

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF PEOPLE PAC (MN), THE PEOPLE PAC, AND 15 PRINCIPAL CAMPAIGN COMMITTEES

Background

The People PAC is a political action committee registered with the Federal Election Commission (FEC), ID number C00647784. A political committee named People PAC was registered with the Minnesota Campaign Finance and Public Disclosure Board on September 11, 2018, registration number 41208. For clarity, the federal committee will be referred to as The People PAC, and the committee registered with the Board will be referred to as People PAC (MN).

In 2018, The People PAC assisted state legislative candidates in multiple states with the production of campaign videos. Those candidates included 14 Minnesota House candidates, and a Minnesota Senate candidate who was running in a special election. Prior to the 2018 general election, The People PAC's website¹ featured campaign videos supporting several of those 15 Minnesota legislative candidates. Videos supporting all 15 candidates could be viewed on The People PAC's YouTube channel titled "The People PAC Statehouse Initiative."² After the 2018 general election, The People PAC's website stated that "[e]ven if our Minnesota House candidates won, helping Democrats flip the chamber blue."

The principal campaign committees of the 15 Minnesota legislative candidates who participated in the project are Robert Bierman for MN House, Huot for House, Volunteers for Kelly Moller, Kristin Bahner for State Representative, Friends for Karla (Scapanski), People for Gail Kulp, Heather Edelson for House, Ginny Klevorn for Representative, Brand (Jeff) for House, Neighbors for Dan (Wolgamott), Carlie (Kotzya-Witthuhn) for House, Friends for Aric (Putnam), the Wazlawik (Ami) Volunteer Committee, Erin (Koegel) for Minnesota, and Perske (Joe) for Senate. The production of the videos required the cooperation of the individual candidates, and the videos contained disclaimers stating they were paid for by the principal campaign committee of each candidate.

People PAC (MN) filed two no-change statements with the Board using a paper form in lieu of filing reports of receipts and expenditures, collectively covering the period from January 1 through October 22, 2018. The second no-change statement, filed in lieu of the 2018 pre-general report, was due October 29, 2018, but was not received by Board staff until November 23, 2018, resulting in a late filing fee of \$800. The second no-change statement was labeled as a termination report, indicating that the committee had dissolved, and was delivered via an email stating that the no-change statement had previously been mailed in a timely manner. The second no-change statement was dated November 21, 2018. Counsel for The People PAC later explained that after People PAC (MN)'s treasurer realized the mailed no-change statement due October 29, 2018, was not received by the Board, he completed the form a second time. People PAC (MN) requested that the Board waive the \$800 late filing fee.

¹ www.thepeoplepac.org

² www.youtube.com/channel/UCxNUpcmFUyAvLtljzp_9pXg/videos

Each no-change statement declared that People PAC (MN) had no cash balance, did not receive any contributions or income, and did not make any expenditures or give any contributions. Because no outgoing contributions or other disbursements were disclosed by People PAC (MN) despite the website's claim that The People PAC assisted several Minnesota legislative candidates, the Board's executive director opened a staff review in January 2019.

Fourteen of the 15 principal campaign committees eventually disclosed an in-kind contribution valued at \$982 from "Colleen Steward." Each principal campaign committee described the contribution as consisting of video production, digital ads, video ads, or something similar. Because none of the principal campaign committees disclosed The People PAC or People PAC (MN) as a contributor or vendor, the Board's executive director expanded the staff review to include the 15 principal campaign committees in late-February of 2019.

Colleen Needles Steward is the CEO of a media production company headquartered in Minnesota. In response to inquiries from Board staff, her legal counsel explained that in April 2018, a colleague of Ms. Needles Steward told her about the efforts of The People PAC to help elect state legislative candidates and asked if she would like to become involved. Ms. Needles Steward then communicated via email and telephone with Michael Hirschorn, who has served as The People PAC's treasurer since it registered with the FEC in June 2017.

In late summer of 2018, Ms. Needles Steward, Mr. Hirschorn, and The People PAC's political director, Christine Bachman, began discussing a plan to produce campaign videos for Minnesota legislative candidates. Mr. Hirschorn and Ms. Bachman contacted the DFL House Caucus to help identify candidates who would participate and thereby receive in-kind contributions in the form of video production services. Representative Jamie Long, who at the time was a first-time Minnesota House candidate, began contacting candidates on behalf of the DFL House Caucus, asking if they were interested in having campaign videos produced for them by The People PAC, free of charge. Mr. Long and Sarah Burt, a campaign director for the DFL House Caucus, served as liaisons between The People PAC and the candidates. Cassie Tommerdahl, a field director with the DFL Senate Caucus, served as a liaison between The People PAC and the Perske committee, and in some cases between the DFL House Caucus and the Perske committee.

