



ADMINISTRATIVE SANCTION – PROPOSED PENALTY

September 20, 2022

Rene Gonzalez
Rene for Portland
1010 SW 11th Avenue
Portland, OR 97205

Dear Mr. Gonzalez:

The City's Small Donor Elections program received information from the Auditor's office that it accepted as a tip about a possible violation and conducted an investigation.

I. VIOLATION

The City of Portland's Small Donor Elections program has determined that your campaign has violated the following program requirements:

- A. The campaign received prohibited contributions of discounted office space, valued at \$33,250 for the months of May through September of 2022. Candidates participating in the Small Donor Elections program must comply with program contribution limits (PCC 2.16.040D-E). This is subject to a penalty equal to the amount of the prohibited contribution, and the campaign must pay the contributor an amount equal to the prohibited contribution (Small Donor Elections Administrative Rule 18G2¹).
- B. *In the alternative*, the campaign received in-kind contributions over the limit of discounted office space, valued at \$33,250 for the months of May through September of 2022. Candidates participating in the Small Donor Elections program must comply with program in-kind contribution limits (PCC 2.16.040D-E, Small Donor Elections Administrative Rule 6C). This is subject to a penalty of three times the amount over the limit (Small Donor Elections Administrative Rule 18J2ii).
- C. The campaign failed to report the discounted office space for May through July as a contribution in the required reporting timeline (PCC 2.16.140C). These are subject to a penalty of one percent of the transaction amount per calendar day, limited by a cap of 50 percent of the transaction amount (Small Donor Elections Administrative Rule F2).
- D. The campaign failed to report the discounted office space for August as a contribution in the required reporting timeline (PCC 2.16.140C). This is subject to a penalty of one half of one percent of the transaction amount per calendar day (Small Donor Elections Administrative Rule D2).

¹ The Small Donor Elections Administrative Rules can be found at https://www.portland.gov/sites/default/files/2022/2022-small-donor-elections-administrative-rules-as-of-feb-15-2022_2.pdf.



II. FINDINGS OF FACT COMMON TO ALL VIOLATIONS

The Small Donor Elections office reviewed the Rene for Portland campaign’s account relating to the leasing of and payment for the space, reviewed relevant evidence, and made the following conclusions as the basis for this determination and penalty.

A. The lease agreement.

1. The campaign arranged to lease office space from Schnitzer Properties Management LLC in late April 2022. **Exhibit A.**
2. The term of the lease agreement is May 1, 2022 through November 30, 2022, though either party may terminate the agreement with 30 days of notice. **Exhibit B.**
3. The rent being charged is \$250 per month. The tenant is responsible for the utilities. The leased space comes with two unassigned parking spaces in an adjacent lot at 1125 SW Main Street. **Exhibit B.**
4. The leased space is “approximately 3,185 rentable square feet of office space” located at 1010 SW 11th Avenue in Portland, Oregon. **Exhibit B.**
5. The broker listed on the online advertisement said the space is “currently occupied,” not partially open to renting. **Exhibit C.**
6. As of August 22, 2022, there were campaign signs in all windows of the 1st floor of the building. **Exhibit D.**

B. Rent issues.

1. Rent is due on the first of the month. **Exhibit E.**
2. According to the campaign and reporting from the campaign to the Small Donor Elections program, the campaign paid rent and utilities for May, June, July, August, and September as follows:
 - a. On May 23, 2022, \$1,580 (\$250 rent for May, \$250 rent for June, \$540 for utilities in May, \$540 for utilities in June), and
 - b. On July 21, 2022, \$790 (\$250 rent for July, \$540 for utilities for July),
 - c. On August 12, 2022, \$790 (\$250 rent for August, \$540 for utilities for August).

C. Fair market value of leased space.

1. The online advertisement for the space, including two parking spots, is \$26 per square foot annually (\$82,810, or approximately \$6,900 per month). **Exhibit F.**
2. The fair market value for the two parking spaces alone is more than the \$250 charged in monthly rent. A similar parking lot (surface, unassigned, adjacent to the leased building) rents two monthly spaces for \$460. **Exhibit G.**
3. Rene Gonzalez stated in an August 15, 2022 letter to the program that they received the office space at a discount: “Of note – there is substantial office vacancy downtown and tenants are routinely getting multiple months of rent free when signing long-term leases. Because we rented month-to-month, we availed ourselves of lower monthly rent (instead of getting months of free rent).” **Exhibit A.**



4. Research into the commercial real estate market conducted by the office of Small Donor Elections determined that significant discounts on commercial real estate for lease terms of less than one year are not generally available to the public.

Though campaigns may accept discounts that are available to the general public, a campaign accepting a discount not available to the general public constitutes contribution of the difference between the fair market value and the amount paid. Paying \$250 month in rent for the 3,185 square feet at 1010 SW 11th Ave with two parking spaces, when the advertised fair market value is \$6,900 per month, constitutes a 96.37% discount. The City concludes that all 96.37% of the discount is not available to the general public and therefore a contribution that violates program requirements.

III. PENALTY

Under the authority vested in it by PCC 2.16.160 and Small Donor Elections Administrative Rule 18, the City of Portland's Small Donor Election's program hereby assesses the following civil penalties against Rene for Portland.

