

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

**PROBABLE CAUSE
DETERMINATION**

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. On January 1, 2023, the Board received another complaint submitted by Mr. Sullivan regarding the TakeAction Political Fund and TakeAction Minnesota. 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.¹ The Take Action PAC is a political committee assigned Board registration number 70026 and it receives administrative assistance from TakeAction Minnesota.

On January 9, 2023, the Board's chair determined that the complaint received on January 1, 2023, did not state a prima facie violation and thereby dismissed the allegations asserted in that complaint. Subsequent references to the complaint herein concern the complaint received on December 26, 2022.

The complaint includes what appears to be 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"

¹ TakeAction Minnesota's EIN is 20-3338691 and its corporate registration information is available at mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=1971c930-8cd4-e011-a886-001ec94ffe7f.

- \$12,143.75 on 1/31/2019 from MoveOn.org Political Action, to the TakeAction Minnesota Education Fund, described as “progressive orgs gen contributions”.²

The complaint states that those payments do not appear within the reports 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’.”³ The complaint alleges that TakeAction Minnesota has “repeatedly and intentionally concealed the source of their funds from Minnesotans by listing all of their donations as ‘In-Kind’ . . .” The complaint alleges that by failing to accurately disclose their contributors, the TakeAction Political Fund and the Take Action PAC each violated Minnesota Statutes section 10A.20, subdivision 3, paragraph (c). The complaint alleges that “this is clearly a meticulous effort to hide the source of funds” and asserts that variations on TakeAction Minnesota’s name were used in FEC filings “to try to make these donations harder to find.”⁴

The complaint notes that the TakeAction Political Fund

did list some of these donations in disclosure reports but they were not ever listed on their initial reports under the ‘unregistered association’ section and every receipt was instead listed as ‘in kind’. Additionally, these disclosures list Take Action as the unregistered organization, this is an attempt to move money through another organization with the same name at the same address to conceal the funds. This is an absolutely egregious attempt to hide the source of the funds.

The complaint includes a copy of the TakeAction Political Fund’s 2022 pre-general report of receipts and expenditures. The report includes \$377,287.29 in in-kind contributions received from TakeAction Minnesota, which constitutes 100% of the contributions that the political fund received from January 1 through October 24, 2022. The report was signed and certified as true by the TakeAction Political Fund’s treasurer, Elianne Farhat.

On January 9, 2023, the Board’s chair determined that the complaint states 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 does 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

² Disbursements reported to the FEC may be searched at www.fec.gov/data/disbursements. 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.

³ The Take Action PAC reported receiving \$61,000 in itemized monetary contributions in 2020, none of which was donated by TakeAction Minnesota. The TakeAction Political Fund reported receiving \$11,935.21 in in-kind contributions in 2021 from another political fund registered with the Board.

⁴ Variations on TakeAction Minnesota’s name within the screenshot included with the complaint appear to be the result of variations within the data provided to the FEC by those who reported making the disbursements in question, rather than TakeAction Minnesota.

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.”⁵ TakeAction Minnesota stated that it has 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 that MoveOn.Org Political Action’s FEC report will be amended accordingly.

TakeAction Minnesota stated that the \$200,000 payment received in 2020 from People’s Action Power, a hybrid PAC registered with the FEC,⁶ was a donation to the TakeAction MN Federal Fund, which “reported it to the FEC as such.”⁷ 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.⁸

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 states that the “funds 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.”⁹

⁵ The TakeAction Minnesota Education Fund’s EIN is 41-1635130 and its corporate registration information is available at mblsportal.sos.state.mn.us/Business/SearchDetails?filingGuid=8afe379b-b5d4-e011-a886-001ec94ffe7f.

⁶ The FEC reports of People’s Action Power are available at fec.gov/data/committee/C00738237.

⁷ 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.

⁸ A detailed summary of the TakeAction MN Federal Fund’s 2020 expenditures is available at docquery.fec.gov/cgi-bin/forms/C00738815/1493275/#DETAILED.

⁹ 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.

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.”