Emails produced during the course of the staff review show that Mr. Long contacted the candidates on August 31, 2018, inviting them to participate in the project. The emails sent to candidates stated that Mr. Long was "helping coordinate free digital ad filming that is being offered by the group People PAC." The emails explained that each candidate "would have to have room left in your PAC limit, as the filming will count as a \$1K in kind contribution to your campaign." The limit referenced in Mr. Long's emails is the aggregate special source contribution limit, which applies to candidates and includes contributions from lobbyists, political committees and funds, and associations not registered with the Board.³ The aggregate special source limit for the 2017-2018 election cycle was \$13,100 for Minnesota House candidates. The aggregate special source limit applicable to the Perske committee's special election campaign for Senate District 13 was \$18,900.

Mr. Long's emails to the candidates reflected the belief of the DFL House Caucus, at that time, that the proportional cost of the video production services provided to each candidate would be reported by each

³ [Minn. Stat. § 10A.27, subd. 11.](#)

principal campaign committee as an in-kind contribution from a political committee or fund registered with the Board. That political committee or fund had yet to be registered with the Board when the candidates were initially contacted by Mr. Long in late-August. However, on September 11, 2018, Board staff received an email from Mr. Hirschorn's executive assistant containing the completed form required for People PAC (MN) to be registered as a political committee with the Board. Mr. Hirschorn was identified as both the treasurer and chair for the committee. The People PAC's executive director, Mara Gerstein, was copied on that email.

The week prior to filming, the candidates received an email from Mr. Long inviting them to participate in a 30-minute telephone call with Ms. Bachman, who would provide coaching regarding the videos. The candidates also received an email from a producer with SALTY Features LLC, asking the candidates to provide photographs to be incorporated into their campaign videos. Filming took place at the Minnesota office of Ms. Needles Steward's company from September 10 through September 12, 2018. Ms. Bachman traveled to Minnesota to attend the filming.

Counsel for Ms. Needles Steward has explained that employees of her company

volunteered to work on the filming and production of the videos outside of their work hours. A representative of The People PAC was involved throughout the process and provided direction regarding the filming, formatting, editing, and final production of the videos.

Counsel for Ms. Needles Steward stated that "with the exception of providing brief comments on a rough edit," Ms. Needles Steward "was not directly involved in either the filming or ... the production of the videos." Ms. Needles Steward paid her company \$6,078.14 for the costs associated with the videos, including "equipment rentals, production services, and the compensation paid to contractors who did not volunteer their time."

Emails produced during the course of the staff review show that after filming, there was renewed discussion as to how the services provided should be reported to the Board by each principal campaign committee. Ms. Gerstein emailed Mr. Long and Ms. Burt on September 17, 2018, suggesting that the cost of producing the videos be reported by each principal campaign committee as an in-kind contribution given directly by Ms. Needles Steward. Ms. Burt responded, stating that the DFL House Caucus believed that People PAC (MN) should be reported as the source of the in-kind contributions. The following day, Ms. Gerstein emailed Ms. Burt stating that legal counsel for The People PAC recommended that the cost of the videos be reported by each principal campaign as an in-kind contribution from Ms. Needles Steward. The email explained as follows:

The People PAC isn't paying for the ads and the producer can't give an in-kind to the PAC over \$5,000 (so we can't accept the in kind from the producer).⁴ Instead, the donation is coming direct from the person who put the ads together.

Ms. Burt then prepared a blank "In-Kind Contribution Form" that could be used to describe the source, nature, and value of the contributions, and provided that form to People PAC (MN). People PAC (MN)

⁴ Ms. Gerstein appears to have been paraphrasing an email from counsel for The People PAC, who in turn appears to have been referencing [52 U.S.C. § 30116 \(a\) \(1\) \(C\)](#) and [11 CFR 110.1 \(d\)](#), which generally limit contributions to a federal political action committee to \$5,000 per individual, per year.

and the DFL House Caucus later instructed the individual principal campaign committees to disclose Ms. Needles Steward as the source of the contributions, rather than People PAC (MN).

In mid-October of 2018, Ms. Bachman sent emails to the candidates containing hyperlinks to a file hosting service where they could download a copy of their completed campaign video. Both full-length and shorter versions of the videos were produced for at least 14 of the 15 candidates. One candidate used her video at a fundraising event held on October 14, 2018, and several candidates used their videos in Facebook advertisements, starting as early as October 17, 2018. Heather Edelson decided not to use the video and her principal campaign committee did not disclose an in-kind contribution related to her video.

The People PAC has stated that it did not pay for the distribution of the videos, and its efforts in uploading the videos to YouTube and displaying the videos on its website were designed to promote the work of The People PAC, not the candidacies of the individuals featured in the videos. Likewise, counsel for Ms. Needles Steward, the DFL House Caucus, and the DFL Senate Caucus has stated that neither Ms. Needles Steward nor the caucuses paid for the distribution of the videos.

