



Portland City Auditor

Chief Deputy



November 13, 2024

Rene Gonzalez
P.O. Box 42307
Portland, OR 97242
By certified mail

Delivered Electronically

candidate@reneforportland.com
amy@reneforportland.com

Notice of Determination

Complaint No. 2024-09-RG

Dear Rene Gonzalez and Rene for Portland:

I. Introduction and Overview

On October 17, 2024, the Elections Division, within the Auditor's Office, received a complaint alleging that Rene Gonzalez and Rene for Portland (collectively, Gonzalez) violated Portland's campaign finance law. (Ex. 1.) The complaint, which included a detailed spreadsheet of transactions, with information downloaded from the Oregon Elections System for Tracking and Reporting database ("ORESTAR"), can be construed as raising two discrete sets of issues.

The first issue relates to contributions that Rene for Portland received after November 8, 2022, and before December 23, 2022, that the complaint contends, when combined with contributions from the same contributors that occurred on or after December 23, 2022, exceeds the amount permitted by the City's campaign finance law.

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portland.gov/auditor
503-823-2767

The second issue relates to transactions on or after December 7, 2023,¹ that, individually or in the aggregate with other transactions from the same contributor during the election cycle, allegedly exceed the amount permitted under the City's campaign finance law and were partially refunded.² Refunds occurred on March 9, July 16, October 18, and November 4, 2024, and occurred anywhere from 31 to 223 days after their respective contributions.

After receiving the complaint, the Auditor's Office conducted an investigation, as detailed below. The Auditor's Office determines Gonzalez **did not violate** the City's campaign finance law with respect to the first issue. But the Auditor's Office determines Gonzalez **did violate** the City's campaign finance law with respect to the second issue and issues **a civil penalty of \$9,180.**

II. The Auditor's Office conducted a complete investigation of this matter and Gonzalez cooperated with the investigation.

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 Gonzalez on October 28, 2024. Gonzalez responded to the complaint on November 5, 2024. (Ex. 3.) On the issue of belated refunds, Gonzalez stated that refunding contributions was a manual process and that donation overages were refunded as soon as identified. (Ex. 3 at 2.) Gonzalez also followed up with additional information. (Ex. 4.) The Auditor's Office further received additional responses to the complaint as follows, and which are addressed in Exhibit 2:

¹ 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.

² One contributor, Kurt Ruttum, is excluded from this group and only discussed here and in Exhibit 2. Ruttum's first contribution, given on April 20, 2023, precedes the December 7, 2023, date and was given during the period Gonzalez was raising seed money. The Auditor's Office cannot rule out that this was a seed money contribution. If it was, this would mean Ruttum was allowed to give an additional \$350 to Gonzalez as a separate allowable or matchable contribution. Ruttum did give a second contribution of \$350 on January 25, 2024. (Ex. 2 at 6.) The Auditor's Office lacks evidence to find Ruttum's second contribution violated the City's campaign finance law, and thus excludes Ruttum's contributions from the analysis.

- Wendy Gerlach responded on October 31, 2024. (Ex. 6.)
- David Angeli responded on November 3, 2024. (Ex. 7.)
- David Pollock responded on November 5, 2024. (Ex. 8.)
- William Cornog responded on November 6, 2024. (Ex. 9.)
- Kurt Ruttum responded on November 6, 2024. (Ex. 10.)
- Al Jubitz responded on behalf of Nancy Jubitz on November 8, 2024. (Ex. 11.)

After reviewing submitted responses and ORESTAR transactions, the Auditor’s Office made findings as to the contributors and transactions related to Issue No. 1 and Issue No. 2 (as defined below). These are addressed below and in Exhibit 2.

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.³

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.⁴

The complaint, and the spreadsheet of Rene for Portland’s campaign finance transactions (populated with ORESTAR data) that the complainant submitted to the Auditor’s Office identified two overarching sets of issues, discussed separately below.

B. All the Issue No. 1 transactions were lawful contributions.

1. Factual background to Issue No. 1.

The complaint identified a series of 32 separate sets of transactions that allegedly met the following criteria: 1) a contributor made at least one contribution after November 8,

³ City Charter Section 3-304.

⁴ ARA 13.05(B).

2022, and before December 23, 2022 (Time Window 1); 2) the same contributor made at least one additional contribution between December 7, 2023, and October 25, 2024 (Time Window 2); 3) together, the contributions on a per-contributor basis in Time Window 1 plus Time Window 2 exceed \$579.