Mr. Sullivan also provided a written statement on January 24, 2023. The statement reiterates the factual assertions and arguments made in the complaint. The statement also alleges that “Take Action Minnesota should technically be registered as a PAC.” The statement asserts that TakeAction Minnesota received and failed to report “\$790,000 in contributions . . . from groups registered with the FEC.”

The Board considered this matter at its meeting on February 8, 2022. Mr. Sullivan appeared before the Board. Mr. Dillon appeared before the Board on behalf of TakeAction Minnesota.

Analysis

When the Board chair makes a finding that a complaint raises a prima facie violation, the full Board then must determine whether probable cause exists to believe an alleged violation that warrants an investigation has occurred. Minn. Stat. § 10A.022, subd. 3 (d). A probable cause determination is not a complete examination of the evidence on both sides of the issue. Rather, it is a determination of whether a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

If the Board finds that probable cause exists, the Board is required to determine whether the alleged violation warrants a formal investigation, considering the type and magnitude of the alleged violation, the knowledge of the respondents, any benefit to be gained from a formal investigation, the availability of Board resources, and whether the violation has been remedied. Minn. R. 4525.0210, subp. 5. If the Board finds that probable cause exists but does not order a formal investigation, the Board is required to either dismiss the complaint or order a staff review. Minn. R. 4525.0210, subp. 6.

An association is “a group of two or more persons, who are not all members of an immediate family, acting in concert.” Minn. Stat. § 10A.01, subd. 6. 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. An independent expenditure political fund is “a political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.” Minn. Stat. § 10A.01, subd. 18b. Minnesota Statutes section 10A.121 permits an independent expenditure political fund to “pay costs associated with its fundraising and

general operations,” and “pay for communications that do not constitute contributions or approved expenditures.”

A political committee is “an association whose major purpose is to influence the nomination or election of one or more candidates or local candidates or to promote or defeat a ballot question, other than a principal campaign committee, local candidate, or a political party unit.” Minn. Stat. § 10A.01, subd. 27.

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. With limited exceptions, an expenditure is

a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or a local candidate or for the purpose of promoting or defeating a ballot question.

...

An expenditure made for the purpose of defeating a candidate or a local candidate is considered made for the purpose of influencing the nomination or election of that candidate or local candidate or any opponent of that candidate or local candidate.”

A political fund generally is required to report all contributions received within its campaign finance reports and contributions received in excess of \$200 per contributor within a calendar year must be itemized, including the name and address of the contributor. Minn. Stat. § 10A.20, subd. 3 (c)-(d). A political fund generally is required to report all campaign expenditures made within its campaign finance reports and expenditures made in excess of \$200 per vendor within a calendar year must be itemized, including the name and address of the vendor. Minn. Stat. § 10A.20, subd. 3 (h).

If it is not registered with the Board,

an association that has contributed more than \$5,000 in aggregate to independent expenditure political committees or funds during the calendar year . . . must provide in writing to the recipient's treasurer a statement that includes the name, address, and amount attributable to each person that paid the association dues or fees, or made donations to the association that, in total, aggregate more

than \$5,000 of the contribution from the association to the independent expenditure . . . committee or fund. The statement must also include the total amount of the contribution attributable to persons not subject to itemization under this section. The statement must be certified as true by an officer of the donor association.

Minn. Stat. § 10A.27, subd. 15 (b). Alternatively, an unregistered association may provide a disclosure statement containing the information required by Minnesota Statutes section 10A.27, subdivision 13. The treasurer of the recipient of a contribution from an unregistered association that is required to provide a disclosure statement must obtain and file the disclosure statement with the Board when filing the report that first discloses the contribution. Minn. Stat. § 10A.27, subds. 13 (a), 16, 17 (b). The purpose of that requirement is to obtain disclosure of the major sources of funds used by an unregistered association to make a contribution to a committee or fund that is registered with the Board.

