email exchange (Ex. 27) with WhiteHatWiki which had been provided to the Auditor’s Office by Smith during the initial investigation in jumbled form, with pages out of order and text apparently missing. The email exchange as initially provided (Ex. 20) had been too difficult to follow to draw definitive conclusions from (as mentioned in the Initial Determination). The contents are now clear. Specifically, from the email exchange, the Auditor’s Office is able to conclude that:
  - After Gonzalez’s team asked for the Wikipedia edit “Gonzalez has been registered as a Democrat for X years,” WhiteHatWiki researched this point in “multiple periodical databases” to try to confirm Gonzalez was identified as a registered Democrat in a source that Wikipedia would credit and approve. (Ex. 27 at 2.) WhiteHatWiki told Smith, “[W]e knew this was important to you so we searched for hours.” (Ex. 27 at 3.)
  - However, despite hours of searching, all that WhiteHatWiki could find was a reliable source saying that Gonzalez was a Democrat — i.e., not one saying that he was a registered Democrat. (Ex. 27 at 3.)
  - The Wikipedia page at the time (which is ever-evolving) did state that Gonzalez was a “registered Democrat” – though not for how long he had been registered, and WhiteHatWiki thought the point was vulnerable to being changed again because it lacked strong citation support. Thus, WhiteHatWiki recommended removing the term “registered” before “Democrat” on the Wikipedia page. They made this recommendation because they understood that making the broader point that Gonzalez was a “Democrat” was important to Gonzalez, and because they were concerned that keeping “registered” in the edit requests sent to Wikipedia when no Wikipedia-acceptable source supported that Gonzalez was, in fact, registered as a Democrat would cause a loss of credibility with the Wikipedia administrators. (See generally Ex. 27.)
  - WhiteHatWiki made this change — keeping the concept of “Democrat” but removing the word “registered” — in the proposed Wikipedia edits shared with Gonzalez’s team. (See Exhibit A at 14.) Gonzalez’s team balked at

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<sup>4</sup> See Charter Section 3-105. (The version in effect presently states that the City’s elective offices “are nonpartisan.” The version in effect at the time Gonzalez was elected provided that “[n]omination of .... Commissioners ... are nonpartisan.”)



removing “registered” from the Wikipedia page, however, and pushed back. They asked WhiteHatWiki to drop the edit, and work with them on another edit (as one of the eight edits they contracted for) on the grounds that removing the term “registered” was simply a “grammatical” change. (See Exhibit A at 14-15; see also Ex. 27 at 4.)

- WhiteHatWiki disputed the characterization that striking the word “registered” was “grammatical,” saying: “You want to leave in the article that [Gonzalez] is a registered Democrat. Whether he is a registered Democrat or [a] Democrat was a campaign issue central to the City Council campaign. This is not grammar[.]” (Ex. 27 at 2 (emphasis added).)
- WhiteHatWiki also reiterated its recommendation to submit an edit to the Wikipedia page that would strike the term “registered” from the Wikipedia page but that would provide support for the statement Gonzalez is a Democrat saying: “Given the controversy, getting this statement reliably sourced and more stable on the page seems like a major win for you.... For a proposal with multiple [request edits] to be effective, you can’t leave obvious, major policy mistakes on the page. You have to build good faith with the reviewers that you are improving the page, not just promoting a politician.... So this issue - Democrat vs. registered Democrat; not addressing the policy error vs. addressing it - is absolutely central to this proposal and the page.” (Ex. 27 at 3 (emphasis added).)
- WhiteHatWiki’s assertions that Gonzalez was receiving a benefit from getting the statement “reliably sourced and more stable”— thus making it less likely that his status as a Democrat would be altered in the future—is supported by the fact that Gonzalez’s political party affiliation was not consistently stable on Wikipedia. For example, a screenshot of his Wikipedia page from February 16, 2023, shows that his political party was, at least at one point, listed as “Republican.” (See Ex. 44)
- Smith ultimately agreed with the proposal to change the text from “registered Democrat” to “Democrat.” (Ex. 27 at 1.)
- Gonzalez has made his status as a Democrat a key point in the current mayoral campaign. This underscores that his political party affiliation is a critical issue to his campaign.
  - For example, Gonzalez’s campaign’s X account has made repeated mentions of his alignment or affiliation with Democrats. (See Ex. 18 (excel capture of content from X account, reflecting at least 6 mentions of Gonzalez’s alignment or affiliation with Democrats) at 1, 2, 13.)

- In addition, at least some of Gonzalez’s campaign yard signs emphasize that he is a Democrat. Gonzalez’s campaign also posts photos of this signage on the campaign’s Instagram account. (See Exs. 28-30.)
- The public records response also reveals more on the extent of Gonzalez’s involvement in the Wikipedia project, which Kass confirmed in his interview (and which Gonzalez and Smith both downplayed). For example:
  - Agendas of weekly Gonzalez staff team meetings that were emailed out to all staff in Gonzalez’s Office, including Gonzalez, reflect that the Wikipedia edits were reviewed with Gonzalez. (See, e.g., Ex. 31, which states a 4/8/24 agenda item is to “Review Wiki and media requests with Commissioner Gonzalez”; Ex. 32, which states the 4/15/24 agenda would include Wiki/Newsletter update; Ex. 33, which states the 4/26/24 agenda would include a “Wikipedia Update” that included “Review initial draft.”)
  - Kass emailed Gonzalez on April 8, 2024, with “the list of priority topics we sent to Wikipedia editors.” (Ex. 34.)
  - Kass emailed WhiteHatWiki on May 6, 2024: “We received feedback from the Commissioner on the Wikipedia edits.” (Ex. 35.)
  - Smith emailed Gonzalez on May 29, 2024, “GG and I with Harrison finalizing Wiki edits – looking solid sir.” (Ex. 36.)
  - Smith emailed Gonzalez on July 16, 2024, “Wikipedia consultants are conferring on next steps re “Patriot Prayer’ ... will get back to us soon.” (Ex. 37.)
  - Smith also worked closely with Gonzalez managing the Office’s response to press inquiries when the story about the Wikipedia edit project broke. (See, e.g., Ex. 38 (collection of emails).)
- The documents that the Auditor’s Office received in response to its public records request also highlight that Gonzalez’s staff was focused on other campaign issues as possible Wikipedia edits.
  - For example, Gonzalez’s staff originally wanted to add that Gonzalez’s 2022 Council campaign largely focused on “restoring public safety and economic vitality,” to the existing text about his 2022 campaign platform. (Ex. 26 at 3.) WhiteHatWiki declined, saying “there are no print sources that note economic vitality (or anything specifically economic), public safety or investing into the revitalization of downtown. Unfortunately, we can’t include it here.” (Ex. 40 at 1.) But Kass pushed back, asking WhiteHatWiki to research: “Is there anything where he says, something

like, homeless and crime are hampering small businesses, or driving businesses from downtown? Anything that criticizes the economic ramifications of crime/homelessness?” (Ex. 40 at 1.) This is a requested edit that WhiteHatWiki appears to have researched, with City funds, to highlight Gonzalez’s 2022 campaign platform, not his work as City commissioner.

- Finally, while Gonzalez has suggested that staff “professional development” was a main reason for the Wikipedia project (see Gonzalez Interview at 25:51-26:18), the evidence received in the investigation undercuts this assertion. WhiteHatWiki proposed spending only 30 minutes showing staff how to request edits and their contracted scope of work was only minimally focused on training staff. (Ex. 41 at 4 (“[T]he account creation and submission process takes about 30 minutes, during a carefully monitored screen share.”); Ex. 3.) In the records the Auditor’s Office received on October 15, 2024, it is also clear that Gonzalez’s staff met with another potential contractor who talked with Gonzalez’s staff about “undertak[ing] a project to assess the potential to update the existing Rene Gonzalez Wikipedia article,” and proposed conducting research, recommendations, and ongoing support, but only providing one webinar where Gonzalez’s staff could review the vendor’s report and Wikipedia best practices and major guidelines. (Ex. 42 at 6.) In other words, neither contractor under consideration understood training to be a significant part of the services that Gonzalez wanted provided.

#### **IV. Determination**

The questions before the Auditor’s Office are whether, in paying WhiteHatWiki for assisting Gonzalez’s Office in making edits to the Rene Gonzalez Wikipedia page, and in providing services of City staff and WhiteHatWiki to make edits to Gonzalez’s Wikipedia page, the City (acting through Commissioner Gonzalez’s Office) made an unlawful contribution to Gonzalez in his capacity as a candidate and whether Gonzalez (or his candidate committee) accepted an unlawful contribution. The Auditor’s Office concludes that, at least for Edit No. 3 (regarding Gonzalez’s political party affiliation), the answers to these questions are yes. As to the other seven edits, the Auditor’s Office reiterates the factual and legal conclusions in its Initial Determination (Exhibit A), and finds that there is insufficient evidence to conclude that money or services related to the other seven Wikipedia edits constitute an unlawful contribution.

**A. City Charter limits the amounts and sources of candidate contributions.**

City Charter provides that a candidate may receive only the following contributions:

- \$500 — adjusted by inflation to be \$579 for the current election cycle — from any individual or political committee other than a “Small Donor Committee;”
- Any amount from a qualified “Small Donor Committee;” and
- For candidates participating in the Small Donor Elections program (like Gonzalez), any amount permitted by the Small Donor Elections program.<sup>5</sup>

There are several forms a “contribution” can take. For purposes of this determination, it suffices to say a “contribution” includes both the payment of money to or on behalf of a candidate and also the furnishing, without equivalent compensation or consideration, of services or any other thing of value to or on behalf of a candidate.<sup>6</sup>

**B. City funds spent to provide services to a City official, who is also a candidate, could qualify as a contribution to the official in their capacity as a candidate depending on the particular facts and circumstances.**

The Auditor’s Office has determined Gonzalez was a “candidate” as of March 2023 — well before the City paid WhiteHatWiki or incurred the liability to do so. (See Exhibit A, Section III.B.1.)