With the exception of transactions related to two contributors (whom the Auditor's Office analyzes with other "Issue No. 2" contributors), these transactions are excerpted at Exhibit 12 to this document. This Determination refers to these transactions as the "Issue No. 1" transactions. The Auditor's Office has confirmed the relevant data supplied by complainant related to the Issue No. 1 transactions accurately reflects what Gonzalez reported in ORESTAR. Moreover, Gonzalez's response to the complaint does not dispute the accuracy of the ORESTAR transactions. (Ex. 3.)

2. Determinations for Issue No. 1.

The Auditor's Office concludes that all of the Issue No. 1 transactions were permissible under the City Charter's campaign finance limits.

a. All of the transactions in Issue No. 1 were permissible contributions, as each contribution that put the contributor over the Charter limits was allowed by the Small Donor Elections program.

For all the Issue No. 1 transactions, the following is true: 1) a contributor contributed less than \$579 to Gonzalez in Time Window 1; 2) the same contributor also contributed no more than \$350 to Gonzalez in Time Window 2; and 3) the total of the transactions in Time Window 1 and Time Window 2 exceeds \$579. (Exhibit 12⁵.) \$579 is the stated amount that a contributor may contribute, and a candidate may receive, per election

⁵ One contributor, Nancy Jubitz, merits further discussion. In ORESTAR, Jubitz appeared to have made two \$500 contributions to Gonzalez on December 20, 2022, with an apparent result of \$1,000 contributed to Gonzalez in Time Window 1. (Exhibit 12.) However, Al Jubitz, the husband of Nancy Jubitz, responded to the complaint and clarified that one of the December 20, 2022, contributions of \$500 was in fact his contribution to Gonzalez (i.e., the Jubitzes contend that Gonzalez inaccurately recorded their contributions). The result of this correction is that Nancy Jubitz becomes similarly situated to the other Issue No. 1 contributors, as Nancy Jubitz's contributions in Time Window 1 did not exceed \$579 and the contributions in Time Window 2 did not exceed \$350. Gonzalez has since amended the transaction in ORESTAR to reflect only one contribution of \$500 on December 20, 2022, designated for Nancy Jubitz. (Ex. 13.)

cycle under the City Charter’s contribution limits.⁶ The relevant election cycle for purposes of determining contribution limits under Charter is November 9, 2022, through November 5, 2024.⁷

Thus, a hypothetical contributor who gave Gonzalez \$500 on December 20, 2022, and another \$350 on January 1, 2024 — a total of \$850 in the election cycle — would, at first glance, appear to be in excess of the Charter limits in the 2022-2024 election cycle by \$271 (\$850 minus \$579). However, the analysis is not that simple, because the City Charter’s campaign finance provisions also provide that contributors can make, and candidates can receive, “any amount” that the system allows a candidate participating in the Small Donor Elections program to receive.⁸

Gonzalez is a participating candidate in the Small Donor Elections program. He filed his (initial) Notice of Intent to Participate in Portland’s Small Donor Elections Program (“Notice of Intent”) on December 7, 2023, and his 2024 Certification Application on July 22, 2024. The Small Donor Elections program code and rules expressly allow participating candidates to raise funds — in the form of “allowable” contributions, seed money, and in-kind contributions — during the period from when the Small Donor Elections program’s election cycle began (December 23, 2022, for the 2022-2024 cycle) through the filing of a notice of intent.⁹ When combined together, these contributions can exceed the amount a single contributor is permitted to give a candidate under City Charter.¹⁰ It is therefore necessary to assess whether a candidate became a participating candidate under the Small Donor Elections program in determining if contributions received early in the cycle ultimately violate the City’s Charter.¹¹

The contributors listed in Exhibit 12 did not give more than \$579 in Time Window 1, which is not governed by the Small Donor Elections program’s rules. Under the Small Donor Elections program rules, contributors were allowed to contribute up to \$350 each

⁶ See Charter Section 3-301(a)-(b)(1), as adjusted for inflation pursuant to Charter Section 3-306 and Appx. A for ARA 13.

⁷ ARA 13.02(J).

⁸ See Charter Section 3-304.

⁹ City Code Section 2.16.040 G.; Small Donor Elections Administrative Rule 3(A), (O).

¹⁰ A candidate can, for example, receive a seed money contribution of \$500 and an allowable contribution of \$350 from the same person before filing a notice of intent to participate in the Small Donor Elections Program. (City Code Section 2.16.040 G.)