On October 19, 2018, Ms. Gerstein completed the “In-Kind Contribution Form” and emailed it to Ms. Burt and one of the House candidates. Ms. Burt sent the form to the principal campaign committees of the remaining House candidates as well as Ms. Tommerdahl, who in turn provided it to the Perske committee. The completed form declared that the in-kind contributions consisted of “digital ads” valued at “\$982 per candidate,” given on October 19, 2018, by “Colleen Steward.” The document listed Ms. Needles Steward’s address, phone number, email address, employer, and occupation. Counsel for The People PAC has explained that “Ms. Gerstein prepared the in-kind contribution letters because Ms. Needles Steward was preoccupied with a family medical issue. Ms. Gerstein estimated the expenses that Ms. Needles Steward had incurred in creating and producing the videos. It was a good faith estimate based on The People PAC’s experience in other states, like North Carolina and Florida.”

A central question that the Board’s staff review sought to answer is whether the costs associated with the video production services should have been reported as in-kind contributions to the principal campaign committees from The People PAC or from People PAC (MN), either in whole or in part. In response to inquiries from Board staff, legal counsel for The People PAC has estimated the amounts that The People PAC paid its staff and vendors for services related to the videos produced for Minnesota legislative candidates in 2018. The People PAC paid \$855.17 for Ms. Bachman’s travel to Minnesota to attend the filming of the videos, an estimated \$6,300 to Ms. Bachman and \$172 to Ms. Gerstein in compensation related to the videos, and an estimated \$122 to Salty Features LLC for services related to the videos. When the total of \$7,449.17 is divided by 15 candidates, the prorated amount per candidate is \$496.61. If the amount of \$6,078.14 paid by Ms. Needles Steward is included in the total amount spent, the total is \$13,527.31 and the prorated amount per candidate is \$901.82.

In some other states where The People PAC helped produce campaign videos for state legislative candidates, those candidates reported receiving in-kind contributions directly from The People PAC. For example, several Florida legislative candidates reported receiving in-kind contributions from The People PAC valued at \$991 and several North Carolina legislative candidates reported receiving in-kind contributions from The People PAC valued at \$953. Counsel for The People PAC has explained that in

those states, The People PAC paid “third-party vendors to provide services to candidates,” whereas in Minnesota the services provided were paid for by Ms. Needles Steward.

Whether the costs associated with the videos for the Minnesota legislative candidates were a contribution from The People PAC or People PAC (MN), instead of directly from an individual (Ms. Needles Steward), is particularly important to five of the 15 Minnesota legislative candidates. Without including those costs, four of the candidates came close to reaching the aggregate special source limit, which includes contributions from lobbyists, political committees and funds, and associations not registered with the Board, and one candidate exceeded that limit.

Not including the value of the videos, the Edelson committee stayed below the aggregate special source limit by \$154.41, the Klevorn committee stayed below the limit by \$164.41, the Perske committee stayed below the limit by \$25, and the Brand committee stayed below the limit by \$850. According to its 2018 year-end report, the Koegel committee exceeded the aggregate special source limit by \$1,825.59. If each of the 15 principal campaign committees involved are required to report having received an in-kind contribution of \$901.82 from a special source contributor, the Edelson committee will have exceeded the limit by \$747.41, the Klevorn committee will have exceeded the limit by \$737.41, the Perske committee will have exceeded the limit by \$876.82, the Brand committee will have exceeded the limit by \$51.82, and the Koegel committee will have exceed the limit by a total of \$2,727.41.

Analysis

Circumvention

Minnesota Statutes section 10A.29 provides that an individual or association that tries to circumvent Chapter 10A “by redirecting a contribution through, or making a contribution on behalf of, another individual or association is guilty of a gross misdemeanor and subject to a civil penalty.”

Because of the change in the direction given to candidates regarding the source of the contributions and because several of the candidates came close to exceeding the aggregate special source contribution limit, Board staff was concerned that there may have been an attempt to circumvent the aggregate special source limit by directing the candidates to report the source of the contributions as being an individual rather than a political committee or an association not registered with the Board. However, the individuals involved have denied considering the aggregate special source limit in deciding how the in-kind contributions ought to be reported. Additionally, emails sent to Ms. Gerstein by The People PAC’s legal counsel, and to Ms. Burt by Ms. Gerstein, on September 18, 2018, provide an alternate explanation. Those emails appear to reference a \$5,000 limit on the amount Ms. Needles Steward could give to The People PAC under federal law.⁵ What appears to be missing from the analysis summarized in Ms. Gerstein’s email to Ms. Burt is the fact that the federal limit does not apply to an entity that only receives contributions and makes expenditures for the purpose of influencing Minnesota state elections.⁶ Ms. Needles Steward could have given a contribution in any amount to People PAC (MN), and there was

⁵ See [52 U.S.C. § 30116 \(a\) \(1\) \(C\)](#) and [11 CFR 110.1 \(d\)](#), which generally limit contributions to a federal political action committee to \$5,000 per individual, per year.

⁶ See the definitions of the terms “political committee,” “expenditure,” and “contribution,” at [52 U.S.C. § 30101](#) and [11 CFR Part 100](#), which apply to the \$5,000 contribution limit codified at [52 U.S.C. § 30116 \(a\) \(1\) \(C\)](#) and [11 CFR 110.1 \(d\)](#).

no need to route such a contribution through a political action committee registered with the FEC. Although based on an incorrect legal interpretation, the reason given in the emails for the change in direction supports the conclusion that there was no intent to circumvent the aggregate special source limit.