The Auditor’s Office also concludes that if the City hires and pays for a vendor to assist an elected official in messaging that is for the purpose of assisting the elected official in their capacity as a candidate, that could be an unlawful “contribution” as that term is defined in City Charter. The City is not a contributor from which a candidate can lawfully receive a donation under City Charter (i.e., the City is not an individual, a political committee, or a small donor committee).<sup>7</sup>

The crucial question to be answered in this case is whether the City paid WhiteHatWiki, and made WhiteHatWiki’s services, as well as City staff services, available to Gonzalez

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<sup>5</sup> City Charter Sections 3-301, 3-304.

<sup>6</sup> Portland City Charter Section 3-308, Intro & (a); Auditor’s Office Administrative Rule 13, Appx B(A).

<sup>7</sup> The Small Donor Elections program has provided an advisory opinion to the Auditor’s Office that, if the amounts paid to WhiteHatWiki constitute a contribution to Gonzalez, that would not be a permissible contribution under the Small Donor Elections program’s rules. (Ex. 19.)

in his capacity as a candidate. As stated in the Initial Determination, and as bears repeating here: the Auditor's Office does not view an elected official's communications that are limited to discussion of the elected official's acts in office as a "contribution" to the elected official in their capacity as a candidate. It would unduly chill speech for a communication from an elected official to their constituents about the official's actions and accomplishments in office to be considered campaign activity.

But on the other hand, if an elected official running for office uses the resources and money of the City at the official's disposal to issue communications that are unrelated to City business, and instead are campaign communications, this could constitute an unlawful contribution from the City to the elected official that violates campaign finance law. Imagine, for example, that instead of Gonzalez having knowledge that his staff was requesting an edit to Wikipedia highlighting his mayoral platform that was worked on with a vendor using City money and City resources, Gonzalez knew that his staff, using City money and City resources, was erecting a billboard in downtown Portland stating: "Rene Gonzalez is running for Mayor on the platform of public safety, homelessness, drugs, and revitalizing the economy." The Auditor's Office would have no hesitation concluding that this was a campaign finance violation.

The challenge here is that some of the requested Wikipedia edits that Gonzalez either sought, or his staff developed with his knowledge and consent, fall within the realm of clearly permissible forms of communication, while others, on their face, go beyond mere communication about his in-office work and priorities. The Auditor's Office initially found that the evidence about Gonzalez's motivations and the reasons for the edits that have nothing to do with City business on their face was mixed and insufficient to establish that it was more likely than not that the time and resources spent on the Wikipedia edit project was a contribution. But the Auditor's Office also noted that additional evidence could change this determination.

**C. Resources spent in connection with developing Edit No. 3, regarding Gonzalez's political party affiliation, constitute an unlawful contribution to Gonzalez in his capacity as a candidate.**

As to Edit No. 3 specifically, regarding Gonzalez's status as a Democrat, the Initial Determination stated: "One interpretation of the record evidence is that Gonzalez and his staff wanted, and spent City resources on trying to get, a beefed-up entry on the Rene Gonzalez Wikipedia page about his political party affiliation, but that WhiteHatWiki could not find evidence to support it. Spending resources to search for evidence to bolster the public record that Gonzalez is a registered Democrat, when he serves in a nonpartisan role, may very well be a contribution to a candidate." (Ex. A at 20.) Based on the incomplete record available to the Auditor's Office at the time of the Initial Determination, the Auditor's Office could not be certain this was the case.

Now that the full set of documents on this edit has been provided to the Auditor's Office, the Auditor's Office concludes that this edit was, in fact, requested by Gonzalez's representatives for the purpose of bolstering the public record stating that Gonzalez is a Democrat. This is a key campaign issue for Gonzalez; in fact, Gonzalez initially raised his party status to Wikipedia administrators back in 2022, in his capacity as a candidate. He also continues to emphasize it in the current race for mayor. (See above at Section III.B.)

Moreover, Commissioner is a nonpartisan position in the City of Portland. Gonzalez's political party affiliation is thus irrelevant to Gonzalez's work as a Commissioner. Notably, Gonzalez has been unable to articulate any reason why his political party had a bearing on his work as a City Commissioner. Instead, when he was asked by investigators at his interview how "editing a party affiliation would relate to city business as a nonpartisan elected official," his answer was, ultimately: "I have no opinion on this one." (Gonzalez Interview at 49:34-50:11.) Kass, for his part, thought the intention behind the edit was that it had "bothered [Gonzalez] for a long time" that there was a "misunderstanding that he's a Republican." (Kass Interview at 55:34-55:48.)

In addition, Gonzalez—who is of course a candidate and a critical figure in his own campaign— had knowledge of the edits before they were submitted, consented to the substance of the edits, and remained involved in the Wikipedia edit project from its inception through the resulting media controversy. (See above at Section III; Exhibit A at 8-9.)

A contribution to a candidate or their campaign committee does not need to be in the form of a payment of cash for it to qualify as a "contribution" that is governed by the City's campaign finance laws. There are many forms a contribution can take, including the payment of money on behalf of a candidate and the furnishing, without equivalent compensation or consideration, of services (other than personal services for which no compensation is asked or given) to or on behalf of a candidate.

Here, the City (acting through Gonzalez and his staff) paid money to WhiteHatWiki to research and develop an edit about Gonzalez's political party affiliation as one of the eight edits it requested WhiteHatWiki to assist with. In addition, the City provided WhiteHatWiki's services to Gonzalez in his capacity as a candidate by providing WhiteHatWiki's research and expertise to Gonzalez to bolster his Wikipedia page regarding a key campaign issue that is of no relevance to his work as a commissioner. The City also provided City staff services (including the time of Smith and Kass as well as others) in helping to develop and finetune, and then with WhiteHatWiki's assistance to post, the edit and citation sources to bolster the point about Gonzalez's political party status. City staffers were paid by the City for this work, thus their services also qualify as a form of contribution.

While Gonzalez has suggested that the edit was perhaps not ultimately that satisfying to him (see, e.g., Gonzalez Interview at 49:54-49:57), and the evidence reveals that his team requested a more substantial edit than Gonzalez ended up getting, this does not alter the conclusions in this determination. First, as WhiteHatWiki explained in significant detail, providing a strong citation support for the fact that Gonzalez was a Democrat, and making the point “stable” on the Wikipedia page, was a “major win” especially given the “controversy” around the point and the fact it was a “campaign issue” that was “central” to Gonzalez’s campaign in 2022. (See above, Section III.B.) Second, money, time and substantial effort was expended to research, develop and post Edit No. 3, regardless of the fact its content changed over time or that Gonzalez ultimately may have wished it could have been more robust. A contribution does not cease to be a contribution simply because the candidate uses it to develop a message they end up having some buyer’s remorse about.

In conclusion, the Auditor’s Office concludes that the time, money, and services spent in researching, developing, drafting, reviewing, and posting Edit No. 3 regarding Gonzalez’s political party affiliation is a contribution. The Auditor’s Office also concludes that it is more likely than not money was spent on behalf of Gonzalez as a candidate and services were provided to Gonzalez as a candidate — not a City commissioner — in connection with this edit. As the City is not an entity that can make a contribution to a candidate, this is an unlawful contribution.<sup>8</sup>

**V. The Auditor’s Office assesses a penalty of \$2,400, payable by Gonzalez in his capacity as a candidate, which will be deposited into the City’s general fund.**

**A. The Auditor’s Office conservatively values the contribution at \$800.**

The Auditor’s Office assesses the value of the unlawful contribution at \$800. This amount reflects 1/8 of the total cost paid to WhiteHatWiki, recognizing that Edit No. 3 was one of the eight contracted-for edits.

It is also a conservative estimate of the unlawful contribution. The amount could have been significantly higher for a number of reasons, including: a) the fact that WhiteHatWiki provided Gonzalez’s Office a discount, reflecting that fair market value for

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<sup>8</sup> The Auditor’s Office typically finds both the contributor and the candidate in violation when an unlawful contribution is made and received. This case is unusual. Gonzalez acted as and for the City in this instance, and is the one who caused the City to make the contribution. The City does not have independent liability and it would serve no rational purpose for the City as a separate entity to be required to pay a civil penalty to itself.

the edit may be even higher;<sup>9</sup> b) the edit (at least in its originally intended form) appears to be significantly more valuable to Gonzalez than other edits, as reflected by the fact he first brought his party status up to Wikipedia administrators in 2022 and that his political party affiliation is a point his campaign has invested money in making in other contexts; and c) the \$800 figure does not include the value of staff time developing, refining, and posting the Wikipedia edit.

**B. Aggravating factors, including Gonzalez’s interference in the investigation, justify increasing the civil penalty from the minimum amount.**

The City Charter provides that each violation of the campaign finance provisions “shall be punishable by imposition of a civil fine which is not less than two nor more than twenty times the amount of the unlawful Contribution ... at issue.” (Charter Section 3-305.) Thus, the penalty must be between \$1,600 and \$16,000. Auditor’s Office Administrative Rule 13.05(D)(4) contains several mitigating and aggravating factors that are considered in deciding whether to set the penalty at the minimum amount or higher.