Registration

Within a written statement provided to the Board on January 24, 2023, Mr. Sullivan asserted that “Take Action Minnesota should technically be registered as a PAC.” The Board interprets that statement to allege that TakeAction Minnesota is a political committee within the meaning of Minnesota Statutes section 10A.01, subdivision 27. The complaint alleges and provides evidence that TakeAction Minnesota has received a substantial amount of money in donations from organizations registered with the FEC, and has spent substantial amounts of money seeking to influence elections in Minnesota through its independent expenditure political fund. However, neither the complaint nor the statement provided on January 24, 2023, were accompanied by additional evidence providing reason to believe that TakeAction Minnesota’s “major purpose is to influence the nomination or election of one or more candidates or local candidates or to promote or defeat a ballot question.” For example, Mr. Sullivan has not provided information regarding the size of TakeAction Minnesota’s annual budget. Also, the evidence in the record establishes that TakeAction Minnesota is a tax-exempt entity under section 501(c)(4) of the Internal Revenue Code, which is reserved for entities whose primary activity is something other than political activities. Based on the foregoing analysis, the Board concludes that there is not probable cause to believe that TakeAction Minnesota is a political committee.

Reporting

With the exception of the \$368,000 payment from People’s Action Power, the evidence in the record does 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. TakeAction Minnesota explained that many of the payments consisted of donations for TakeAction Minnesota’s general purposes. While TakeAction Minnesota and the donors in question engage in political activity, the evidence in the record does not support the conclusion that the donations made to sponsor TakeAction Minnesota’s annual fundraising event and the \$25,000 donation from the WFP Justice Fund were “collected to influence the nomination or election of candidates

or local candidates or to promote or defeat a ballot question” within the meaning of Minnesota Statutes section 10A.01, subdivision 17c. TakeAction Minnesota, and in one case the donor in question, explained that the remaining payments consisted of a payment for office rent, a donation to the TakeAction MN Federal Fund, a donation to TakeAction Minnesota that was specifically designated to be used for efforts to defeat a federal candidate, a donation to the TakeAction Minnesota Education Fund, and in one case, a donation that TakeAction Minnesota does not believe it received, which was intended for the TakeAction Minnesota Education Fund according to the donor.

A payment that becomes part of an association’s general treasury money is not a contribution to that association’s political fund, and thereby need not be reported to the Board under Minnesota Statutes section 10A.20. If the recipient association subsequently uses general treasury money to make a contribution, and is required to disclose its underlying sources of funding, then the requirement is met by filing a disclosure statement pursuant to Minnesota Statutes section 10A.27, subdivisions 13-16. If all donations made to an association with a political fund were required to be disclosed to the Board, the distinction between what constitutes a political fund and what constitutes a political committee would, in practice, largely cease to exist.¹⁰ Further, disclosing all contributions to an association with a political fund would result in disclosure of contributions that were neither raised or spent for the purpose of influencing the nomination or election of state or local candidates.

Unlike the other payments referenced in the complaint, the \$368,000 payment from People’s Action Power was specifically designated to be used to influence the nomination or election of candidates seeking election as a Minnesota state legislator. TakeAction Minnesota said that the “donation was not earmarked for independent expenditure activity, and the funds were not spent to pay for independent expenditures or ballot question advocacy.” TakeAction Minnesota also quoted the Board’s Handbook for Independent Expenditure and Ballot Question Political Committees and Funds, which states that contributions to an independent expenditure political fund include

- anything given by a person who specifies that the donation is to be used to support the campaign to promote or defeat a candidate or ballot question;
- anything given in response to a solicitation that asks for contributions for the express purpose of supporting the campaign to promote or defeat a candidate or ballot question;
- anything given in response to a solicitation susceptible of no reasonable interpretation other than that the money given in response to the request will be used to promote or defeat a candidate or ballot question; and
- anything solicited in the name of the political fund.¹¹

¹⁰ See [Minnesota Citizens Concerned for Life, Inc. v. Swanson](#), 692 F.3d 864, 872-77 (8th Cir. 2012) (addressing generally why differing reporting requirements for political committees and political funds may be required in order to avoid infringement of First Amendment rights).