Registration and Reporting of the Contributions

Minnesota Statutes section 10A.14, subdivision 1, requires an association to register with the Board within 14 days of making contributions that exceed \$750 to Minnesota state candidates. There is an exception to the registration requirement for an association that makes contributions to three or less Minnesota candidates, committees, funds, or party units in a calendar year.⁷ If an association makes contributions to more than three Minnesota candidates, committees, funds, or party units in a calendar year, and the total value of the contributions exceeds \$750, the association must register with the Board within the 14-day period. Minnesota Statutes section 10A.20, subdivision 3, requires a political committee registered with the Board to report all contributions received and all expenditures made during the reporting period.

The videos in this matter were approved expenditures made on behalf of the candidate committees. An approved expenditure is an in-kind contribution to the candidate committee on whose behalf it was made. The issue here is which individual or entity made those approved expenditures and the corresponding in-kind contributions. Because there is nothing in the record to indicate that Ms. Needles Steward knew which specific candidates would benefit from her payment at the time the video production costs were incurred, she did not make an expenditure “on behalf of a candidate,” pursuant to Minnesota Statutes section 10A.01, subdivision 4, nor did she make coordinated expenditures pursuant to Minnesota Statutes sections 10A.175, subdivision 5, and 10A.176.

While the DFL House Caucus was involved in identifying potential candidates for the videos and in coordinating communications for the project, the videos were ultimately provided to the 15 principal campaign committees by The People PAC. Moreover, The People PAC played a direct role in pre-production and post-production work, and incurred significant costs related to the videos, while the DFL House Caucus did not. Thus, The People PAC was responsible for the approved expenditures and the corresponding in-kind contributions to the principal campaign committees.

Because The People PAC made in-kind contributions to more than three Minnesota candidates in a calendar year and the aggregate amount of those contributions exceeded \$750, The People PAC was required to register a political committee in Minnesota, which it did. People PAC (MN) registered with the Board on September 11, 2018.

People PAC (MN) filed pre-primary and pre-general reports of receipts and expenditures that disclosed no activity during the reporting periods. These filings were incorrect. Specifically during the two reporting periods, People PAC (MN) should have reported receiving both an in-kind contribution from Ms. Needles Steward of \$6,078.14 in the form of video production services, and in-kind contributions from The People PAC totaling \$7,449.17 in the form of the staff and travel costs it incurred related to the videos for Minnesota legislative candidates. People PAC (MN) should have also reported giving in-kind

⁷ [Minn. Stat. § 10A.27, subd. 13.](#)

contributions to the 15 principal campaign committees of \$901.82 each, consisting of the prorated total amount paid by Ms. Needles Steward and The People PAC related to the videos.

Costs Paid by Ms. Needles Steward

The People PAC offers two primary objections to the reporting method described above. The first objection concerns the costs paid by Ms. Needles Steward. The People PAC argues that Ms. Needles Steward was properly disclosed as having given contributions to the principal campaign committees because she paid her company directly for the production costs. The People PAC also argues that reporting a contribution from Ms. Needles Steward to People PAC (MN) would have resulted in a violation of the prohibition on earmarking of contributions under Minnesota Statutes section 10A.16.

However, the responses provided by counsel for Ms. Needles Steward demonstrate that while Ms. Needles Steward knew that the candidates that would benefit would be DFL legislative candidates, she did not play a role in selecting the particular candidates and did not know which candidates would participate in the project. Rather, the individual candidates were selected by the DFL House Caucus, at the request of The People PAC. Minnesota Statutes section 10A.16 prohibits accepting a contribution “with the express or implied condition that the contribution or any part of it be directed to a particular candidate.” Nothing in the record indicates that Ms. Needles Steward directed that her contribution benefit any particular candidate.

Likewise, Ms. Needles Steward did not give contributions to the individual principal campaign committees because there is nothing in the record indicating that Ms. Needles Steward was aware of which specific candidates would participate in the project at the time the video production costs were incurred. While Ms. Needles Steward was the source of the money and thereby should have been disclosed as a contributor to People PAC (MN), she could not have given contributions to the individual principal campaign committees without knowing which candidates she was supporting.

The People PAC argues that “Minnesota law explicitly requires the ‘spender’ associated with an ‘approved expenditure’ to report an in-kind contribution to the benefitting candidate,” citing Minnesota Statutes sections 10A.175, subdivision 6, and 10A.01, subdivision 4, in support of that proposition. “Spender” is a term, defined by Minnesota Statutes section 10A.175, subdivision 6, which is used within Chapter 10A solely in reference to coordinated expenditures.⁸ The term “spender” has no relevance to approved expenditures unless they are approved expenditures solely by virtue of the fact that they are coordinated expenditures pursuant to Minnesota Statutes section 10A.175, subdivision 5. Moreover, individuals are not required to file reports with the Board disclosing their contributions to committees registered with the Board. In this case, the individual who paid the production costs should have been disclosed by People PAC (MN) as an in-kind contributor, and People PAC (MN) in turn should have reported giving in-kind contributions to the principal campaign committees.