Here, the Auditor’s Office determines that a **fine of \$2,400**, or three times the unlawful contribution (\$800), is appropriate given the aggravating factors present. The most significant aggravating factor is Gonzalez’s interference and lack of cooperation in this investigation. These actions include:

- Gonzalez emailed the Auditor to request that the Chief Deputy Auditor be “immediately” removed from this investigation, citing a conflict that does not exist, and claiming that the Auditor’s Office’s investigation into him “has had all the appearance of a politically orchestrated attack.” (Ex. 22 at 3.) He also asked the Auditor to “void” the Auditor’s Office’s referral to the Secretary of State. (Ex. 22 at 3.)<sup>10</sup>

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<sup>9</sup> See Ex. 4 at 1 (WhiteHatWiki offer of 15% “public servant discount”).

<sup>10</sup> Gonzalez has suggested the Chief Deputy Auditor is somehow conflicted in this matter, and that renders the investigation and determination somehow suspect. The Auditor’s Office disagrees. The Auditor’s Office has detailed conflicts of interest policies. These internal policies carefully balance employees’ First Amendment rights against their public duties, and were developed in coordination with the union that represents multiple Auditor’s Office employees, including certain staff in the Elections Division.

There is no conflict here. The allegations of conflict appear to be based on the fact that Jackie Yerby, the primary complainant (the Auditor’s Office received other complaints about the Wikipedia project as well), is on the board of directors of an organization, Portland for All, that the Chief Deputy Auditor’s former partner is also on the board of. The Chief Deputy Auditor



- Gonzalez emailed Elections Division staff directly to complain about the investigation and claimed: “you are being manipulated with these election complaints in an attempt to taint the well as Portlanders decide their next mayor.” (Ex. 17 at 1.)
- Smith verbally chastised a member of the Elections Division staff about the questions that were asked to him by another staff member who was performing their Charter-mandated duties.
- In addition to the above, Gonzalez’s designees misled the Auditor’s Office about a key document. During the course of the initial investigation, Gonzalez was asked by Auditor’s Office staff, in writing, to provide what appeared to be a missing attachment to a key email. Gonzalez referred the Auditor’s Office to Kass for the document (and referred the Auditor’s Office to Smith for documents generally). Both told Auditor’s Office staff (Smith verbally, Kass in writing) that there was no attachment. These turn out to have been false statements, as revealed when the City produced the full email with attachment in response to a public records request following the initial investigation. As discussed above, this document was critical in changing the determination from a finding of no violation to the finding of a violation. Whether Smith and Kass’s misstatements were intentional or not, they had the effect of causing the Auditor’s Office to issue an initial determination that was based on an incomplete and misleading record, resulted in a finding that would have been different if complete information had been provided during the initial investigation, and took unnecessary time and resources from the Auditor’s Office during a critical election by prolonging the investigation.

The Auditor’s Office has been charged with investigating and enforcing City law for almost two decades (starting with when the lobbying code was adopted in 2006). This is the first time this Office has seen an attempt to apply this magnitude of pressure on its staff by a person under investigation. We find this, and the misleading of the Auditor’s

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does not know Yerby and has no relationship with her. Yerby made the complaint in her individual capacity, with no reference to Portland for All in the complaint. While Portland for All has been outspoken in its opposition of Gonzalez’s candidacy — as have others in the City — the mere fact that the Chief Deputy Auditor’s former partner’s current organization is politically opposed to Gonzalez is far too attenuated to establish a conflict of interest. In addition, the complainant and their motivations in making a complaint are wholly irrelevant to the Office’s investigation of Gonzalez, and so nothing about Yerby, or any organization she is affiliated with, was under investigation in this matter. Moreover, there is no benefit that the Auditor’s Office (let alone the Chief Deputy Auditor personally) stands to gain one way or the other based on the outcome of this investigation.

Office about a key document in the investigation, relevant in the context of determining penalties in this matter.

The other main aggravating factor present is that Gonzalez had significant resources at his disposal (both in the form of a well-resourced campaign and access to the City Attorney's Office) to obtain an opinion as to the propriety of spending City funds in this fashion. Given the media and public interest in this matter, it should have been obvious that, at the very least, this conduct could raise questions. Gonzalez is sufficiently well-resourced to have been able to get answers to those questions.

The Auditor's Office believes increasing the penalty from two times to three times the contribution is fair in light of the circumstances. All civil penalties paid to the Auditor's Office for campaign finance violations are deposited into the City's general fund for general City use.

## **VI. Payment**

A penalty in the amount of \$2,400 shall be paid (by Rene for Portland) to the City Auditor's Office. Payment shall be provided to the City Auditor's Office by **December 20, 2024**. Payment can be sent by mail or delivered to:

City of Portland Auditor's Office  
1221 SW 4<sup>th</sup> Ave. Rm 130  
Portland, OR 97204

## **VII. Additional Authority and Appeals**

This Notice of Determination is issued pursuant to the Auditor's authority under City Charter Section 3-305 (Implementation and Enforcement). That section sets forth the process for implementation and enforcement of the provisions of City Charter Article 3 (Campaign Finance in Candidate Elections), including the recipient's appeal rights. (See also Auditor's Office Administrative Rule 13.03(C) (requiring in part that decisions on complaints be in writing, identify whether a violation occurred, and state the basis for the decision).)

As described by City Charter Section 3-305(i) and Auditor's Office Administrative Rule ("ARA") [13.03 \(D\)\(5\)-\(6\)](#), the complainant and the subject of the complaint may seek judicial review of the decision in Multnomah County Circuit Court.

As set out in ARA 13.03(D)(6), decisions of the Auditor's Office that are withdrawn for reconsideration can be appealed to the Circuit Court within 60 days from the issuance of the reissued decision.

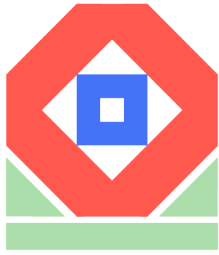
Sincerely,

A handwritten signature in cursive script that reads "Reed Brodersen". The signature is written in black ink and has a long horizontal flourish extending to the right.

Reed Brodersen  
Chief Deputy Auditor

CC: Jackie Yerby, complainant

# **EXHIBIT A**



# Portland City Auditor

Chief Deputy



September 16, 2024

Rene Gonzalez  
c/o Rene Gonzalez for Portland  
P.O. Box 42307  
Portland, Oregon 97242  
**DELIVERED ELECTRONICALLY**  
candidate@reneforportland.com  
amy@reneforportland.com

## Notice of Determination Complaint No. 2024-1-RG

Dear Rene Gonzalez:

### I. Introduction and Overview

On August 16, 2024, the Elections Office, a Division within the Auditor's Office, received a complaint alleging that Rene Gonzalez had violated Portland's campaign finance law — which is enforced by the Auditor's Office — by receiving an unlawful contribution. (Ex. 21.) Gonzalez is both a current City commissioner and a candidate for mayor in the November 2024 election. The complaint referred to an Oregonian article reporting that Gonzalez had used \$6,400 in City of Portland funds to “polish his Wikipedia page.”<sup>1</sup> The complaint contended the funds were spent “to edit [Gonzalez's] Wikipedia page for his run for Mayor.” (Ex. 21 at 4.) The Auditor's Office provided this complaint to Gonzalez

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<sup>1</sup> Dixon Kavanaugh, S. (2024, August 7). Portland Commissioner Rene Gonzalez spent thousands in city funds to polish Wikipedia page. *The Oregonian/OregonLive*. <https://www.oregonlive.com/politics/2024/08/portland-commissioner-rene-gonzalez-spent-thousands-in-city-funds-to-polish-wikipedia-page.html>.

1221 SW Fourth Ave, Room 310  
Portland, OR 97204  
reed.brodersen@portlandoregon.gov  
[portland.gov/auditor](https://portland.gov/auditor)  
503-823-4078

on August 16, 2024, along with two other emails sent to the general Auditor's Office inbox on this topic.

After receiving the complaint, the Auditor's Office conducted an investigation, as detailed below. The Auditor's Office has determined that the evidence obtained to date is insufficient to find that a violation of the City's campaign finance law occurred. The Auditor's Office therefore issues a finding of **no violation**.

However, as set forth below, the Auditor's Office finds that this is an exceedingly close call. It is undisputed that Gonzalez's (City) office spent \$6,400 of City funds to retain an independent contractor (WhiteHatWiki) to assist it in creating eight edits for the "Rene Gonzalez (politician)" Wikipedia page. The evidence the Auditor's Office has obtained to date suggests that Gonzalez's primary interest in the Wikipedia edit project was that he wanted to remove an entry on the Gonzalez Wikipedia page stating that he had been "criticized" by the Portland Mercury for tagging on Twitter a member of the far-right group, Patriot Prayer. In addition, multiple of the edits requested by Gonzalez's staff on his behalf that were developed in coordination with WhiteHatWiki — including one edit about the key elements of his mayoral platform — have no obvious relation to City business, and instead could be interpreted to relate to Gonzalez's campaign for mayor. Moreover, the evidence gathered to date shows that Gonzalez was aware of and, at least tacitly, approved of the substance of the eight edits. Depending on the particular facts and circumstances, such conduct could constitute a campaign finance violation.

In this particular case, there is mixed evidence about the motivations behind the Wikipedia edit project spearheaded by Gonzalez's office. To find a violation of the City's campaign finance law, the Auditor's Office must determine that it is more likely than not that the City provided funds or services to or on behalf of Gonzalez in his capacity as a candidate. While there are facts that suggest this transpired, based on the current record, the Auditor's Office does not believe they are strong enough to definitively outweigh contrary evidence that suggests that the funds and services were provided to Gonzalez in his capacity as a commissioner.

The Auditor's Office must conduct and complete investigations under short timelines (set out in City Charter). This is a complex investigation that goes well beyond looking at money spent and services received. While Gonzalez and his staff were helpful to the investigation in that they provided certain documents and sat for interviews, the Auditor's Office has not received all the documents it requested from Gonzalez. The Auditor's Office's outside counsel made a public records request to the City for additional materials, which the City is presently working on fulfilling. The Auditor's Office reserves the right, consistent with Auditor's Office Administrative Rule 13.03(D)(5), to withdraw for reconsideration this determination within the next 30 days in the event that

additional evidence is received that alters the Auditor's Office's conclusions in this determination.