- A. For the prohibited contributions of discounted office space, valued at \$33,250 for the months of May through September of 2022, the campaign must both:
 - i) Pay a penalty to the Small Donor Elections Fund of \$33,250, the amount equal to the prohibited contributions (Small Donor Elections Administrative Rule 18G2); and
 - ii) Pay the contributor \$33,250, the amount equal to the prohibited contributions (Small Donor Elections Administrative Rule 18G2).
- B. For the failure to report the discounted office space for May through July in the required reporting timeline (PCC 2.16.140C), the campaign must pay a penalty of \$9,975, one percent of the transaction amount per calendar day, capped of 50 percent of the transaction amount (Small Donor Elections Administrative Rule F2).
- C. For the failure to report the discounted office space for August in the required reporting timeline (PCC 2.16.140C), the campaign must pay a penalty of \$665, one half of one percent of the transaction amount per calendar day (Small Donor Elections Administrative Rule D2).

In the interest of fairness, the City finds that the acceptance of discounted office space was only one type of violation, and concludes each qualifies as a prohibited contribution. If the finding that these are prohibited contributions is appealed and found not to have occurred, the City concludes these are accepting in-kind contributions over the limit and the penalty of \$99,750 for accepting in-kind contributions over the limit will apply (Small Donor Elections Administrative Rule 18J2ii).

IV. CALCULATION OF PENALTY

The following table outlines when rent was due, the fair market value of the rent, the amount of rent paid, the amount of each prohibited contribution, when it was due to be reported, how many days have elapsed



between today and when the report was due, the penalty for failing to report the prohibited contribution on time, the penalty for the prohibited contribution, and the amount that must be returned to the contributor.

Rent Due	Fair Market Value of Rent	Rent	Amount of Prohibited Contribution or In-Kind Over Limit	Report Due	Days Since Report Due	Reporting Penalty	Prohibited Contribution Penalty	In-Kind Over Limit Penalty	Return to contributor
5/1/2022	\$6,900	\$250	\$6,650	May 9, 2022	133	\$3,325 (1%/day, 50% cap)	\$6,650	\$19,950	\$6,650
6/1/2022	\$6,900	\$250	\$6,650	July 1, 2022	80	\$3,325 (1%/day, 50% cap)	\$6,650	\$19,950	\$6,650
7/1/2022	\$6,900	\$250	\$6,650	July 31, 2022	50	\$3,325 (1%/day, 50% cap)	\$6,650	\$19,950	\$6,650
8/1/2022	\$6,900	\$250	\$6,650	August 31, 2022	20	\$665 (0.5%/day)	\$6,650	\$19,950	\$6,650
9/1/2022	\$6,900	\$250	\$6,650	October 1, 2022	-	-	\$6,650	\$19,950	\$6,650
Total	\$34,500	\$1,250	\$33,250	-	-	\$10,640	\$33,250	\$99,750	\$33,250

V. CURE

The cure period has lapsed for all violations except the prohibited contribution for September’s rent. The campaign may cure the violation within the cure period by paying \$6,650, the remaining fair market value of rent, to Schnitzer Properties Management LLC by the October 7 cure deadline and reporting it as an expenditure (Small Donor Elections Administrative Rule 18G1). If the campaign does this, the City will reduce the \$33,250 penalty for accepting prohibited contributions by \$6,650 to a \$26,600.

VI. PAYMENT OF PENALTY

You may mail penalty payment to Small Donor Elections at 1221 SW 4th Avenue, Room 220, Portland, OR 97204. If you prefer to drop off the payment, you may drop it off at the front desk of the Portland Building at 1120 SW 5th Avenue during City business hours.

Please make checks or money orders out to “City of Portland” and indicate “Small Donor Elections Fund” in the memo space.

All penalties are due within seven business days of becoming final (Small Donor Elections Administrative Rule 18S6):

- If you do not file a Request for Reconsideration, that will be October 4, 2022;
- If you file a Request for Reconsideration but not an appeal, that will be seven business days after the response to the Request for Reconsideration; and



- If you file an appeal, that will be seven business days after the date that the appeal is resolved.

VII. PREVENTING FURTHER INFRACTIONS

To prevent further infractions, the campaign should immediately report all contributions related to the leasing of this space and pay the fair market value of rent for this space through the end of the lease agreement, or until it is altered according to both the current lease's terms and what would be available to the general public.

VIII. RIGHT TO APPEAL

If you disagree with this determination, you may submit a completed Request for Reconsideration form² within seven calendar days of the date of this letter (PCC 2.16.170D(3)). If you can provide evidence that Schnitzer Property Management has offered members of the general public (to whom no special favor was being granted) discounted rent in similar circumstances to yours, I would be happy to review the evidence and, if appropriate, reduce the amount of the penalty.

If you disagree with the City's response to your Request for Reconsideration, you will have the right to file an appeal within seven calendar days of the date of the City's response (PCC 2.16.170E(1)(b)).

As always, if you wish to confirm that the actions you plan to take will be in compliance with the requirements of the Small Donor Elections Code and Administrative Rules, including curing the violation and preventing future infractions, please do not hesitate to contact our office. We are happy to answer your questions.

Sincerely,

Susan Mottet
Director | Small Donor Elections | City of Portland
503.823.4345 | susan.mottet@portlandoregon.gov
1221 SW 4th Avenue, Room 220, Portland, OR 97204

See attached exhibits:

Exhibit A: Letter from Rene Gonzalez to the Small Donor Elections program

Exhibit B: Lease agreement

Exhibit C: Transcript of voicemail from listing broker

Exhibit D: Images of campaign signs in all windows on the first floor of the entire building

Exhibit E: Invoice for July and August rent

Exhibit F: Online advertisement for the office space

Exhibit G: Online advertisement for monthly parking of a similar parking lot adjacent to 1010 SW 11th (citycenterparking.com)

² You can find the form at <https://www.portland.gov/smalldonorelections/documents/2022-request-reconsideration>.