



**Portland  
City Auditor**  
Chief Deputy



November 13, 2024

Wendy Gerlach  
3612 SW Dosch Ct  
Portland, OR 97221  
*By certified mail*

**Notice of Determination**  
Complaint No. 2024-09-RG

Dear Wendy Gerlach:

**I. Introduction and Overview**

On October 17, 2024, the Elections Division, within the Auditor's Office, received a complaint alleging that you and other individuals violated Portland's campaign finance law. (Ex. 1.) The complaint included a detailed spreadsheet of transactions, with information downloaded from the Oregon Elections System for Tracking and Reporting database ("ORESTAR").

Included in the complaint were transactions that you allegedly made to Rene Gonzalez (referred to collectively with his campaign committee, Rene for Portland, as "Gonzalez") on or after December 7, 2023,<sup>1</sup> that, individually or in the aggregate with other transactions during the same election cycle, allegedly exceed the amount permitted under the City's campaign finance law and were partially refunded.

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<sup>1</sup> December 7, 2023, signifies the date Gonzalez publicly announced his candidacy for City of Portland mayor for the November 5, 2024, General Election, and the date on which Gonzalez filed his initial Notice of Intent with the Small Donor Elections program.

1221 SW Fourth Ave, Room 310  
Portland, OR 97204  
reed.brodersen@portlandoregon.gov  
[portland.gov/auditor](https://portland.gov/auditor)  
503-823-2767

In addition to the contributions described above, you contributed \$250, on December 20, 2022. This amount did not, by itself, exceed City Charter limits and was not subject to Small Donor Elections program rules.

After receiving the complaint, the Auditor's Office conducted an investigation, as detailed below. The Auditor's Office determines there is **one violation** of the City Charter's campaign finance regulations and issues a civil penalty of **\$242**.

## **II. The Auditor's Office conducted a complete investigation of this matter.**

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 provided the complaint in this matter to you on October 28, 2024. You responded to the complaint on October 31, 2024. (Ex. 6.) The Auditor's Office finds as follows:

1. You contributed a total of \$950 to Rene for Portland from November 8, 2022, through October 25, 2024, based on the following ORESTAR transactions and related findings:
  - a. On 12/20/2022, you contributed \$250 to Rene for Portland. (ORESTAR Transaction ID 4446787.) You stated in your response that this contribution was in relation to the City Council race of 2022, and not the Mayoral race of 2024. (Ex. 6 at 1.) Included in the response was a December 20, 2022 email from Gonzalez soliciting contributions and stating, "Between now and Thursday, December 22nd at midnight, we can accept contributions up to \$500 per person, which doesn't count against your previous donations or in a future reelection," and that "supporters have a small window...to help on these liabilities." (See Ex. 6 at 2 (emphasis added).)
    - i. This was not an accurate statement by Gonzalez. As the Auditor's Office explained in an email to counsel for Gonzalez on December 19, 2022: "We are in a new elections cycle (see Auditor's Administrative Rule 13.02), so the fundraising amounts [under the City's campaign finance law] are reset... But if the Commissioner Elect runs again in the new election cycle that just began, the

amounts raised presently would count towards those limits.” (Ex. 4 at 1.)

- ii. Gonzalez’s counsel has explained that he did not see this email, but does not dispute that it was sent to him. (See Ex. 4 at 3.)
- b. On 12/18/2023, you contributed \$350 to Rene for Portland. (ORESTAR Transaction ID 4717621.) And on 06/27/2024, you contributed \$350 to Rene for Portland. (ORESTAR Transaction ID 4951691.)
- c. On 07/16/2024, Rene for Portland issued you a refund in the amount of \$350. (ORESTAR Transaction ID 4970541.) This refund was issued 19 days after your last contribution to Rene for Portland.

### III. Determination

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

City Charter provides that a contributor can make and 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 (which Gonzalez is), any amount permitted by the Small Donor Elections program.<sup>2</sup>

In addition, the Auditor’s Office does not consider a contribution that is refunded or declined within seven calendar days of receipt by a candidate or candidate committee in determining whether the contributor, candidate, or candidate committee has exceeded the limits set forth above.<sup>3</sup>

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<sup>2</sup> City Charter Section 3-304.

<sup>3</sup> ARA 13.05(B).

**B. Gerlach gave unlawful contributions, which Gonzalez failed to timely refund.**

You were identified as contributing to Rene for Portland more than is permitted under Small Donor Elections program rules, and more than is permitted under the City Charter.

Under the rules of the Small Donor Elections program, a candidate can accept contributions of up to \$350 from individuals as either “allowable” or “matchable” contributions. The only other form of contribution that the candidate can accept from individuals is seed money, but that is capped at an aggregate of \$5,000.<sup>4</sup> Gonzalez reached his seed money limit on or around May 15, 2023. All but one of the contributions from you were given after this date (and the December 2022 contribution does not qualify as seed money either).

Gonzalez recorded in ORESTAR that you contributed \$250 in December of 2022, \$350 in December of 2023, and \$350 in June of 2024. This totals \$950 in contributions. Although Gonzalez issued a refund (of \$350) to you, Gonzalez did not do so within the 7-day return period that the Auditor’s Office Administrative Rule 13.05 (B) extends to candidates and contributors.

Your first contribution of \$250 was permissible under City Charter, and it was not covered one way or the other by the Small Donor Elections program rules. The next \$350 you contributed was permissible under the Small Donor Election program rules, and therefore allowed under the City Charter. Thus, the Auditor’s Office considers that your permissible contributions to Gonzalez were \$600 rather than the \$579 limit under Charter—and that \$350 of your contributions exceeded the permissible contribution limit.

However, the Auditor’s Office also finds the circumstances of your situation are unique. You submitted evidence that the Gonzalez campaign provided you misleading information that the amount you contributed in December 2022 would not count in “future reelection.” (See Ex.6 at 2). Therefore, while the corresponding violation issued on this date to Gonzalez concludes that he wrongfully accepted an excess \$350 in contributions from you, we decline to find you responsible for all \$350 of excess contributions in these circumstances. Instead, in the interest of justice (and not to be precedent setting), we will disregard the initial \$250 you contributed in assessing the excess contribution for determining the magnitude of your violation.

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<sup>4</sup> City Code Section 2.16.040 C.

Your December 2023 and June 2024 contributions combine to be \$700. Only \$350 was permissible under the Small Donor Elections program rules. The City Charter's limit of \$579 therefore sets the ceiling for what was allowable under the City's campaign finance law. The \$700 exceeds \$579 by \$121. Thus, we find the unlawful contribution for which you are responsible is **\$121** (rather than \$350).

#### **IV. The Auditor's Office assesses a penalty of \$242, which will be deposited into the City's general fund.**

The Auditor's Office concludes that the amount of unlawful contributions is a combined total \$121.

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 \$242 and \$2,420. 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 **\$242**, or 2 times the unlawful contribution (\$121), is appropriate. The Auditor's Office notes that this is the first violation for Gerlach in the current election cycle.

#### **V. Payment**

A penalty in the amount of **\$242** shall be paid to the City Auditor's Office. Payment shall be provided to the City Auditor's Office by **Monday, January 13, 2025**. Payment can be sent by mail or delivered to:

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

#### **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 recipients' 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 subjects 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 cursive script, reading "Reed Brodersen", followed by a horizontal line extending to the right.

Reed Brodersen  
Chief Deputy Auditor

CC: Seth Wooley, Complainant