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MEMORANDUM

To: Interested Parties
From: Michael J. Sullivan, Director *MJS*
Subject: Expenditures made using peer-to-peer payment applications

Peer-to-peer payment systems, sometimes referred to as P2P payment apps or P2P payment platforms, allow users to make payments to other persons or commercial vendors through a mobile device linked to the user's credit card or bank account.¹ Political candidates and committees have asked OCPF if such apps may be used to make campaign-related expenditures. This memorandum is issued to provide guidance in response to these questions.²

Section 9 of the campaign finance law states that "No individual, candidate, political committee or person acting on behalf of said individual, candidate or political committee, shall make an expenditure for an amount exceeding \$50 except by check or credit card..." M.G.L. c. 55, § 9. Section 9 also states that a committee may also use debit cards, and requires OCPF to establish regulations concerning expenditures.

The regulations allow payment of credit card bills or other invoices not only by a physical debit card, but also "online, by phone, or by other electronic means." 970 CMR 2.09(4)(a). The regulations, however, are intended to allow payments by an electronic method *only if all required information regarding the payment is disclosed by the candidate or committee, and records maintained, as required by the statute.* See 970 CMR 2.09(5), stating that "records of all electronic expenditures ... shall be maintained pursuant to M.G.L. c. 55, §§ 2 and 5 and 970 CMR 1.10.

According to a typical P2P platform, convenience is a key benefit of P2P apps. Such apps allow users to "pay friends and family ... using money you have in [the app's account], or link your bank account or debit card quickly."³ Payments made by such a P2P payment app, although convenient, may not comply with campaign finance requirements.

¹ Platforms that provide P2P apps may also provide web-based payment systems and may be used to pay business vendors as well as persons. The guidance in this Memo, in addition to applying to apps used to make payments, also applies to payments made to business entities using apps or web-based payment systems.

² See M-04-01 for guidance on related questions relating to whether *contributions* may be made to candidates and political committees using P2P payment apps.

³ "Venmo.com/about/product," accessed October 21, 2019.



P2P apps differ in several important respects from other forms of electronic payment, such as committee use of debit cards or electronic fund transfers: In contrast to debit card or electronic fund transfer payments, P2P payment apps do not generally provide a paper trail or a mechanism for third-party (i.e., bank) recording of vendor information.

Accurate recordkeeping and timely disclosure of information regarding vendors are key requirements of the campaign finance law. Accordingly, the use of P2P payment apps to make expenditures is prohibited unless the identity of the vendor is reflected in the debit entry in the committee's bank statement, e.g., as "PayPal* ABC Printing Company."

A committee may use a P2P payment app to pay a commercial vendor only if the committee's P2P account is linked to the committee's bank account, and the committee's bank statement reflects the name of the commercial vendor. Some P2P payments may not result in third-party disclosure of the vendor. For example, a transaction might be described on the committee's bank statement as "PayPal Instant Transfer." Such payments, which do not provide third-party identification of the name of a vendor, are prohibited and must be made by a different method.⁴

In addition, a payment made using a P2P payment platform is permitted only if the committee making the payment maintains required records and discloses all required information relating to the payment, including (1) the address of the vendor, (2) the date of the expenditure, and (3) the specific purpose of the expenditure. The absence of such records relating to any expenditure creates a presumption that the expenditure was made for the personal use of a candidate or other person receiving the funds, and therefore not in compliance with the campaign finance law. 970 CMR 1.10(6).

Committees with additional questions should contact OCPF for guidance.

⁴ It is our understanding that Venmo does not provide vendor information.