¹¹ This text appears on page 17 of the Handbook, which is available at cfb.mn.gov/pdf/publications/handbooks/IE_BQ_handbook.pdf. The Handbook provides a detailed summary of the statutes and rules applicable to independent expenditure and ballot question committees and funds, but is not a substitute for the text of those statutes and rules.

TakeAction Minnesota appears to contend that a donation made to an association is a contribution to that association's independent expenditure political fund, requiring disclosure under Minnesota Statutes section 10A.20, only if the donation is specifically designated to be used for independent or ballot question expenditures, or is used to pay for independent or ballot question expenditures. However, Minnesota Statutes section 10A.01, subdivision 17c, provides that "[g]eneral treasury money does not include money collected to influence the nomination or election of candidates," irrespective of whether efforts to influence the nomination or election of those candidates will involve independent expenditures. Minnesota Statutes section 10A.01, subdivision 28, defines the term political fund to include money "collected or expended to influence the nomination or election of one or more candidates," irrespective of whether efforts to influence the nomination or election of those candidates will involve independent expenditures.

TakeAction Minnesota's statement that "the funds were not spent to pay for independent expenditures" appears to be contradicted by the TakeAction Political Fund's reports of receipts and expenditures and disclosure statements filed with the Board. As noted in the complaint, the TakeAction Political Fund has filed disclosure statements with the Board pursuant to Minnesota Statutes section 10A.27, subdivisions 15-16. A total of 17 disclosure statements pertaining to a total of \$229,028.22 in contributions received during the period from September 3, through November 8, 2022, include a single itemized source of funding, "People's Action Power PAC." The disclosure statements each state that the contribution in question was an in-kind contribution to the TakeAction Political Fund from its own supporting association, TakeAction Minnesota. Each statement contains a description of the in-kind contribution received, such as "IE - paid canvass," "IE - wages," "IE - printed literature," etc. Each description includes the letters "IE," indicating that the \$229,028.22 in in-kind contributions covered by the disclosure statements resulted in \$229,028.22 in corresponding in-kind independent expenditures made by the TakeAction Political Fund. Each statement was certified as true by the TakeAction Political Fund's deputy treasurer, Marcie Moravec.

The TakeAction Political Fund uses the Board's Campaign Finance Reporter software and classifies nearly all of its receipts as in-kind contributions with corresponding in-kind expenditures. There is no means to enter an in-kind independent expenditure within the software. As a result, when filing campaign reports with the Board under Minnesota Statutes section 10A.20, the fund classifies its in-kind expenditures as general campaign expenditures, and provides Board staff with a spreadsheet explaining that those expenditures were actually independent expenditures and listing the candidate supported or opposed by each itemized independent expenditure. On January 20, 2023, Ms. Farhat filed the TakeAction Political Fund's 2022 year-end report of receipts and expenditures, which includes \$338,534.03 in in-kind contributions, all of which were made by the fund's supporting association, TakeAction Minnesota. The spreadsheet provided by the TakeAction Political Fund that same day includes a total of \$105,067.33 in independent expenditures made for or against state-level candidates

and a total of \$233,466.70 in independent expenditures made for or against local candidates,¹² which combined totals \$338,534.03.

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 includes 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 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, there is reason to believe that certain campaign expenditures made using the donation from People’s Action Power in 2022 were not disclosed to the Board.

An association that is neither a political committee, a principal campaign committee, or a political party unit, that receives “money collected to influence the nomination or election of candidates or local candidates” within the meaning of Minnesota Statutes section 10A.01, subdivision 17c, must report that money to the Board as a contribution received by its political fund. If the association has a political fund registered with the Board, the money may be reported as a contribution to that fund. If the association does not have a political fund registered with the Board,¹³ or would prefer to register a second political fund with the Board in order to have both a general purpose political fund and an independent expenditure political fund, then the association must register a political fund pursuant to Minnesota Statutes sections 10A.14 and report the money as a contribution to that fund. The source of a contribution must be accurately identified within the political fund’s campaign reports to the extent that the contribution is required to be itemized under Minnesota Statutes section 10A.20, subdivision 3. Based on the foregoing analysis, the Board concludes that there is probable cause to believe that TakeAction Minnesota violated the reporting requirements within Minnesota Statutes section 10A.20, subdivision 3.