The Auditor's Office also believes that, in light of facts unearthed in the investigation, a **referral to the Secretary of State's Office** is appropriate for a fuller investigation to determine whether any City employees engaged in prohibited political activities pursuant to ORS 260.432 and whether Commissioner Gonzalez violated ORS 260.432 by requesting employees engage in political advocacy during working hours. The Auditor's Office will forward this determination to the Secretary of State to conduct their own independent assessment.

## **II. Investigation to Date**

Under Charter, the Auditor's Office must issue a notification to all "objects" of a complaint within two business days of receiving a complaint; must accept written materials supporting or opposing a complaint for a period of 10 business days following such notification; and must render a decision within 10 business days after close of the material submission period. (City Charter 3-305(e).) These periods are reduced by half when the complaint is received within 30 days of the election. (City Charter 3-305(f).) These time periods mean investigations are necessarily compressed and even when all persons are acting in good faith to quickly provide and review materials, the short period to investigate and prepare a determination necessarily limits the scope of investigations in complex matters like this one.

Gonzalez and his (City) staff have cooperated with the Auditor's Office's investigation. Gonzalez sat for an interview with investigators and made his chief of staff and his policy advisor available for interviews as well. In addition, Gonzalez and his (City) staff have provided certain records requested by the Auditor's Office, primarily email communications between Gonzalez's staff and WhiteHatWiki. However, these were provided with gaps and content missing. (There is no reason to believe this is deliberate.) In addition, the Auditor's Office did not receive internal emails within Gonzalez's office pertaining to Wikipedia that the Auditor's Office requested. As a result, the Auditor's Office has made a public records request to the City, which is currently being fulfilled. Given the Charter-required timelines, this determination is being issued without review of these additional documents.

### III. Factual Background

#### A. In November 2022, Gonzalez attempted to edit the Rene Gonzalez Wikipedia page in his “campaign” capacity.

The “Rene Gonzalez (politician)” Wikipedia page was created on or around November 9, 2022, the day after the general election in which Gonzalez won a seat on Portland’s City Council. (See Ex. 9 (Wikipedia edit trail).) The Wikipedia page came to Gonzalez’s attention shortly thereafter. (Gonzalez Interview at 5:30-5:52.)

Before his term for City Council began, Gonzalez personally made requests for edits to the Wikipedia page, under the username “Reneforportland” (which later became the username “Pdxrose24”). (Gonzalez Interview at 5:53-6:55.)<sup>2</sup> Between November 19, 2022, and November 23, 2022, Gonzalez made both explicit requests that the page be edited (including a request that Wikipedia link to the Oregonian’s endorsement of him) and provided information for a Wikipedia administrator to consider in connection with additional edits to the page. These edit requests can be found at Exhibit 8, under the header “Campaign Feedback.” Gonzalez clarified to investigators that in November 2022 he was “involved in [the editing of Wikipedia] at the campaign level.” (Gonzalez Interview at 6:19.)

Among the information that Gonzalez shared with a Wikipedia administrator in November 2022 was content on two topics relevant to the current campaign finance investigation:

- The first piece of information Gonzalez shared with Wikipedia related to his status as a Democrat.
- At the time, the Wikipedia page stated: “Though both candidates are registered Democrats, during the campaign Hardesty attempted to paint Gonzalez as right wing, with ties to Republican political consultants and conservative school board candidates supported by the political action committee he organized.” (Ex. 10 (11/19/22 version of Wikipedia page), at 2.)
- On November 23, 2022, Gonzalez shared with a Wikipedia administrator that “the [Gonzalez] campaign sent a cease and desist letter to our opponent during the campaign for what we believed were inflammatory/false statements contributing to threat of political violence.” (Ex. 8 at 3.) Gonzalez went on to cite

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<sup>2</sup> Gonzalez initially went by “Reneforportland” on Wikipedia but he subsequently requested to change the name of his Wikipedia account to “Pdxrose24.” (Ex. 11, Pdxrose24 “User talk.”) This appears to have been successful.



to a Willamette Week article that labeled his opponent's "mailers as a 'lie.'" (Ex. 8 at 3.) Gonzalez also included a quote from the article that: "The implication [from the mailer is] that Rene Gonzalez is a Republican.... [B]ut he's a pro-choice Democrat." (Ex. 8 at 3.)

- Second, Gonzalez took issue with a mention of his social media "tag" to a member of a right-wing group, Patriot Prayer.
- At the time, the Wikipedia page stated: "The Portland Mercury criticized Gonzalez for posting an election thank you to supporters on his Twitter and tagging Quincy Franklin, a member of the far-right-wing group Patriot Prayer. Writer Steven Humphrey questioned if Gonzalez was actually a Democrat and said, 'Gonzalez eventually deleted the tweet without explanation or apology.'" (Ex. 10 (11/19/22 version of Wikipedia page), at 2.)
- On November 23, 2022, Gonzalez explained to a Wikipedia administrator that vandalism of his campaign office "is what led to the thank you to supporters on his [Gonzalez's] Twitter that tagged Quincy Franklin - we did not know who he [Franklin] was, but he had video taped words of encouragement and shared on instagram after office was vandalized and threatened with further vandalism. It was odd Mercury focused on the shared instagram post, without referencing the well documented vandalism and threats it was in response to." (Ex. 8 at 3.)

Gonzalez's attempts to further clarify his political party affiliation and to put in context the Twitter "tag" to the Patriot Prayer member got no traction on Wikipedia in 2022.

**B. In 2024, Gonzalez's Office hired WhiteHatWiki to assist it in drafting and submitting edits on the Rene Gonzalez Wikipedia page.**

Gonzalez took office as a City Commissioner on January 1, 2023. In an interview with investigators, Gonzalez explained that he expected "from day one" that Wikipedia would be a part of his communications platform as a City Commissioner. (Gonzalez Interview at 11:57-12:11.) Commissioner Gonzalez's chief of staff, Shahriyar (Shah) Smith, recalls that the office began discussing the prospect of updating the Rene Gonzalez Wikipedia page in mid-2023 and began looking for vendors to assist in the process in October or November of 2023. (Smith Interview at 11:00-11:43.)

**1. Gonzalez was a “candidate” at the time the Wikipedia editing project began to be discussed in his office.**

Gonzalez publicly announced his candidacy for mayor on December 7, 2023. (Ex. 13.) However, it is more likely than not that he became a “candidate,” as that term is used in City law, months before that date.<sup>3</sup>

It is not necessary to determine precisely when Gonzalez became a candidate, as that term is defined in City Charter, for purposes of this investigation. This is because it is more likely than not that Gonzalez was a candidate during all times the Wikipedia edit project was in process in his office. Specifically, under City (and state) law, a person can become a “candidate” by receiving and accepting a contribution, whether or not the office for which the individual will seek election is known when the contribution is received and accepted. (Portland City Charter Section 3-308, Intro & (a); Auditor’s Office Administrative Rule 13, Appx B(A).)

Gonzalez was receiving and accepting contributions by mid-March 2023, which he did not return. He filed the contributions in ORESTAR (the Secretary of State’s online filing system for candidate transactions). (See Ex. 12 (collection of selected cash contributions filed by Rene for Portland in ORESTAR with transaction dates in the first half of 2023); see also ORS 260.057 (the Secretary of State filing system is for “candidates and political committees” for purpose of filing “contributions received and expenditures made by the candidates and political committees”).) It is thus more likely than not Gonzalez qualified as a candidate by, if not earlier than, March 2023.

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<sup>3</sup> “Candidate,” under City Charter, has the meaning set forth at ORS 260.005(1) as of January 1, 2018. (See Portland City Charter Section 3-308, Intro & (a).) This definition is set out at Auditor’s Office Administrative Rule 13, Appx B(A). A “candidate” includes an “individual whose name is printed on a ballot, for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is expected to be or has been presented, with the individual’s consent, for nomination or election to public office” as well as “an individual who has solicited or received and accepted a contribution, made an expenditure, or given consent to an individual, organization, political party or political committee to solicit or receive and accept a contribution or make an expenditure on the individual’s behalf to secure nomination or election to any public office at any time, whether or not the office for which the individual will seek nomination or election is known when the solicitation is made, the contribution is received and retained or the expenditure is made, and whether or not the name of the individual is printed on a ballot[.]”

## **2. Gonzalez’s (City) staff begin to search for a vendor to assist with Wikipedia edits in late 2023.**

On November 25, 2023, Smith, in his capacity as the Commissioner’s Chief of Staff,<sup>4</sup> reached out to WhiteHatWiki (whose legal name is Codename Enterprises, Inc.). (Ex. 2 at 18.) WhiteHatWiki is a vendor that provides Wikipedia-related services, including Wikipedia strategy and updates. They describe themselves as “perhaps the most experienced Wikipedia agency in the world in dealing with the full spectrum of Wikipedia scenarios, from page updates to dealing with warning flags and hostile editors, to new pages.” (Ex. 15 (excerpt from WhiteHatWiki website).)

In his November 25, 2023, submission to WhiteHatWiki, Smith answered the question “How can we help you? Please be as detailed as possible” with the statement: “Prominent elected official looking to refresh Wikipedia Page related to 2022 election.” (Ex. 2 at 18.) WhiteHatWiki responded the next day, and the Commissioner’s Office followed up on December 12, 2023. In that December 12, 2023, email, the then-communications director for the Commissioner’s Office explained that the Rene Gonzalez Wikipedia “page is exclusively focused on [Gonzalez’s] initial city hall race and requires updates to his time as a commissioner and broader political trajectory within the city.” (Ex. 1 at 8.)