Costs Paid by The People PAC

The second objection lodged by The People PAC concerns the expenses incurred by The People PAC related to the videos. Those costs include the proportion of staff compensation attributable to the Minnesota videos and reimbursements to staff for expenses related to the videos. The People PAC

⁸ See Minn. Stat. §§ [10A.176](#), [10A.177](#).

argues that these expenses should neither be reported as campaign expenditures nor as in-kind contributions to the principal campaign committees.

The first argument offered by The People PAC is that “an organization is not required to treat employee salaries or monthly consultant fees as in-kind contributions in Minnesota, provided that such personnel remain under the organization’s direction and control and no expenses are incurred specifically to benefit any particular candidate.” The People PAC cites to Minnesota Rules 4503.0500, subpart 4, and 11 CFR sections 100.54 and 106.1, in support of that proposition. First, there is no need to consult federal regulations when applying the provisions of Chapter 10A because those regulations do not apply to Minnesota state elections. Second, Minnesota Rules 4503.0500, subpart 4, does not support the argument made by The People PAC. That rule says, in relevant part, that an “association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a political committee or a political fund, is the contributor of those goods or services.” In this case, The People PAC provided services knowing those services would be used for the benefit of specific principal campaign committees. Also, Minnesota Rules 4503.0500, subpart 4, is not exhaustive and cannot supplant the definitions of “approved expenditure,” “contribution,” and “donation in kind” provided by Minnesota Statutes section 10A.01, subdivisions 4, 11, and 13, respectively.⁹

Whether an individual remains under the direction and control of an association or political committee is not determinative of whether a contribution has been made by that association or committee to a principal campaign committee in the form of the services provided by that individual.¹⁰ The People PAC paid for the services of its employees and a contractor, knowing that those services would benefit specific candidates. No relinquishment of control over those personnel is necessary to conclude that in-kind contributions were made to 15 Minnesota legislative candidates.

In this instance, what matters is whether the services performed or item produced by such personnel constituted an expenditure pursuant to Minnesota Statutes section 10A.01, subdivision 9, and if so, whether the expenditure was an approved expenditure, pursuant to Minnesota Statutes section 10A.01, subdivision 4. The People PAC appears to argue that its personnel expenses were not expenditures under Minnesota law because they were not “made or incurred for the purpose of influencing the nomination or election of a candidate.”¹¹ The People PAC argues that it did not expend funds specifically to influence Minnesota elections. This argument is belied by the fact that The People PAC directed its staff and a contractor to assist with the production of campaign videos for 15 Minnesota legislative candidates, then provided copies of those videos to the individual candidates. If taken to its logical extreme, the argument offered by The People PAC would allow it to provide unlimited staff support and services directly to Minnesota legislative candidates without disclosing that spending to the Board, simply

⁹ [Minnesota Rules 4503.0500, subpart 4](#), could be read hyper literally in conjunction with [Minnesota Statutes section 10A.01, subdivision 27](#), to exclude from the term “contributor” any individual or association that gives a contribution to a principal campaign committee or a political party unit, as opposed to a political committee or fund. The Board declines to adopt such an interpretation. In addition to the reasons cited above, such an interpretation would lead to absurd results and is contradictory to the Board’s longstanding interpretation of Chapter 10A. See, e.g., [Advisory Opinion 341](#) (June 6, 2002).

¹⁰ See, generally, [Advisory Opinion 365](#) (Feb. 22, 2005) and [Advisory Opinion 381](#) (May 16, 2006), which discuss services provided to candidates as in-kind contributions without reference to whether the individuals providing the services came under the direction or control of the candidates.

¹¹ [Minn. Stat. § 10A.01, subd. 9](#).

because its staff and contractors remained under the direction and control of The People PAC. Nothing in Chapter 10A dictates that result.

The People PAC also states that treating its prorated personnel expenses as an in-kind contribution would require a national organization, such as itself, to “register a PAC in Minnesota, separately compensate these employees or consultants from the Minnesota PAC, and report these prorated expenses as in-kind contributions.” The conclusion as to reporting expenses as in-kind contributions is correct. The conclusion concerning being required to register a political committee or fund with the Board is correct as well, to the extent that the organization in question gives contributions to more than three committees, funds, or party units, within a calendar year. An association that gives contributions to three or less committees, funds, or party units in a calendar year is not required to be registered with the Board, but must provide any financial disclosure required by Minnesota Statutes section 10A.27, subdivisions 13 and 15.

The third conclusion is incorrect. A political committee registered with the Board is not required to compensate employees and contractors separately from an affiliated national organization. Rather, the prorated amount of the national organization’s personnel expenses, which are attributable to efforts to influence the nomination or election of an “an individual who seeks nomination or election as a state constitutional officer, legislator, or judge,”¹² may be reported as in-kind contributions from the national organization to the political committee or fund registered with the Board. If a committee or fund registered with the Board makes approved expenditures or otherwise gives contributions to a candidate, political committee or fund, or party unit, those contributions must be reported accordingly. In the case of People PAC (MN), that calculation is straightforward. The committee needs to combine the amount spent by The People PAC (\$7,449.17) with the costs paid by Ms. Needles Steward (\$6,078.14), then divide the total (\$13,527.31) by 15. The approved expenditures made by People PAC (MN) per candidate were \$901.82.