Underlying source disclosure

If the in-kind contributions covered by the underlying source disclosure statements were goods or services paid for using TakeAction Minnesota’s general treasury money, then the disclosure statements properly list TakeAction Minnesota as the contributor because an association’s allocation of general treasury money for activities reported through that association’s political fund is a contribution from that association. Minn. Stat. § 10A.01, subd. 11 (a). However, general treasury money “does not include money collected to influence the nomination or

¹² See [Minn. Stat. § 10A.01, subd. 10d](#); [Minn. Stat. § 10A.20, subd. 3 \(h\)](#).

¹³ An association that is not a political committee, without a political fund, is not required to register a political fund with the Board until reaching the thresholds established in Minnesota Statutes sections [10A.14, subds. 1-1a](#) and [10A.12, subds. 1-1a](#).

election of candidates or local candidates or to promote or defeat a ballot question.” Minn. Stat. § 10A.01, subd. 17c.

When the board investigates the allegations made in a written complaint and the investigation reveals other potential violations that were not included in the complaint, the board may investigate the potential violations not alleged in the complaint only after making a determination under paragraph (d) that probable cause exists to believe a violation that warrants a formal investigation has occurred.

Minn. Stat. § 10A.022, subd. 3 (b). The complaint references the disclosure statements filed by the TakeAction Political Fund pursuant to Minnesota Statutes section 10A.27, subdivisions 15-16, states that the statements “list Take Action as the unregistered organization,” and complains that “this is an attempt to move money through another organization with the same name at the same address to conceal the funds.” However, the complaint does not explicitly allege a violation of Minnesota Statutes section 10A.27, subdivisions 13-16, by TakeAction Minnesota or by any other entity.

Both the source of a contribution, and the underlying sources of the funding used to make the contribution, must be accurately identified to the extent required by Minnesota Statutes section 10A.27, subdivisions 13-16. There is reason to believe that the source of contributions was not accurately identified within 17 disclosure statements filed with the Board on behalf of the TakeAction Political Fund, and that the underlying sources of funding for the contributions covered by those statements has not been disclosed. Based on the foregoing analysis, the Board concludes that there is probable cause to believe that TakeAction Minnesota violated the requirement to file with the Board a disclosure statement containing the information required by Minnesota Statutes section 10A.27, subdivisions 13-16.

In determining whether a formal investigation is warranted, the Board must consider a variety of factors. Minn. R. 4525.0210, subp. 5. Alleged reporting violations are typically resolved by the filing of amended reports. In this instance TakeAction Minnesota disputes the need to report the \$368,000 payment from People’s Action Power as a contribution to its independent expenditure political fund, it appears that People’s Action Power did not provide an underlying source disclosure statement when the payment was made, and the TakeAction Political Fund appears to have underreported its expenditures made in 2022 by a significant amount. The TakeAction Political Fund was registered with the Board in 2010, the Take Action PAC has been registered with the Board since 2002, and TakeAction Minnesota has experience filing disclosure statements pursuant to Minnesota Statutes section 10A.27, subdivision 16. Considering those factors, formal findings, conclusions, and orders are preferable to informal resolution of the matter and the Board has adequate resources to conduct an investigation.

Based on the foregoing analysis, the Board issues the following:

Order:

1. Probable cause exists to believe that the TakeAction Political Fund violated the reporting requirements in Minnesota Statutes section 10A.20, subdivision 3.
2. Probable cause exists to believe that the TakeAction Political Fund violated Minnesota Statutes section 10A.27, subdivision 13 or 16.
3. A formal investigation is ordered to investigate the foregoing possible violations. The Board anticipates asking TakeAction Minnesota to voluntarily provide additional information and making findings and conclusions on the basis of that information. If sufficient information is not provided voluntarily, the Board's executive director may request authority to issue subpoenas pursuant to Minnesota Statutes section 10A.022, subdivision 2, and Minnesota Rules 4525.0500, subpart 6.

George W. Soule

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

Date: Feb 8, 2023