¹¹ In addition, after the filing of a notice of intent, a candidate can receive eligible contributions for future City matching, or “matchable” contributions. After the candidate files an application for certification (to unlock matching funds), the candidate can no longer raise seed money but can continue to raise other forms of funds.

to Gonzalez during Time Window 2 — whether the contribution was classified as a “matchable” or “allowable” contribution under the program’s rules, and regardless of whether the candidate had raised money in the 45-day window before December 23, 2022.¹² Thus, a contribution of up to \$350 in Time Window 2 is an amount that the Small Donor Elections program “allows” and is therefore an allowable contribution under the City’s Charter. Because it is separately allowable (i.e., it is allowable under Small Donor Elections program rules, and thus a permissible form of contribution under the City Charter’s limits), Gonzalez did not run afoul of Charter for the transactions in Exhibit 12.

There is, admittedly, a loophole here that the Gonzalez campaign made use of, but it is a legal one. Because the Small Donor Elections program has a gap in its “election cycle” window — namely, the 45 days after an election — there was a 45-day window after the November 2022 election where Gonzalez could raise money unencumbered by the Small Donor Election’s program rules (for the 2020-2022 election cycle or the 2022-2024 election cycle). The Charter’s limit (\$579) fills this gap, so fundraising is not unlimited, but once the Small Donor Elections program’s elections cycle began again (December 23, 2022), the question is whether any amount raised under that program is allowable. If it is, it is considered an allowed contribution under Charter.

For the contributors in Exhibit 12, the Auditor’s Office concludes that the contributors’ second-in-time contribution was permissible under the City Charter. \$350 was an amount that Gonzalez was allowed to take from the contributors in Exhibit 12 under the Small Donor Election program’s rules, regardless of the fact they had given in Time Window 1. Thus, the contributions in Time Window 1 and the contributions in Time Window 2 were permissible contributions, individually or in the aggregate.

The complainant’s argument appears to be that because the first contribution for all contributors in Exhibit 12 was in Time Window 1, which was in the 45-day period where Small Donor Election’s program’s rules do not apply to candidates, the amount is not expressly “allowable” under the Small Donor Elections program’s rules and thus the amounts in Time Window 1 and Time Window 2 should be aggregated and compared against the Charter limit of \$579. We disagree. We think the relevant question is not whether the first contribution was “allowed” under Small Donor Elections program’s

¹² A candidate can collect \$350 in matchable contributions after filing a notice of intent to participate in the Small Donor Elections program. (See City Code Section 2.16.040 F., G.) It appears the Time Window 2 contributions are intended to be matchable contributions. In the alternative, because there was no other contribution after the Small Donor Elections program’s election cycle began on December 23, 2022, they could also be considered permissible allowable contributions. See City Code Section 2.16.040 F.

rules, which do not apply to the period in Time Window 1, but whether the latter contribution (in Time Window 2) was allowed. The latter contribution is what tips the contributor over Charter’s limits, and thus the one that deserves scrutiny in this situation where it is undisputed that the initial contribution was under \$579 and thus permitted by Charter.¹³

To take a starker example, suppose a political committee that qualifies as a “small donor organization” under the Small Donor Elections program rules had given Gonzalez \$500 on December 20, 2022. Without more, this would be permissible under Charter’s limits. Let’s further imagine, however, that this same committee gave Gonzalez an in-kind contribution during June 2024 valued at \$10,000. A small donor organization can make in-kind contributions valued at no more than \$10,000 per election. The complainant’s logic would seem to require the Auditor’s Office to conclude that Gonzalez violated City Charter’s contribution limits by receiving an excess contribution of \$9,921 (the \$10,000 plus \$500 contributions combined, less the \$579 Charter limit). This result is not only contrary to the plain language of City Charter, but it would result in anomalous and unjust consequences.

While the complainant raises important questions about the loophole in the Small Donor Elections program rules that give candidates a 45-day window to fundraise unencumbered by that program’s rules — which has the perhaps unintended effect of allowing the candidate to receive more than they would be permitted to raise if they were a nonparticipating candidate in the Small Donor Elections program and also get City matching funds — this is a loophole that City Council created for participating candidates. The Auditor’s Office must enforce Charter as written, and doing so leads to a finding of no violation for the contributions listed in Exhibit 12.

b. Two contributors with contributions in Time Windows 1 and 2 are assessed as part of Issue No. 2 transactions.

