

**STATE OF MINNESOTA
CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD**

ORDER OF DISMISSAL

IN THE MATTER OF THE COMPLAINT OF MATTHEW SULLIVAN REGARDING TAKEACTION MINNESOTA,
THE TAKEACTION POLITICAL FUND, AND THE TAKE ACTION PAC

On December 26, 2022, the Campaign Finance and Public Disclosure Board received a complaint submitted by Matthew Sullivan regarding the TakeAction Political Fund and the Take Action PAC. The TakeAction Political Fund is an independent expenditure political fund assigned Board registration number 30636 and its supporting association is TakeAction Minnesota, a 501(c)(4) nonprofit corporation. The Take Action PAC is a political committee assigned Board registration number 70026 and it receives administrative assistance from TakeAction Minnesota.

The complaint included a screenshot of a Federal Election Commission (FEC) webpage depicting the following 12 disbursements totaling \$713,108.87 reportedly made during the years 2019 through 2022:

- \$368,000 on 4/7/2022 from People’s Action Power, described as “donation”
- \$5,000 on 11/10/2021 from Inspiring Leadership Has A Name PAC described as “sponsorship”
- \$25,000 on 11/1/2021 from the WFP Justice Fund described as “contribution”
- \$1,000 on 11/1/2021 from the WFP Justice Fund described as “contribution”
- \$200,000 on 10/26/2020 from People’s Action Power described as “contribution”
- \$75,000 on 9/30/2020 from MoveOn.org Political Action described as “contribution”
- \$15,000 on 6/9/2020 from MoveOn.org Political Action described as “contribution”
- \$465.12 on 4/30/2020 from Bernie 2020 described as “rent/utilities/internet”
- \$500 on 12/8/2019 from Antone for Congress described as “event sponsorship”
- \$1,000 on 11/20/2019 from Bernie 2020 described as “event tickets”
- \$10,000 on 11/4/2019 from Ilhan for Congress described as “donation”
- \$12,143.75 on 1/31/2019 from MoveOn.org Political Action, to the TakeAction Minnesota Education Fund, described as “progressive orgs gen contributions”.¹

The complaint stated that those payments did not appear within the reports of receipts and expenditures of the TakeAction Political Fund or the Take Action PAC, and “[i]nstead, all donations . . . are listed as ‘in-kind’ despite the fact that these expenses cannot, practically speaking, be ‘in-kind’.” The complaint alleged that by failing to accurately disclose their contributors, the TakeAction Political Fund and the Take Action PAC violated Minnesota Statutes section 10A.20, subdivision 3, paragraph (c).

¹ Other disbursements reportedly made to the “TakeAction MN Federal Fund” are not addressed herein because that is a federal committee registered with the FEC: fec.gov/data/committee/C00738815.

On January 9, 2023, the Board's chair determined that the complaint stated a prima facie violation of the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3, by the TakeAction Political Fund. The Board's chair determined that the complaint did not state a prima facie violation by the Take Action PAC.

On January 24, 2023, TakeAction Minnesota's legal counsel, Brian Dillon, provided a written response to the complaint. TakeAction Minnesota stated that it

did not receive any of the donations at issue for the purpose of making independent expenditures or for advocating in connection with a particular election or ballot question, and it did not spend any of the donated funds on independent expenditures or ballot question advocacy. For these reasons, TakeAction properly treated each of these donations as "general treasury money" and not as contributions to the Fund.

TakeAction Minnesota stated that the payments it received from the Inspiring Leadership Has A Name PAC, Antone for Congress, and Ilhan for Congress, and the \$1,000 payments it received from the WFP Justice Fund and Bernie 2020, were for sponsorship of TakeAction Minnesota's annual "People's Celebration" event. TakeAction Minnesota explained that the event is held in December, "provides an opportunity to showcase TakeAction's work during the prior year and fundraise for its general purposes," and is not "intended to influence an election or ballot question." TakeAction Minnesota stated that these donations were made "without any restrictions or earmarks, aside from TakeAction's agreement to recognize its sponsors at the People's Celebration event." TakeAction Minnesota asserted that because the donations "were not made for the purpose of making independent expenditures or advocating in connection with a particular election or ballot question, they were properly treated by TakeAction as general treasury money."