On December 20, 2023, after an initial conversation with staff in the Commissioner’s office, WhiteHatWiki emailed Gonzalez’s then-communications director as well as Smith a proposal and draft contract. (Ex. 1 at 1-28.) Gonzalez contends the Wikipedia edit project was then “accelerated” after a January 12, 2024, arson event involving the burning of one of his family’s vehicles outside his home.<sup>5</sup> (Gonzalez Interview at 13:05-13:11.) The Auditor’s Office has been unable to verify the Wikipedia edit project was, in fact, accelerated after January 12, 2024, and notes that the plan to update the Wikipedia page was developed weeks prior to the arson.

On March 12, 2024, a contract securing WhiteHatWiki’s services was fully executed. (Ex. 3.) The parties were identified as “City of Portland – Office of Portland City Commissioner Rene Gonzalez” and “Codename Enterprises, Inc.” (doing business as WhiteHatWiki and Buzzr.com). (Ex. 3 at 1, 10.) The contract provides that WhiteHatWiki would work on assisting with “Request Edits” and/or “Contentious

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<sup>4</sup> Smith also volunteers in his personal time for Gonzalez’s campaign. (Smith Interview at 2:27-2:31.)

<sup>5</sup> See Zielinski, A. (2024, January 12). Portland police investigating care fire in front of Commissioner Gonzalez’s house. *Oregon Public Broadcasting*. <https://www.opb.org/article/2024/01/12/portland-eastmoreland-district-oregon-fire-rene-gonzalez-crime-car-arson-police/>.

Matters.” (Ex. 3, § 1.0.) Both types of projects involve developing and advocating for edits on the Wikipedia page; what differentiates them is how much controversy or difficulty there is surrounding the edits. (See Ex. 3, § 4.0.)

**3. The City contracted to pay WhiteHatWiki \$6,400 to assist it with eight edits to the Gonzalez Wikipedia page.**

Ultimately, Gonzalez’s office chose to ask WhiteHatWiki to provide it with “8 Request Edits” under the terms of the contract. (See Exs. 4, 5.) For this, WhiteHatWiki charged the City \$6,400, which the City paid in two installments (one on March 25, 2024, and one on June 17, 2024). (Ex. 14.)

Under the contract, WhiteHatWiki agreed to a number of deliverables in connection with these eight “Request Edits.” These included: a kick off discussion to review client needs; developing a list of up to eight proposed “Request Edits” in consultation with Commissioner Gonzalez’s office; searching for “reliable sources” as defined by Wikipedia; review of similar Wikipedia “Good Articles” to propose as models; preparing the Request Edit language for submission with full “Wiki coding”; preparing a detailed explanation for Wikipedia reviewers describing the rationale and/or policy explaining Request Edits; recommending a strategy for requesting independent review; discussing the recommended proposal with Commissioner Gonzalez’s Office; up to two rounds of revisions; and training a designee on the submission process and making appropriate notifications to the independent Wikipedia editors. (See Ex. 3, § 2.0.)

Documents reviewed by the Auditor’s Office confirm that work on the Request Edits began shortly after the contract was signed. (See, for example, Exs. 6A-6C.)

**C. Gonzalez was meaningfully involved in the development of the edits to the Gonzalez Wikipedia page, and staff ran the edits past him before they were finalized.**

The evidence collected to date establishes that it is more likely than not that Gonzalez was aware, at a minimum, of the substance and focus of all of the eight “Request Edits” submitted on his behalf to Wikipedia. He formed this knowledge through, at a minimum, more than one conversation with his staff prior to the submission of the edits to Wikipedia. He also provided his feedback on the edits, and they were all run by him to give him an opportunity to comment. While staff stated he did not formally “sign off,” his review and discussion on multiple occasions, and position as leader of the office, qualifies as his assent to the substance of the edits.

Specifically, Harrison Kass, Commissioner Gonzalez’s policy advisor, shared with investigators that when he joined the Commissioner’s office in February 2024, the decision to edit the Wikipedia page had already been made. He was assigned to work

on the Wikipedia edits with WhiteHatWiki shortly after his arrival at the City and described his role as a “middleman” between WhiteHatWiki and Gonzalez. (Kass Interview at 8:05-8:08.)

Kass and WhiteHatWiki exchanged ideas for edits over the course of a few months (March – June, 2024.) Kass stated that he did not care for the Wikipedia project, so he “slow-walked” it. (Kass Interview at 8:11-8:17.) As a result, he recalls having several discussions with Gonzalez and others in the office about the status and content of the Wikipedia edits. (Kass Interview at 8:33-11:07.)

According to Kass, the Wikipedia edits under consideration with WhiteHatWiki were frequently an agenda item during the full office’s Monday meetings. (Kass Interview at 8:37-9:00.) Kass estimates the Wikipedia edits were discussed four to five times at these Monday meetings during the course of a few months. (Kass Interview at 8:52-9:00.) He further recalls that Gonzalez was present for the meetings “consistently,” although reflected that it is possible Gonzalez was not there every single time. (Kass Interview at 9:19-9:24.) In addition, Kass informed investigators that because he was slow on the project, Gonzalez would check in with him periodically (about once a month) for an update. (Kass Interview at 10:26-10:37.)

When Kass was asked by investigators who gave him directions on the edits, he clarified it was an “ongoing thing” and that Gonzalez “wanted the Patriot prayer thing” addressed. (Kass Interview at 7:35-7:40.) He further said he checked in with Gonzalez every couple of weeks on the progress. (Kass Interview at 7:41-7:50.) Kass would relay WhiteHatWiki’s suggested edits to Gonzalez, who would give his feedback, and then Kass would relay that back to the vendor. (Kass Interview at 7:52-8:05.) Kass also informed investigators that while Gonzalez did not formally sign off on the edits, the substance of the edits all “came across [Gonzalez’s] desk,” although Kass himself may have made some very “granular” changes that he did not bother “to run up the chain.”<sup>6</sup> (Kass Interview at 11:37-12:38.)

#### **D. The City submitted eight edit requests to Wikipedia on June 25, 2024.**

The eight “Request Edits” that were developed in connection with WhiteHatWiki were submitted to Wikipedia (by Harrison Kass) on June 25, 2024. The eight edits were as follows (see Ex. 8 at 3-6):

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<sup>6</sup> Kass’s recollection is far more detailed than, but not inconsistent with, Gonzalez’s. Gonzalez recalled that at some point he saw the requested edits but did not recall when. (Gonzalez Interview at 36:39-37:12.) The Auditor’s Office found Kass credible and that he spoke with candor and has no reason to disbelieve his statements on the extent of Gonzalez’s involvement in considering and reviewing the Wikipedia edits.

1. "In the Infobox, please add his law degree from Willamette University."
2. "I have a few updates for the **Early life and career** section. The first is to change this sentence from this: Gonzalez was raised in Anchorage, Alaska, where his father worked as a trial judge and federal prosecutor.

*to this:*

Gonzalez was raised in Anchorage, Alaska, where his father, a Mexican American, worked as a trial judge and federal prosecutor."

3. "In the **Portland City Council, Council race** section, please change the first clause of the third paragraph.

From:

Though both candidates were registered Democrats,

*To this:*

Though both candidates were Democrats,"

4. "In the **Portland City Council, Council race** section, please remove the last sentence of the third paragraph:

The Portland Mercury criticized Gonzalez for posting an election thank you to supporters on his Twitter and tagging Quincy Franklin, a member of the far-right-wing group Patriot Prayer."

5. "In the **Portland City Council, Council term** section, please combine the first two sentences, which currently read:

Gonzalez's term began on January 1, 2023. The transition team is being headed by Tom Miller, a former chief of staff for former city commissioner Sam Adams. Gonzalez will serve a two-year term before needing to run again.

*To this:*

Gonzalez's two-year term began on January 1, 2023. The transition team was led by Tom Miller, who had served as chief of staff for former Portland mayor Sam Adams."

6. "In the **Portland City Council, Council term** section, please update the last sentence that reads:

Gonzalez was assigned management of Portland Fire & Rescue and other emergency services, excluding the police department.

*To this:*

Gonzalez was assigned management of Portland Fire & Rescue, the Bureau of Emergency Communications, and Portland Bureau of Emergency Management.”

7. “In the **Portland City Council, Council term** section, please add a new sentence to the end of the paragraph:

In September 2023, a drug criminalization law proposed by Gonzalez and Portland Mayor Ted Wheeler was unanimously passed by Portland City Council.”

8. “In the **Portland City Council, Council term** section, please add a new paragraph to the end of the section:

In December 2023, Gonzalez announced his candidacy for mayor of Portland on the platform of public safety, homelessness, drugs, and revitalizing the economy.”<sup>7</sup>

### **E. Additional Background on Edit Numbers 4, 8, and 3.**

As discussed in more detail below, as a general matter, if the City (acting through an elected official or otherwise) funds communications on behalf of an elected official, even one running for office, and those communications focus on the work the elected official has accomplished while in office, the City will typically not be making a contribution to the official in their capacity as a candidate.<sup>8</sup> Here, only two of the eight requested edits relate on their face to Gonzalez’s work as a City Commissioner and arguably only one is substantive.<sup>9</sup> However, this determination focuses on the three requested edits that are furthest afield from Gonzalez’s City business. These three edits are:

- **Edit No. 4:** This is the request to remove the reference to Gonzalez tagging a Patriot Prayer member in his post-election Twitter thank you, which occurred before he began his term.

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<sup>7</sup> Citation notations are omitted from all quotes for readability.

<sup>8</sup> This is a general proposition; unique facts and circumstances could be present that would put a specific scenario outside of the general rule.