In-Kind Contribution to Heather Edelson for House

Counsel for Rep. Edelson appeared before the Board in executive session on October 2, 2019. Counsel asserted that costs incurred to produce the campaign video were not an in-kind contribution to the Edelson committee, and to the extent those costs were an expenditure, they were an independent expenditure rather than an approved expenditure. Rep. Edelson’s counsel stated that Rep. Edelson “was disappointed with the final video which was not consistent with the messaging of her campaign,” and “[i]f Rep. Edelson had hired a vendor to prepare the video, she would have rejected the product and there would have been no reportable transaction. The fact that this video was prepared as a potential in-kind contribution should not eliminate the candidate’s ability to refuse to accept the contribution if she is not satisfied with the final result.” Counsel for Rep. Edelson stated that “[w]hatever ‘express or implied consent’ may have existed was revoked. If the People PAC chose to post the video online, it made that decision independently from the candidate.” Counsel for Representative Edelson also argued that “Rep. Edelson is being compelled to accept the in-kind contribution of the video even though she refused to accept or use the final product simply because The People PAC independently chose to make the video available to the public.” Rep. Edelson submitted a sworn declaration stating that shortly after receiving a

¹² [Minn. Stat. § 10A.01, subd. 10.](#)

link to her video, she informed Ms. Bachman via telephone that her committee would not use the video in the campaign.

In evaluating counsel's argument, the Board reviewed the definitions of campaign expenditure, approved expenditure, and independent expenditure, and the definition of coordinated in Minnesota Statutes section 10A.175 as applied in Minnesota Statutes section 10A.176. Minnesota Statutes section 10A.01, subdivision 9, states in relevant part:

"Campaign expenditure" or "expenditure" means 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 for the purpose of promoting or defeating a ballot question.

...

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

Minnesota Statutes section 10A.01, subdivision 4, defines "approved expenditure" to mean

an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

Minnesota Statutes section 10A.01, subdivision 18, defines "independent expenditure" to mean

an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent.

Minnesota Statutes section 10A.175, subdivision 5, defines "coordinated" to mean

with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate. A coordinated expenditure is an approved expenditure under section 10A.01, subdivision 4.

Minnesota Statutes section 10A.176, subdivision 1, provides:

An expenditure described in this section that expressly advocates for the election of the candidate or the defeat of the candidate's opponent is a coordinated expenditure and is not independent under section 10A.01, subdivision 18.

Minnesota Statutes section 10A.176, subdivisions 6 and 7, provide that an expenditure is coordinated when any of these actions occur:

Subd. 6. Spender-provided information. An expenditure is a coordinated expenditure if the expenditure is made when:

(1) the spender provides information to the candidate regarding the expenditure's contents, intended audience, timing, location or mode, volume, or frequency; and

(2) the information is provided to the candidate before the expenditure is communicated to the public.

Subd. 7. Candidate's participation. An expenditure is a coordinated expenditure if the expenditure is made with the candidate's participation in the following:

(1) any of the processes required for the creation and development of the expenditure, including budgeting decisions, media design, acquisition of graphics and text, production, and distribution of the final product; or

(2) any decision regarding the content, timing, location, intended audience, volume of distribution, or frequency of the expenditure.

The People PAC incurred direct costs, and used a portion of the contribution from Ms. Needles Steward, to produce Ms. Edelson's video.¹³ Rep. Edelson agreed to the contribution of the video. That action made the video an approved expenditure as defined above. Further, The People PAC provided information to Rep. Edelson regarding the content of her video prior to the video becoming available to the public. Rep. Edelson also participated in the processes required for the creation of her video as well as decisions regarding the content of the video. Therefore, the costs paid to produce the video for Rep. Edelson were a coordinated expenditure, as provided in Minnesota Statutes section 10A.176, and cannot be classified as an independent expenditure.

Counsel for Rep. Edelson argues that a candidate is able to revoke consent, or otherwise negate the fact that the candidate agreed to and coordinated with an approved expenditure. If that option existed, a candidate could participate in the production of an advertisement, revoke consent, and the costs of the advertisement and its subsequent distribution would be independent expenditures despite the fact that the candidate directly participated in the production of the advertisement. The Board is not persuaded that Chapter 10A permits a candidate to change an approved expenditure into an independent expenditure.

The argument offered by counsel for Rep. Edelson asserts that no expenditure existed until the video was made available to the public. However, Chapter 10A defines "expenditure" in a manner that requires an expenditure to exist as soon as there is an in-kind contribution. Moreover, the definitions of "expenditure" and "approved expenditure" within Chapter 10A are not limited to communications. These findings do not compel the Edelson committee "to accept the in-kind contribution of the video even though she refused to accept or use the final product simply because The People PAC independently chose to make the video available to the public." The approved expenditure made by People PAC (MN) on behalf of the Edelson committee consisted of the percentage of costs incurred to produce the videos that were attributable to Rep. Edelson's video. Those costs were incurred when Rep. Edelson decided to participate in the production of the video, which occurred prior to the date The People PAC made Rep. Edelson's video available to the public on the internet through a YouTube channel.