We note that there are two additional contributors flagged by complainant (contributors Wendy Gerlach and Sean Moreland) who gave in Time Window 1 and Time Window 2. These are unlike the contributors discussed above (see *also* Exs. 5 and 12), however,

¹³ To be clear, this Determination is not saying that amounts that are permitted by Small Donor Elections program are ignored in the analysis of whether the Charter limits were exceeded. It recognizes, instead, that depending on the timing of certain transactions involving candidates participating in Small Donor Elections program (as well as the identity of the contributor), a candidate may be permitted to take in more than \$579 from a contributor over an election cycle. In these instances, that amount becomes the ceiling for assessing a contribution violation, not \$579.

because they gave more than \$350 in Time Window 2. They are discussed below, in connection with Issue No. 2.

C. Most contributors addressed in Issue No. 2 gave an unlawful contribution, which Gonzalez failed to timely refund.

1. Factual background for Issue No. 2.

This section addresses transactions that allegedly met the following criteria: 1) a contributor either made no contribution in Time Window 1 or made a permissible contribution (under \$579) in Time Window 1; 2) the same contributor contributed in excess of \$579 in Time Window 2; and 3) some portion of what the contributor contributed in Time Window 2 was refunded by Gonzalez, but weeks or months after the contribution was made. These transactions are excerpted in Exhibit 5. This determination refers to this group of Transactions as Issue No. 2.

Most of the transactions in Issue No. 2 were brought to the Auditor's Office's attention in the highlighting (in green) on the spreadsheet the complainant submitted, but the specific issue does not appear to be addressed in the text of the complaint. However, in looking at the highlighting, a pattern of seemingly unlawful transactions emerged, and the Auditor's Office includes them as part of this complaint (and flagged them for Gonzalez to address) given the spreadsheet calls attention to them. The Auditor's Office verified the entries in the complainant's spreadsheet are as reflected in ORESTAR.

2. Determinations for Issue No. 2.

With the exception of contributions attributed to David Angeli, the Auditor's Office finds that Gonzalez violated the City's campaign finance law by accepting, and not refunding in a timely manner, contributions that were not only in excess of what is permitted by Charter, but also in excess of what is permitted by the Small Donor Elections program rules.

With the exception of Angeli, as discussed specifically below, the contributors identified in Issue No. 2 gave Gonzalez more than was permitted under Small Donor Elections program rules. Under the rules of that 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 \$5,000.¹⁴ Gonzalez reached his seed money limit

¹⁴ City Code Section 2.16.040 C.

on or around May 15, 2023. All of the transactions identified in Exhibit 5 and that are in Time Window 2 are ones that were given after this date.

Gonzalez recorded in ORESTAR each of the individual contributors in Exhibit 5 as having given more than once and in excess of \$579 in Time Window 2. Gonzalez refunded amounts from each of the individual contributors in Exhibit 5 that exceeded \$350 (presumably to ensure he stayed within limits of the Small Donors Elections program). The amounts that the campaign took in from these individual contributors beyond \$350 were not allowed under Small Donors Elections program rules. Given this, to the extent the contributions exceeded \$579 (or a slightly higher amount for two specific cases where the contributor also gave in Time Window 1), they are not considered allowable amounts under Charter.¹⁵

Although Gonzalez issued refunds to the contributors in Exhibit 5, he did not do so within the 7-day grace period that Auditor's Office Administrative Rule 13.05(B) extends to candidates and contributors. This period is consistent with the time state law allows for refunding contributions; it also recognizes that when campaigns take in cash, hold on to it, and refund it, that has hallmark aspects of a loan. (Loans are a form of contribution that are regulated under the City's campaign finance law.¹⁶) And in fact, in the transactions identified in Issue No. 2, Gonzalez held on to the unlawful contribution for weeks, and even months in some instances, giving the campaign an opportunity to make use of the funds (essentially, giving the campaign a no-interest loan).

Below is a list of each of the Issue No. 2 contributors who gave in excess of what was permitted by Small Donor Elections program rules and Charter, and the amount that the contribution exceeds City Charter.

Contributor Name	Amount in Excess of Charter Limits¹⁷
Scot Abplanalp	\$151

¹⁵ As discussed above, the Charter does not exempt the amount permitted by Small Donors Elections program from consideration in determining if the Charter contribution limits were exceeded. Rather, the amount of an unlawful contribution will be the total contributed less the greater of (i) \$579 (Charter limit) or (ii) the amount that a candidate participating in the Small Donor Elections program may lawfully accept from a contributor, which can depend on the timing of the contribution(s) and identity of the contributor (e.g., individual, political committee, etc.).