<sup>9</sup> Edit No. 7 relates to Gonzalez’s work on a drug criminalization law while a member of City Council. Edit No. 6 relates to his work as Commissioner but is not particularly substantive—it asks for “other emergency services, excluding the police department” to be replaced with “the Bureau of Emergency Communications, and Portland Bureau of Emergency Management.” A Wikipedia administrator rejected the latter edit on the grounds that the source provided “seems to support the current language, and I’m confused why you called out the specific ones you did.” (Ex. 8 at 4-5.)

- **Edit No. 8:** This request was to add Gonzalez’s candidacy for mayor and his mayoral platform, which is unrelated to Gonzalez’s role as a City Commissioner.
- **Edit No. 3:** This is the request to modify a detail about Gonzalez’s political party affiliation. Commissioner is a nonpartisan position in Portland.

**1. The attempted removal of the reference to the Patriot Prayer Twitter tag (Edit No. 4) appears to be the motivation for the Wikipedia edit project.**

The evidence the Elections Office has obtained to date suggests that Gonzalez’s primary interest in the Wikipedia edits was that he wanted removed the entry on the Wikipedia page stating that he was “criticized” by the Portland Mercury for tagging a member of the far-right group, Patriot Prayer, in his election thank you on Twitter.

Specifically, according to Harrison Kass, his understanding, which he initially heard about second hand, was that Gonzalez was “pissed about” the Patriot Prayer reference on Wikipedia and it was “stuck in his craw.” (Kass Interview at 2:49-2:59.) Kass also clarified that he later learned directly “from Rene” that Gonzalez’s “emphasis” was on getting rid of the Patriot Prayer mention. (Kass Interview at 18:20-18:40, 40:55.) Kass further described his understanding of the overall purpose of the project of proposing Wikipedia edits as:

My understanding of the purpose was that there were inaccuracies. Yeah, I know Rene was bothered like by inaccuracies or partial truths with a lack of context that was not flattering... The Patriot Prayer thing, retweet, was what was really bugging him.

(Kass Interview at 4:33-5:06.)

Kass also stated to investigators that there was “never any doubt on my end” that he was supposed to get the Patriot Prayer reference removed and that “it came up plenty... that was clear to me.” (Kass Interview at 40:20-40:38.) Gonzalez also agrees that he put an emphasis on the Patriot Prayer issue in the edits and told investigators he did not think his concern about the Patriot Prayer mention was lost on his team, and that the Patriot Prayer edit request could be attributed directly to Gonzalez. (Gonzalez Interview at 39:12-39:58.)

Consistent with Kass’s statements to investigators, the removal of the Patriot Prayer tag reference was suggested in the first round of edits prepared by Kass and a colleague in March 2022. (See Ex. 6, 6B.) It likewise appeared in versions of the Wikipedia “request edits” that WhiteHatWiki prepared and shared (via Google document) with Kass on April 24, 2022, May 12, 2024, and June 25, 2024. (Ex. 7 at 4, 8-9, 12.)



**2. The mayoral platform edit (No. 8) appears to have been suggested by WhiteHatWiki but submitted to Wikipedia with Gonzalez's knowledge and assent.**

It appears from the information the Auditor's Office has been able to obtain that the requested edit to add that Gonzalez was running for Mayor and the key elements of his mayoral platform was initially suggested by WhiteHatWiki.

Specifically, on April 5, 2024, Marisa Bramwell (of WhiteHatWiki) told Kass that "[o]n your redline document" — sent to WhiteHatWiki on March 21, 2024 — there's a list at the bottom of things you want added - are there one or two that are top priority? I'm adding in a line about his run for mayor ... so if there's something else you'd like to add please let me know." (Ex. 1 at 30.) The Auditor's Office has been unsuccessful in obtaining the attachment to this email. However, Kass told investigators that WhiteHatWiki suggested the mayoral edit. (Kass Interview at 42:55-43:15.)

Kass did not respond to tell WhiteHatWiki not to make Gonzalez's run for mayor one of the eight Request Edits. (See Ex. 1 at 30.) From the documents reviewed by the Auditor's Office, both the fact of Gonzalez's mayoral run and the key elements of his mayoral platform appeared in versions of the Wikipedia "request edits" that WhiteHatWiki prepared and shared (via google document) with Kass on April 24, 2022, May 12, 2024, and June 25, 2024. (Ex. 7 at 7, 10, 13.) The language of edit No. 8 regarding Gonzalez's mayoral platform points is unchanged from, at the earliest, April 24, 2022, through the date of submission to Wikipedia. (Ex. 7 at 7, 10, 13.) Given the date the language was settled upon, and Kass's description of the edit process, it is more likely than not Gonzalez was aware of, and assented to, the mayoral platform edit before its submission to Wikipedia.<sup>10</sup>

**3. It appears that it was important from the beginning of the project to Gonzalez's staff to emphasize he was a registered Democrat, but WhiteHatWiki could not find adequate publicly available support for the edit and suggested deleting "registered."**

The evidence the Auditor's Office has received to date pertaining to the origin of Edit No. 3 — removing the word "registered" before "Democrats" — is inconclusive. The Auditor's Office does not currently have access to the original edit proposal emailed from Gonzalez's office to WhiteHatWiki. But documents internal to the Gonzalez office from March 2024 reveal staff was contemplating adding that he was a "Democratic"

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<sup>10</sup> Smith also approved of this and all other edits. Smith wrote to WhiteHatWiki on June 10, 2024: "We accept all edits." (Ex. 20 at 6 (emails provided to the Auditor's Office in the order shown in Ex. 20).)

politician. (Ex. 16C.) They further contemplated an addition to the Wikipedia page along the lines of: “Gonzalez has been registered as a Democrat for X years.” (Ex. 6C.) The evidence the Auditor’s Office has received to date also suggests that WhiteHatWiki could not adequately confirm from publicly available sources that Gonzalez was a registered Democrat, and that they proposed deletion of “registered,” which Kass and Smith pushed back on as a mere “grammatical” change.

Investigators asked Kass the intention behind Edit No. 3. His response was:

There's a yeah, there's a misunderstanding that he's a Republican and that kind of related to the, this idea that he was supporting Patriot Prayer or whatever. So I know that's bothered him for a long time. And obviously it's a kind of Portland-specific problem, though [unintelligible – 55:54] so far to the left. But yeah, I think it was just addressing something that was an inaccuracy, like emphasize that he's a registered Democrat. He's I think he like voted for Biden. So yeah, that was bugging him.

(Kass Interview at 55:24-56:09.)

Prior to the edits being submitted to Wikipedia, Gonzalez’s staff had a dispute with WhiteHatWiki about Edit No. 3. The correspondence on this issue was provided to the Auditor’s Office in a manner that is hard to track (pages out of order and text missing) but it would appear that the change from “registered Democrats” to “Democrats” appeared in both the April 24, 2024, and May 13, 2024, versions of the edits WhiteHatWiki exchanged with Gonzalez’s Office. (Ex. 7 at 8, 12.)

However, it also appears the issue was discussed on May 8, 2024, and that WhiteHatWiki told Gonzalez’s Office in a comment on a shared Google document: “You asked that we try to research that he is a registered Democrat. We had to do a lot of research to eliminate the possibility that it appeared somewhere. Once we found it did not, we found a source that came as close as possible.” (Ex. 20 at 1.<sup>11</sup>) It appears that subsequently, in or around early June 2024, Kass rejected the edit striking “registered” and asked WhiteHatWiki to substitute the edit with “a substantive addition that introduced one of our policy principles (AMR staffing model).” (Ex. 20 at 8.)

WhiteHatWiki responded that Edit No. 3 “was on your list for us to work on and was included in a prior round and approved.” (Ex. 20 at 7.) WhiteHatWiki stated that Gonzalez’s Office was under no obligation to use a rejected item, but that it would not add another edit at that date. (See Ex. 20 at 7.) After the situation escalated, WhiteHatWiki wrote to Kass that: “We have explained this all, but let’s go over it again.

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<sup>11</sup> Exhibit 20 was provided to the Auditor’s Office as an excerpt from a large PDF; the pages were provided in the order shown in Exhibit 20.

You want to leave in the article that he is a registered Democrat. Whether he is a registered Democrat was a campaign issue central to the City Council campaign. This is not grammar,” — the email provided to the Auditor’s Office cuts off here. (Ex. 20 at 5.)

Smith got involved and told WhiteHatWiki this was not a meaningful edit and it was unacceptable. Ultimately, however, the edits proceeded as WhiteHatWiki suggested, and Edit No. 8 was submitted to Wikipedia after Smith concurred. (Ex. 20 at 6.)

#### **IV. DETERMINATION**

The Auditor’s Office has determined that the evidence is insufficient to find that a violation of the Portland City Charter’s campaign finance regulations occurred.

The questions before the Auditor’s Office are whether, in paying WhiteHatWiki for assisting Gonzalez’s Office in making edits to the Rene Gonzalez Wikipedia page, and in providing services of City staff to make edits to Gonzalez’s Wikipedia page, the City (acting through Commissioner Gonzalez’s office) made an unlawful contribution to Gonzalez in his capacity as a candidate and whether Gonzalez (or his candidate committee) accepted an unlawful contribution. The Auditor’s Office concludes that this is an exceedingly close call, but that the evidence it has gathered to date does not establish that it is more likely than not that Gonzalez received a “contribution” from the City.

Although the Auditor’s Office does not find a violation here, the Auditor’s Office believes it is important to clarify that this is not because the conduct that Gonzalez and his staff engaged in could not constitute a campaign finance violation. Instead, this is because of the mixed nature of the evidence about the motivations behind the Wikipedia edit project and the requested edits.