The Board has no reason to doubt that Rep. Edelson was not satisfied with the finished video. However, when a campaign committee agrees to an offer of an approved expenditure the committee is in effect

¹³ The costs related to the video paid by The People PAC were in-kind contributions from The People PAC to People PAC (MN). By definition, the term "expenditure" includes the dollar value of a donation in kind," so the in-kind contributions received by People PAC (MN) resulted in in-kind expenditures in an equivalent amount.

delegating authority to a third party to make an expenditure for the committee. That loss of control is the reason why some committees accept only cash contributions.

Violations of the Aggregate Special Source Contribution Limit

Minnesota Statutes section 10A.27, subdivision 11, limits the total amount of contributions that a candidate may accept from lobbyists, political committees and funds, and associations not registered with the Board. For the 2017-2018 election cycle, the limit for a candidate for state representative was \$13,100. For the Senate District 13 special election, the aggregate special source limit was \$18,900.

When the \$901.82 in approved expenditures made by People PAC (MN) is included, four principal campaign committees exceeded the aggregate special source limit and one principal campaign committee exceeded the limit by more than it would have otherwise. The responses provided to Board staff make it clear that with the exception of the Edelson committee, the principal campaign committees relied upon the “In-Kind Contribution Form” in reporting the source of the in-kind contribution to be an individual, rather than a political committee or association not registered with the Board.

The committees that exceeded the limit must return to special source contributors the amount by which each committee exceeded the aggregate special source limit to bring the committees into compliance with Minnesota Statutes section 10A.27, subdivision 11. However, because those committees acted in good faith when they relied upon the “In-Kind Contribution Form” the Board will not impose civil penalties against them related to the excess special source contributions caused by People PAC (MN)’s approved expenditures.

Late Filing Fee for No-Change Statement Filed in Lieu of People PAC (MN)’s Pre-General Report

The Board “must waive that portion of a late filing fee or a civil penalty imposed for the late filing of a report or statement under this chapter for which the requester demonstrates good cause for the late filing or submission.”¹⁴ People PAC (MN) states that Mr. Hirschorn mailed the no-change statement filed in lieu of the 2018 pre-general report prior to the due date of October 29, 2018. People PAC (MN) has not provided documentation of when the no-change statement was mailed.

Based on the above background and analysis, the Board makes the following:

Findings of Fact

1. The People PAC is a political action committee registered with the FEC and not registered with the Minnesota Campaign Finance and Public Disclosure Board. The People PAC’s executive director is Mara Gerstein. The People PAC registered a separate political committee named People PAC with the Board on September 11, 2018. Michael Hirschorn serves as the treasurer of each of those committees.
2. Colleen Needles Steward is an individual who paid her company \$6,078.14 for costs associated with producing campaign videos for 15 Minnesota legislative candidates in 2018. At the time those costs

¹⁴ [Minn. Stat. § 10A.02, subd. 15.](#)

were incurred, Ms. Needles Steward was not aware of which specific candidates would participate in the project and she did not play a role in selecting which candidates would be invited to participate.

3. The DFL House Caucus and DFL Senate Caucus are political party units registered with the Board. The DFL House Caucus, at the request of The People PAC, invited specific candidates to participate in the project.
4. Fourteen Minnesota House candidates and one Minnesota Senate candidate participated in the project and The People PAC provided each with copies of their campaign video.
5. The People PAC incurred \$7,449.17 in costs related to producing campaign videos for 15 specific Minnesota legislative candidates.
6. Fourteen principal campaign committees disclosed, on reports of receipts and expenditures filed with the Board, an in-kind contribution from "Colleen Steward" related to the video production services received. The source of each contribution was reported to be an individual, rather than a special source contributor, due to guidance provided by The People PAC and forwarded to the principal campaign committees by the DFL House Caucus. That guidance was given by The People PAC in an attempt to ensure that it complied with federal law. The 14 principal campaign committees are Robert Bierman for MN House, Huot for House, Volunteers for Kelly Moller, Kristin Bahner for State Representative, Friends for Karla (Scapanski), People for Gail Kulp, Ginny Klevorn for Representative, Brand (Jeff) for House, Neighbors for Dan (Wolgammott), Charlie (Kotyza-Witthuhn) for House, Friends for Aric (Putnam), the Wazlawik (Ami) Volunteer Committee, Erin (Koegel) for Minnesota, and Perske (Joe) for Senate.
7. The Heather Edelson for House committee did not disclose a contribution related to the project because the candidate did not use the campaign video provided by The People PAC.
8. The aggregate special source contribution limit applicable to Minnesota House candidates during the 2017-2018 election cycle was \$13,100, pursuant to Minnesota Statutes section 10A.27, subdivision 11. The aggregate special source limit applicable to the Perske committee during its special election campaign was \$18,900.
9. The no-change statement filed in lieu of People PAC (MN)'s 2018 pre-general report of receipts and expenditures was due October 29, 2018, and was not received by the Board until November 23, 2018.