¹⁶ See City Charter Section 3-308(e); Appx. B for ARA 13(C).

¹⁷ Unless otherwise stated, the amount of the unlawful contribution is determined by totaling the contributions given (whether or not refunded) and subtracting \$579.

William Cornog	\$471
Jeffrey Davisson ¹⁸	\$21
Wendy Gerlach ¹⁹	\$350
Brent Hutchings	\$121
Gordon Keane	\$21
Belinda Kinyon ²⁰	\$121
Frederick Kinyonb ²¹	\$121
Sean Moreland ²²	\$700

¹⁸ The Auditor’s Office finds Gonzalez was in violation of Charter by accepting contributions in excess of Charter limits from Belinda Kinyon, Frederick Kinyonb, and Jeffrey Davisson, but declines to find a corresponding violation by Belinda Kinyon, Frederick Kinyonb, and Jeffrey Davisson themselves. The reason is that while Gonzalez would have known that he had exceeded the seed money limits at the time he accepted the initial contributions from these contributors, it is not obvious that the contributors themselves would have known this. Unlike the bulk of contributors in Issue No. 2, who gave after Gonzalez filed his notice of intent and was seeking “matchable” contributions of up to \$350 from contributors, these contributors made their first contribution to Gonzalez before he announced his candidacy and they may, in good faith, have thought they were giving seed money contributions. Gonzalez is differently situated as he knew how much money he had raised at the time of these contributions.

¹⁹ Gerlach made a permissible contribution of \$250 in Time Window 1. However, in Time Window 2, Gerlach contributed an additional \$700, of which \$350 has been refunded outside of the return window. Gerlach therefore contributed a total of \$950. As discussed above (in connection with Issue No. 1), the first \$250 was permissible under Charter and not covered by the Small Donor Elections program rules. The next \$350 was likewise permissible. Thus, the Auditor’s Office considers that Wendy Gerlach’s permissible contributions were \$600 rather than \$579.

²⁰ See footnote 18, above.

²¹ See footnote 18, above.

²² Moreland made a permissible contribution of \$500 in Time Window 1. However, in Time Window 2, Moreland contributed an additional \$1050, of which \$700 has been refunded outside of the return window. Moreland therefore contributed a total of \$1,550. As discussed above, the first \$500 was permissible under Charter and not covered by the Small Donor Elections program rules. The next \$350 was likewise permissible. Thus, the Auditor’s Office considers that Sean Moreland’s permissible contributions were \$850, rather than \$579.

Sean Ostler	\$21
David Pollock	\$121
Sergio Zepeda	\$841
TOTAL	\$3,060

In total, the unlawful contributions in Issue No. 2 sum to **\$3,060**.

There is one contribution in Issue No. 2 that appears from what Gonzalez filed on ORESTAR to be unlawful, but the contributor clarified it was not. This is the set of transactions attributed to David Angeli. Angeli provided evidence that the first contribution was made by his wife, and the second contribution was made by him. Gonzalez acknowledged Angeli’s clarification in its own response and stated that it “mistakenly refunded” Angeli’s contribution. (Ex. 3.) The Auditor’s Office does not include this in the list of unlawful contributions in Issue No. 2.

IV. The Auditor’s Office assesses a penalty of \$9,180, payable by Gonzalez, which will be deposited into the City’s general fund.

The Auditor’s Office concludes that the amount of unlawful contributions in Issue No. 1 and Issue No. 2 combined total \$3,060.

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 \$6,120 and \$61,200. 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 **\$9,180**, or 3 times the unlawful contribution (\$3,060), is appropriate. The following aggravating factors justify the increase in fine from the minimum mandatory fine of two times the unlawful contribution:

- **Budget and resources:** Gonzalez was well resourced, having received full matching funds (\$100,000) from the Small Donor Elections program, and having raised more in campaign contributions than most other competing candidates for Portland mayor.
- **Repeated and continuous violation:** Gonzalez issued 17 refunds that were outside the return window and occurred on various dates, indicating there was

opportunity to identify and correct course on the issue of belated refunds. The evidence indicates this was not done.

V. Payment

A penalty in the amount of \$9,180 shall be paid (by Rene for Portland) 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,



Reed Brodersen
Chief Deputy Auditor

CC: Seth Wooley, Complainant