##### **A. City Charter limits the amounts and sources of candidate contributions.**

City Charter provides that a candidate may receive only the following contributions:

- \$500 — adjusted by inflation to be \$579 for the current election cycle — from any individual or political committee other than a “Small Donor Committee;”
- Any amount from a qualified “Small Donor Committee;” and
- For candidates participating in the Small Donor Elections program (like Gonzalez), any amount permitted by the Small Donor Elections program.<sup>12</sup>

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<sup>12</sup> City Charter Sections 3-301, 3-304.

There are several forms a “contribution” can take. For purposes of this determination, it suffices to say a “contribution” includes both the payment of money to or on behalf of a candidate and also the furnishing, without equivalent compensation or consideration, of services or any other thing of value to or on behalf of a candidate.<sup>13</sup>

**B. City funds spent to provide services to a City official, who is also a candidate, could qualify as a contribution to the official in their capacity as a candidate depending on the particular facts and circumstances.**

The Auditor’s Office has determined Gonzalez was a “candidate” as of March 2023 — well before the City paid WhiteHatWiki or incurred the liability to do so. (See above at Section III.B.1.)

The Auditor’s Office also concludes that if the City hires and pays for a vendor to assist an elected official in messaging that is for the purpose of assisting the elected official in their capacity as a candidate, that could be an unlawful “contribution” as that term is defined in City Charter. The City is not a contributor from which a candidate can lawfully receive a donation under City Charter (the City is not an individual, a political committee, or a small donor committee). In addition, the amount paid to WhiteHatWiki was \$6,400 — well above the \$579 contribution limit. Even if the edits were priced individually, it would be reasonable to value each of the eight edits at \$800 (one-eighth of the total cost).<sup>14</sup>

The crucial question to be answered in this case is thus whether the City paid WhiteHatWiki, and made WhiteHatWiki’s services, as well as City staff services, available to Gonzalez in his capacity as a candidate. The Auditor’s Office does not view an elected official’s communications that are limited to discussion of the elected official’s acts in office as a “contribution” to the elected official in their capacity as a candidate. It would unduly chill speech for a communication from an elected official to their constituents about the official’s actions and accomplishments in office to be considered campaign activity.

But on the other hand, if an elected official running for office uses the resources and money of the City at the official’s disposal to issue communications that are unrelated to City business, and instead are campaign communications, this could constitute an unlawful contribution from the City to the elected official that violates campaign finance

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<sup>13</sup> Portland City Charter Section 3-308, Intro & (a); Auditor’s Office Administrative Rule 13, Appx B(A).

<sup>14</sup> The Small Donor Elections program has provided an advisory opinion to the Auditor’s Office that, if the amounts paid to WhiteHatWiki constitute a contribution to Gonzalez, that would not be a permissible contribution under the Small Donor Elections Program’s rules. (Ex. 19.)

law. Imagine, for example, that instead of Gonzalez having knowledge that his staff was requesting an edit to Wikipedia highlighting his mayoral platform that was worked on with a vendor using City money and City resources, Gonzalez knew that his staff, using City money and City resources, was erecting a billboard in downtown Portland stating: “Rene Gonzalez is running for Mayor on the platform of public safety, homelessness, drugs, and revitalizing the economy.” The Auditor’s Office would have no hesitation concluding that this was a campaign finance violation.

The challenge here is that some of the requested Wikipedia edits that Gonzalez either sought, or his staff developed with his knowledge and consent, fall within the realm of clearly permissible forms of communication, while others, on their face, go beyond mere communication about his in-office work and priorities. In particular, the edits discussed above at Section III.E pertaining to the Patriot Prayer Twitter tag, Gonzalez’s key mayoral platform items, and Gonzalez’s political party affiliation are, on their face, unrelated to Gonzalez’s activities as a City Commissioner and are all issues that are or have been campaign issues for Gonzalez. However, the evidence to date does not clearly establish that at the time WhiteHatWiki was hired, at the time funds were promised or paid to WhiteHatWiki, or at the time WhiteHatWiki and City staff worked on edits for Gonzalez’s benefit, these three edits were being sought for Gonzalez in his capacity as a candidate.

**C. The evidence does not establish that it is more likely than not the City gave money or provided services to or on behalf of Gonzalez in his capacity as a candidate.**

This section discusses the Auditor’s Office’s conclusions with respect to each of the three edits that the Auditor’s Office believes are closest to edits paid for and provided to Gonzalez in his capacity as a candidate, as opposed to a City commissioner: edit numbers 4 (Patriot Prayer), 8 (mayoral platform), and 3 (political party affiliation).

For all three edits, the Auditor’s Office finds the following are true:

- The three edits are all ones that Gonzalez has identified as campaign issues presently or in the past. Edit No. 8 (mayor platform) is Gonzalez’s mayoral platform — clearly a campaign issue. Edits No. 4 (related to Patriot Prayer) and No. 3 (regarding his political party affiliation) are ones Gonzalez raised in November 2022, in the aftermath of the election, and in his “campaign” capacity. (See above at Section III.A.)
- Gonzalez had knowledge of the three edits before they were submitted. (See above at Section III.C.)

- Gonzalez consented to the submission of the three edits before they were submitted. (See above at Section III.C.)
- Aside from Gonzalez himself, there is no evidence of any involvement of Gonzalez’s campaign staff in the Wikipedia edit project. While Smith is a volunteer for the campaign, there is no evidence that he has a role in the campaign that would encompass accepting contributions, determining appropriate expenditures, or issuing communications.

**1. The current evidence in the record does not establish that the Patriot Prayer edit rises to the level of a contribution.**

The request to remove the reference to the tag on Twitter of a Patriot Prayer member (edit No. 4) is apparently the driving force behind the Wikipedia edit project. (See above at Section III.E.1.) While an argument could be made that the reason Gonzalez and his staff sought the edit was to benefit him in his capacity as a candidate, the current record is insufficient to establish this is more likely than not the case.

On the one hand, Gonzalez and Smith contend that there is a direct nexus between the requested edit and City business. Gonzalez has explained to investigators that he was motivated to address the Patriot Prayer tag mention on Wikipedia because of safety concerns. Specifically, Gonzalez told investigators that he thought the way he was being “painted online” was creating “security risks to an elected official.” (Gonzalez Interview at 51:00.) Gonzalez and Smith do not deny that Gonzalez tagged a Patriot Prayer member in his election thank you post on Twitter. But as Gonzalez described it, he has received threats tied to the perception of being “right wing” and the Patriot Prayer edit “is brought up along, including in ... some of the threats.” (Gonzalez Interview at 54:35-56:16.) Gonzalez further contends that the security risk he faces undermines his ability to function as elected. (Gonzalez Interview at 51:51-51:55.)

On the other hand, while there is concrete evidence Gonzalez has faced threats, including some as a result of the perception he supports Patriot Prayer, there is also mixed evidence as to whether this was the motivating factor for the Wikipedia edits. Notably, Kass does not mention safety concerns as a reason for the edit. Instead, he thought having the Patriot Prayer mention on Wikipedia “degrad[ed] confidence,” and while he stated that he does not believe Gonzalez was motivated to remove the mention of the Patriot Prayer reference to benefit his campaign, Kass acknowledged that “in most of America you can’t be associated with radical right wing and be a viable candidate for about anything.” (Kass Interview at 1:16:41-1:16:46.) In addition, this was an issue that Gonzalez directly engaged Wikipedia on — with no success — in the days following the November 2022 election, in his capacity as a candidate and before he was a City commissioner. (See above at Section III.A.) And as Kass explained, for

Gonzalez, the “Patriot Prayer bit just, you know, stuck in his craw.” (Kass Interview at 2:54-2:57.)

In addition, cutting in favor of concluding that the purpose of the edit was to benefit Gonzalez as a candidate is that the “rationale” that Kass submitted to Wikipedia with this edit included that: “This author is a partisan who is very open that he was trying to keep Gonzalez from getting elected and wants to damage him politically in the future.” (Ex. 8 at 4.) On the other hand, Kass distanced himself from the rationales, said that WhiteHatWiki prepared the rationales, and stated that Gonzalez did not review them. (Kass Interview at 1:08:31-1:08:41, 1:09:01-1:09:23.) It remains unclear from the evidence gathered to date if the rationales reflect information that Gonzalez’s staff gave to WhiteHatWiki or if WhiteHatWiki simply prepared rationales with what it thought would be most compelling to Wikipedia administrators.

Given that there is some evidence of nexus to safety concerns, in the absence of additional evidence that Gonzalez and his staff were motivated for the purpose of benefiting him as a candidate, the Auditor’s Office concludes that there is insufficient evidence to establish the finding of a violation on the basis of the Patriot Prayer edit.

**2. The current evidence in the record does not establish that the mayoral platform edit rises to the level of a contribution.**

Gonzalez’s mayoral platform is clearly related to his candidacy. In addition, the evidence is Gonzalez knew about, and assented to, this edit request.

However, the Auditor’s Office is unable to conclude that the cost associated with the edit or services provided in connection with the edit were provided to or on behalf of Gonzalez in his capacity as a candidate. The edit appears to have been suggested by WhiteHatWiki and drafted by WhiteHatWiki. There is, at present, no evidence that Gonzalez or his staff expressly asked for any mention of his candidacy when they paid or committed to pay funds to WhiteHatWiki. And while the evidence suggests Gonzalez knew about and, at a minimum, tacitly approved of the edit, Gonzalez and his staff also understood from WhiteHatWiki that they needed to offer noncontroversial “ministerial” edits to get some of the more controversial ones (like the Patriot Prayer one) made. (Gonzalez Interview at 1:01:32-1:01:45; Smith Interview at 17:35-18:35.) The choice of Gonzalez’s mayoral platform, as opposed to some other “ministerial” edit, is certainly questionable. In fact, Gonzalez himself stated that “I don’t really see the benefit to the city one way or another either, except as it relates to getting other changes that are important to the city.” (Gonzalez Interview at 1:02:57-1:03:07.)