Based on the above analysis and findings of fact, the Board makes the following:

Conclusions of Law

1. Colleen Needles Steward's payment of \$6,078.14 to her company for the video production costs was an in-kind contribution of \$6,078.14 to People PAC (MN).
2. The People PAC's payment of \$7,449.17 for expenses related to the videos was an in-kind contribution totaling \$7,449.17 to People PAC (MN).

3. People PAC (MN) made approved expenditures of \$901.82 each on behalf of 15 principal campaign committees on or before October 19, 2018. Each \$901.82 approved expenditure was thereby an in-kind contribution from People PAC (MN) to one of those committees. The 15 principal campaign committees are Robert Bierman for MN House, Huot for House, Volunteers for Kelly Moller, Kristin Bahner for State Representative, Friends for Karla (Scapanski), People for Gail Kulp, Heather Edelson for House, Ginny Klevorn for Representative, Brand (Jeff) for House, Neighbors for Dan (Wolgammott), Carlie (Kotzya-Witthuhn) for House, Friends for Aric (Putnam), the Wazlawik (Ami) Volunteer Committee, Erin (Koegel) for Minnesota, and Perske (Joe) for Senate.
4. When the People PAC (MN) contribution is included, during the 2017-2018 election cycle the Edelson committee exceeded the aggregate special source contribution limit by \$747.41, the Klevorn committee exceeded the limit by \$737.41, the Brand committee exceeded the limit by \$51.82, and the Koegel committee exceed the limit by \$2,727.41. When the People PAC (MN) contribution is included, during the Senate District 13 special election cycle the Perske committee exceeded the aggregate special source limit by \$876.82.
5. There was no intent by The People PAC, People PAC (MN), the DFL House Caucus, the DFL Senate Caucus, or any of the principal campaign committees or individuals named herein to circumvent the aggregate special source contribution limit in violation of Minnesota Statutes section 10A.29.
6. People PAC (MN) has not demonstrated good cause for the late filing of the no-change statement that was due October 29, 2018, and the Board declines to waive the late filing fee.

Based on the above findings of fact and conclusions of law, the Board issues the following:

Order

1. Within 30 days of the date of this order, People PAC (MN) must file amended 2018 September and pre-general reports of receipts and expenditures disclosing receipt of in-kind contributions totaling \$6,078.14 from Colleen Needles Steward and \$7,449.17 from The People PAC. The pre-general report must disclose outgoing in-kind contributions on October 19, 2018, of \$901.82 each given to the 15 principal campaign committees listed in conclusion of law number 3, described as “video production services,” or something similar.
2. Within 10 days of the date of this order, People PAC (MN) must obtain from The People PAC the disclosure statement required by Minnesota Statutes section 10A.27, subdivision 13. The disclosure statement may consist of the reports of receipts and disbursements filed by The People PAC with the FEC covering the period from January 1 through November 26, 2018. Within 30 days of the date of this order, People PAC (MN) must provide an electronic or printed copy of the disclosure statement to the Board.
3. Within 30 days of the date of this order, each of the 15 principal campaign committees listed in conclusion of law number 3 must file an amended 2018 year-end or election-cycle-end report of receipts and expenditures, removing any \$982 in-kind contribution reported to have been received from “Colleen Steward,” and disclosing receipt of a \$901.82 in-kind contribution on October 19, 2018, from People PAC (MN), Board registration number 41208. On their reports, the committees must describe the contribution as “video production services,” or something similar.

4. Within 30 days of the date of this order, the Heather Edelson for House committee must return at least \$747.41 to one or more special source contributors that gave a contribution to the committee during the 2017-2018 election cycle.
5. Within 30 days of the date of this order, the Ginny Klevorn for Representative committee must return at least \$737.41 to one or more special source contributors that gave a contribution to the committee during the 2017-2018 election cycle.
6. Within 30 days of the date of this order, the Brand (Jeff) for House committee must return at least \$51.82 to one or more special source contributors that gave a contribution to the committee during the 2017-2018 election cycle.
7. Within 30 days of the date of this order, the Perske (Joe) for Senate committee must return at least \$876.82 to one or more special source contributors that gave a contribution to the committee during the Senate District 13 special election cycle.
8. The violation of the aggregate special source contribution limit by the Erin (Koegel) for Minnesota committee will be addressed by the Board separately from this order.
9. People PAC (MN) is ordered to pay \$800 for the late filing fee owed for the committee's no-change statement that was due October 29, 2018. Payment must be made within 30 days of the date of this order by check or money order payable to the State of Minnesota. Payment may be made directly by The People PAC.

/s/ Margaret Leppik
Margaret Leppik, Chair
Campaign Finance and Public Disclosure Board

Date: November 6, 2019