TakeAction Minnesota stated that the \$25,000 payment it received from the WFP Justice Fund was made with "no written agreement or other document imposing any restriction on TakeAction's use of the funds or requiring TakeAction to report to WFP Justice Fund about how the funds were used." TakeAction Minnesota asserted that the donation "was properly treated by TakeAction as general treasury money."

TakeAction Minnesota explained that the \$465.12 payment it received from Bernie 2020 was a rent payment, as indicated by the screenshot included with the complaint. TakeAction Minnesota stated that "[t]he payment reflects the fair market value of Duluth office space that TakeAction rented to the Sanders Campaign for a short period of time in 2020."

TakeAction Minnesota asserted that none of the three payments reportedly made by MoveOn.org Political Action were contributions to the TakeAction Political Fund. TakeAction Minnesota explained that the \$75,000 payment "was made for the purpose of supporting work to defeat a federal candidate" and was not a contribution to the TakeAction Political Fund (emphasis in original). TakeAction Minnesota provided a copy of a letter from TakeAction

Minnesota to MoveOn.org Political Action stating that the \$75,000 donation would be used for efforts to defeat President Donald Trump. TakeAction Minnesota asserted that the \$12,143.75 payment from MoveOn.org Political Action was a donation to the TakeAction Minnesota Education Fund, which “is a charitable organization that is organized under Section 501(c)(3) of the Internal Revenue Code. It does not engage in any activities that are intended to influence elections, and the charitable donations it receives are not reportable to the Board.” TakeAction Minnesota stated that it had no record of receiving the \$15,000 payment and that it “appears to reflect a reporting error made by MoveOn.org Political Action.” Counsel for MoveOn.org Political Action stated that the \$15,000 payment was a grant to the TakeAction Minnesota Education Fund and the July 2020 quarterly FEC report of MoveOn.org Political Action was later amended accordingly.²

TakeAction Minnesota stated that the \$200,000 payment received in 2020 from People’s Action Power, a hybrid PAC registered with the FEC,³ was a donation to the TakeAction MN Federal Fund, which “reported it to the FEC as such.”⁴ TakeAction Minnesota explained that “[b]ecause this payment had nothing to do with Minnesota elections or ballot questions, it was not reported as a contribution to the” TakeAction Political Fund. The reports filed with the FEC by the TakeAction MN Federal Fund reflect that all of its 2020 expenditures were related to federal campaign activity.⁵

TakeAction Minnesota stated that the \$368,000 payment, received in April 2022 from People’s Action Power, was made

to help TakeAction build its network of members and inform the organization’s advocacy work leading up to the 2022 election. Although indirectly related to the election, this donation was not earmarked for independent expenditure activity, and the funds were not spent to pay for independent expenditures or ballot question advocacy.

...

TakeAction spent these funds on efforts to develop key leaders, to train and mobilize its members, and to engage in general outreach activities that TakeAction believed would inform and amplify the organization’s overall campaign strategies in 2022. Because the funds were not earmarked for or actually spent on independent expenditures or a ballot question campaign, the donation was properly treated by TakeAction as general treasury money.

TakeAction Minnesota provided a copy of an agreement between People’s Action Power and TakeAction Minnesota regarding the \$368,000 payment. The agreement stated that the “funds

² The transaction appears on page 4631 of the amended FEC report, available at docquery.fec.gov/pdf/392/202302089578190392/202302089578190392.pdf.

³ The FEC reports of People’s Action Power are available at fec.gov/data/committee/C00738237.

⁴ This payment was reported to the FEC as a receipt on page 8 of the TakeAction MN Federal Fund’s post-general 2020 report (amendment 1), available at docquery.fec.gov/pdf/583/202101299413866583/202101299413866583.pdf.

⁵ A detailed summary of the TakeAction MN Federal Fund’s 2020 expenditures is available at docquery.fec.gov/cgi-bin/forms/C00738815/1493275/#DETAILED.

will be spent to support TakeAction Minnesota's efforts to participate in a strategy to flip the State Senate and protect the State House majority from February to November of 2022."⁶ TakeAction Minnesota stated that "[t]o the extent the complainant or the Board are interested in the original sources of funds that were contributed to People Action Power, the organization has publicly identified its donors in its FEC reports."