However, the intention of the contributor matters to the outcome. The contributor in this case would be the City, acting through Gonzalez’s office. The evidence presently in the record does not establish that it is more likely than not that when the obligation to pay

WhiteHatWiki was incurred, the City (acting through Gonzalez's office) intended to refer to his mayoral platform. Nor is there evidence that the City (again, acting through Gonzalez's office) provided services to Gonzalez in the form of drafting or providing input on the mayoral edit. Instead, the evidence at present is that WhiteHatWiki suggested the edit, drafted the edit, and drafted the accompanying rationale. While Kass apparently submitted it to Wikipedia, this was with the other edits that Gonzalez and his team did provide meaningful input on, and there is no evidence Kass provided any incremental service to Gonzalez in copying and pasting the edit with the others.

**3. The current evidence in the record does not establish that the removal of Gonzalez being a "registered" Democrat rises to the level of a contribution.**

Finally, as with the other two edits, the Auditor's Office is unable to conclude on the present record that the edit to remove "registered" from before "Democrat" results from funds spent or services provided to Gonzalez in his capacity as a candidate. There is conflicting evidence in the present record about how and why the edit arose, who asked for it, and whether it provided any benefit to Gonzalez at all.

One interpretation of the record evidence is that Gonzalez and his staff wanted, and spent City resources on trying to get, a beefed-up entry on the Rene Gonzalez Wikipedia page about his political party affiliation, but that WhiteHatWiki could not find evidence to support it. Spending resources to search for evidence to bolster the public record that Gonzalez is a registered Democrat, when he serves in a nonpartisan role, may very well be a contribution to a candidate. But the Auditor's Office lacks all the underlying communications on this issue, and only has partial emails exchanged between the vendor and Gonzalez's staff, some of which suggest that Gonzalez's office did not want this to be one of their edits. The Auditor's Office cannot conclude on the current record that it is more likely than not that the cost and services associated with this edit is a contribution.

**D. Gonzalez's responses to the Complaint are not persuasive and are not the basis of the Auditor's Office's determination.**

While the Auditor's Office does not find any violation, the Auditor's Office does think it is worth addressing certain points made by Gonzalez in his response to the complaint. The Auditor's Office did not find those contentions persuasive and does not base its finding of no violation on the response.

On August 30, 2024, Gonzalez provided the Auditor's Office with a formal response to the complaint. (Exs. 16A-16C.) In addition, on September 5, 2024, he provided



additional comments, which appear to be a supplement to his response. (Ex. 17.) Both are discussed below.

First, Gonzalez argues that “[n]o campaign staff have directed or have been involved in the June 2024 Wikipedia requested changes or engaged with the vendor.” (Ex. 16B at 2.) The Auditor’s Office finds this irrelevant as Gonzalez is the candidate and was involved in reviewing and approving the edits before submission. He further acknowledges that at least one edit (the Patriot Prayer edit) can be attributed to him.

Second, Gonzalez argues that the complaint does not specify who the donor is, which he contends violates basic principles of due process. The Auditor’s Office disagrees. Complainants will not always know the identity of a contributor. Here, the alleged contribution was clearly identified, and the facts of who engaged and paid for the services at issue (the City) were well known to Gonzalez. He has been afforded a meaningful opportunity to understand the basis of the alleged violation.

Third, Gonzalez argues that office communications do not constitute a campaign contribution.<sup>15</sup> The Auditor’s Office disagrees this is necessarily true. Instead, as discussed above (see Section IV.B), this is a fact-specific determination. Moreover, the Auditor’s Office has reviewed Gonzalez’s City X (Twitter) account and his campaign (ReneforPortland) X account. Gonzalez uses the former for communicating about official City business, and the latter for communicating about items like his mayoral platform and his political affiliation. (See Ex. 18 (excel capture of content from X account, reflecting at least 6 mentions of Gonzalez’s alignment or affiliation with Democrats) at 1, 2, 13.) This underscores that Gonzalez himself recognizes the difference between communicating about City business and communicating about campaign-related matters.<sup>16</sup>

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<sup>15</sup> Relatedly, Gonzalez points to the fact that Commissioner Rubio, one of his opponents in the mayoral race, “regularly touts her accomplishments on platforms supported by city staff or use [sic] city resources in the months leading up to the election.” (Ex. 16B at 4.) However, the examples Gonzalez provided are communications squarely related to Commissioner Rubio’s work as a commissioner, unlike some of the Wikipedia edits discussed in this determination.

<sup>16</sup> Gonzalez also offers examples of federal elected officials editing Wikipedia pages nearly two decades ago as evidence that there is no contribution here, as well as the fact that Representative Salinas is expected to spend taxpayer funds on communicating with constituents. (Ex. 16B at 2-3.) The Auditor’s Office does not find this relevant. It is unclear what the nature or content of the edits on federal officials’ Wikipedia pages was, whether the edits were confined to discussions of the officials’ time in office, or whether anyone contended there was a campaign finance violation. As for Representative Salinas, the U.S. House of Representatives forbids members from using federal funds to issue communications for personal or political reasons or with campaign content and the House has a process in place for determining whether communications are permissible before they are issued. (This is, in

Fourth, Gonzalez contends that the complaint that resulted in the investigation here is based on an “error-filled news article.” (Ex. 16B at 5.) The Auditor’s Office is required to examine all campaign finance complaints to determine whether a violation occurred, and to make any investigation necessary. The Auditor’s Office has done its own investigation, and in this case, has not relied on the complaint or news articles in coming to its determination.

Fifth, Gonzalez claims the complaint is politically motivated, a point reiterated in his supplemental email. (Ex. 16B at 5; Ex. 17 at 1.) The political motivations of complainants are irrelevant to the Auditor’s Office. Under City Charter, the Auditor’s Office must take all written complaints of campaign finance violations. (See City Charter Section 3-305(c)-(e).) The Auditor’s Office is administratively independent of the City and all elected officials aside from the City Auditor and is best positioned to address allegations of campaign finance violations without a public perception of undue interference. The Auditor’s Office strives for impartiality in the administration of elections and enforcement of campaign finance regulations and conducts full and complete investigations. This case is no different.

Sixth, in his supplemental email, Gonzalez contends this is a “rehash of 2022,” when a complaint was filed and the Small Donors Elections Program’s determination that Gonzalez had accepted an impermissible contribution was reversed by an administrative law judge. (Ex. 17 at 1.) Gonzalez further contends “you are being manipulated with these election complaints in an attempt to taint the well as Portlanders decide their next mayor.” (Ex. 17 at 1.) The Auditor’s Office disputes this contention. The people of Portland voted to add the campaign finance regulations, including the related enforcement provisions, to Charter; these require the Auditor to accept and investigate complaints. The Auditor’s Office believes there are reasons that merit a full investigation here. The Auditor’s Office has made a reasoned and impartial determination after conducting as complete an investigation as possible given the circumstances and time restrictions. Moreover, the Auditor’s Office elections staff are seasoned professionals and the Auditor’s Office finds it is concerning in the current climate to paint them as susceptible to political influence.<sup>17</sup>

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fact, covered in the article cited in footnote 4 of Ex. 16B.) In addition, City/State law does not entirely parallel federal law on the definition of “contribution.”

<sup>17</sup> Gonzalez also stated that the Elections Office chooses to publish investigations that are pending. (Ex. 17 at 1.) This is incorrect; the Elections Office does not do so. This investigation became a matter of public knowledge after a public records request was made. The complainant also went public about the complaint filed with the Elections Office.

## **V. Conclusion and Referral to Secretary of State**

For the reasons discussed above, the Auditor's Office finds no violation. However, the Auditor's Office is continuing its investigation by obtaining and reviewing additional materials from Gonzalez's (City) office and reserves the right, consistent with its administrative rules, to amend this determination within 30 days if additional evidence obtained alters the Auditor's Office's conclusions.

Moreover, the Auditor's Office refers this matter to the Secretary of State. The Auditor's Office believes that a fuller record may lead to the conclusion that one or more individuals in Commissioner Gonzalez's office violated ORS 260.432, which is in the purview of the Secretary of State to determine.

## **VI. Additional Authority and Appeals**

This Notice of Determination is issued pursuant to the Auditor's authority under City Charter Section 3-305 (Implementation and Enforcement). That section sets forth the process for implementation and enforcement of the provisions of City Charter Article 3 (Campaign Finance in Candidate Elections), including the recipient's appeal rights. (See also Auditor's Office Administrative Rule 13.03 (C) (requiring in part that decisions on complaints be in writing, identify whether a violation occurred, and state the basis for the decision).)

As described by City Charter Section 3-305(i) and Auditor's Office Administrative Rule ("ARA") [13.03 \(D\)\(5\)-\(6\)](#), the complainant and the subject of the complaint may seek judicial review of the decision in Multnomah County Circuit Court. In addition, the Auditor's Office may, on its own discretion or on request of an interested party, withdraw a decision for reconsideration within the earlier of 30 days from issuance of the decision or until the decision is appealed.

As set out in ARA 13.03(D)(6), decisions of the Auditor's Office can be appealed to the Circuit Court within the following timelines:

- For decisions that are not withdrawn for reconsideration, within 60 days from the issuance of a decision; and
- For decisions that are withdrawn for reconsideration, within 60 days from the issuance of the reissued decision.

Sincerely,

A handwritten signature in black ink, reading "Reed Brodersen". The signature is written in a cursive style with a long horizontal line extending to the right.

Reed Brodersen  
Chief Deputy Auditor

CC: Jackie Yerby, complainant