The Board considered this matter at its meeting on February 8, 2022. Mr. Sullivan appeared before the Board. Mr. Dillon appeared before the Board via Webex on behalf of TakeAction Minnesota. The Board determined that with the exception of the \$368,000 payment from People's Action Power, the evidence in the record did not support the conclusion that any of the 12 payments identified in the complaint were contributions to the TakeAction Political Fund or to the Take Action PAC.

A political fund is

an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or local candidates or to promote or defeat a ballot question. The term political fund as used in this chapter may also refer to the association acting through its political fund.

Minn. Stat. § 10A.01, subd. 28. Money given to a political fund is a contribution and "[a]n allocation by an association of general treasury money to be used for activities that must be or are reported through the association's political fund is considered to be a contribution for the purposes of disclosure required by this chapter." Minn. Stat. § 10A.01, subd. 11. General treasury money is

money that an association other than a principal campaign committee, party unit, or political committee accumulates through membership dues and fees, donations to the association for its general purposes, and income from the operation of a business. General treasury money does not include money collected to influence the nomination or election of candidates or local candidates or to promote or defeat a ballot question.

Minn. Stat. § 10A.01, subd. 17c. The agreement between People's Action Power and TakeAction Minnesota required TakeAction Minnesota to spend \$368,000 on efforts to "flip the State Senate and protect the State House majority from February to November of 2022." The 2022 year-end report of the TakeAction Political Fund did not include the \$368,000 payment from People's Action Power, and included a total of \$105,067.33 in expenditures made regarding state-level candidates, all of which were independent expenditures. TakeAction Minnesota stated that none of the funds from People's Action Power were used to make independent expenditures, and that those funds instead were

⁶ This payment was reported to the FEC as a disbursement on page 11 of People's Action Power's June monthly 2022 report, available at docquery.fec.gov/pdf/101/202206209515037101/202206209515037101.pdf.

used for “efforts to develop key leaders, to train and mobilize its members, and to engage in general outreach activities that TakeAction believed would inform and amplify the organization’s overall campaign strategies in 2022.” Therefore, the Board found that there was reason to believe that certain campaign expenditures made using the donation from People’s Action Power in 2022 were not disclosed to the Board.

Also, the TakeAction Political Fund filed 17 underlying source disclosure statements with the Board pertaining to a total of \$229,028.22 in contributions received during the period from September 3, through November 8, 2022. Each of those statements identified TakeAction Minnesota as the contributor and included a single itemized underlying source of funding, “People’s Action Power PAC.” For the foregoing reasons the Board determined that there was probable cause to believe that TakeAction Minnesota violated the reporting requirements within Minnesota Statutes section 10A.20, subdivision 3, and the disclosure statement requirements within Minnesota Statutes section 10A.27, subdivisions 13-16.

Following the Board’s probable cause determination, Board staff communicated with TakeAction Minnesota’s legal counsel to pursue a mutually satisfactory resolution. On April 14, 2023, TakeAction Minnesota filed an amended 2022 year-end report for the TakeAction Political Fund that includes a \$368,000 monetary contribution from People’s Action Power, and recharacterizes previously reported in-kind contributions received and in-kind independent expenditures made as monetary independent expenditures made by the fund. TakeAction Minnesota stated that in 2022 it did not make any campaign expenditures, as that term is defined by Minnesota Statutes section 10A.01, subdivision 9, aside from those that have been disclosed by the TakeAction Political Fund and the Take Action PAC. TakeAction Minnesota also provided the Board with an underlying source disclosure statement for the \$368,000 contribution, which consists of an email containing links to the FEC reports of People’s Action Power covering the period from January 1 through April 7, 2022, pursuant to Minnesota Statutes section 10A.27, subdivision 13.

Based on the amended report and disclosure statement, which remedy the foregoing issues, the Board concludes that no further investigation or action is warranted.

Order

The investigation of this matter is dismissed and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.



George W. Soule, Chair
Campaign Finance and Public Disclosure Board

Date: April 26, 2023