

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

**FINDINGS IN THE MATTER OF A COMPLAINT REGARDING GOVERNOR TIM
PAWLENTY AND THE (TIM) PAWLENTY FOR GOVERNOR COMMITTEE**

Procedural Background

On February 11, 2005, Alan Weinblatt (Complainant) filed a complaint on behalf of Mike Erlandson and the Minnesota Democratic Farmer Labor Party with the Campaign Finance and Public Disclosure Board (the Board) against Governor Tim Pawlenty and the (Tim) Pawlenty for Governor Committee (Committee) alleging that Governor Pawlenty and the Committee violated provisions of Chapter 10A.

Specifically, the Complainant made the following four allegations against Governor Pawlenty and the (Tim) Pawlenty for Governor Committee:

The Complainant's first allegation is that the vehicle and drivers (State Troopers) provided to Governor Pawlenty by the State of Minnesota were used to transport Governor Pawlenty to campaign related events.

The Complainant's second allegation is that the Committee's 2003 and 2004 calendar year Report of Receipts and Expenditures did not show any reimbursement from the Committee to the State of Minnesota for the use of the state provided vehicle and drivers for transportation of Governor Pawlenty to political events. (A principal campaign committee that fails to disclose expenditures on the Report of Receipts and Expenditures filed with the Board is in violation of Minn. Stat. §10A.20, subd. 3 (g).)

The Complainant's third allegation is that Governor Pawlenty failed to receive reimbursement from the Committee when Governor Pawlenty used his personal vehicle to travel to campaign related events in 2003, or alternatively, Governor Pawlenty failed to disclose the use of his personal car as an in-kind donation to the Committee when Governor Pawlenty used his own vehicle as transport to campaign related events in 2003. (Failure by a principal campaign committee to disclose contributions is a violation of Minn. Stat. §10A.20, subd. 3 (b). Failure by a principal campaign committee to value the use of a personal car that is not reimbursed as a donation in kind is a violation of Minn. Rules 4503.0500, subp. 8.)

The Complainant's fourth allegation is that the Committee did not reimburse Governor Pawlenty a sufficient amount when it paid Governor Pawlenty \$335.63 for the use of his personal vehicle as transportation to campaign related events in 2004. (Failure by an individual to submit a bill to a principal campaign committee is a violation of Minn. Stat. §10A.18.)

The Complainant provided no specific information on political events attended by Governor Pawlenty in 2003 or 2004, no specific example(s) on the use of the state provided vehicle or drivers allegedly used to transport Governor Pawlenty to political events, and no specific examples of Governor Pawlenty using his personal vehicle as transport to campaign related events in 2003 or 2004.

Richard Morgan, attorney representing Governor Pawlenty and the Committee, contacted the Board on February 11, 2005, and stated that he was aware of the complaint and would be providing a response. The Board received Mr. Morgan's response on February 17, 2005. The

Board asked Mr. Morgan for additional information relevant to the complaint on March 9, 2005. Mr. Morgan provided a response to the Board's inquiry on March 11, 2005.

In response to the Complainant's first allegation that Governor Pawlenty used the vehicle and driver provided by the state as transportation to campaign related events, Mr. Morgan stated that "State law specifically allows the Governor to use the vehicle for both state purposes and non-state purposes." Mr. Morgan further stated, "Whether traveling in the vehicle to deliver the State of the State speech in Rochester, or to meet the President of the United States in St. Paul, or to take his daughters to a soccer game in Eagan, the Governor's use of the vehicle is customary, appropriate and lawful". Mr. Morgan referenced Minn. Stat. §16B.55, subd. 5 as statutory authority for Governor Pawlenty to use the state provided vehicle for activities unrelated to his official duties as Governor.

In regard to the use of State Troopers to drive Governor Pawlenty to campaign related events Mr. Morgan stated, "The Minnesota State Patrol is required to provide security and protection to the Governor." Mr. Morgan referenced Minn. Stat. §299D.03, subd. 1(b)(10), as the statutory authorization for the Minnesota State Patrol to provide security to Governor Pawlenty. Mr. Morgan also provided a portion of a memo from the office of Attorney General Mike Hatch to then Governor Ventura that states in part "...It is significant that the legislature did not limit the requirement of security to the Governor's on-the-job activities, as it easily could have done. Rather, in recognition of the importance of maintaining the Governor's safety, the statute provides for the Governor's security without reference to his whereabouts or the nature of a particular activity of the Governor." Mr. Morgan also submitted a copy of a letter written by Colonel Anne Beers, Chief of the Minnesota State Patrol, which explains the need to provide security to Governor Pawlenty with Minnesota State Patrol officers "...24 hours per day, seven days per week..".

In response to the Complainant's second allegation that the Committee did not reimburse the State of Minnesota when Governor Pawlenty was transported to campaign related events in the state provided vehicle Mr. Morgan stated "Despite having no obligation under the law to do so, Governor Pawlenty voluntarily chose to make a mileage payment to the State for his use of the state provided vehicle for political purposes. The payment consists of a set amount paid by the Governor per paycheck and does not reflect an exact mileage reimbursement, since none is required by law. The Governor started this practice in 2004 and to date has paid in excess of \$1,000 to the State...this amount would cover over 2800 miles of travel in the state vehicle, well above any reasonable estimate for the amount of political travel by the Governor in the vehicle". As evidence for this statement, Mr. Morgan provided a sworn statement from John Pemble, Administrative Services Manager for the Governor's Office, that Governor Pawlenty had reimbursed the State of Minnesota \$1,014.62 for the use of the state vehicle as transportation to political events.

In response to the Complainant's third allegation that Governor Pawlenty failed to receive reimbursement or alternatively report as an in-kind donation the use of his personal vehicle as transport to campaign related events in 2003; Mr. Morgan stated, "...neither Governor Pawlenty nor Lieutenant Governor Molnau has any recollection of using any of their privately owned vehicles to attend political events that benefited the Pawlenty/Molnau campaign in either 2003 or 2004."

In response to the Complainant's fourth allegation that the Committee did not fully reimburse Governor Pawlenty when it paid Governor Pawlenty \$335.63 for the use of his personal vehicle as transportation to campaign related events in 2004, Mr. Morgan stated, "The 2004 Campaign Report of the Pawlenty for Governor Campaign Committee does have an entry, dated December

31, 2004, for a reimbursement of \$335.63 for mileage, which reflects the Governor's reimbursable travel expenses for 2004. The Pawlenty for Governor Campaign Committee reimbursed the Governor just for that portion of his payments to the state for use of the state vehicle attributable to his own campaign. The Committee can only reimburse the Governor for expenses associated with his own campaign." Mr. Morgan further stated, "The Governor received no reimbursement in 2003 because no obligation existed under the law to make such a payment, the voluntary mileage payment had not started, and the Governor's political travel on his own behalf was limited to one round trip of about 17 miles from the Governor's residence to a fundraiser in Minneapolis on September 23, 2003 and the approximately twice monthly trips of about 1/6 of a mile round trip from the Capitol to Republican Party headquarters. Nevertheless, while not required by law to do so, the Governor will take this opportunity to retroactively extend his voluntary reimbursement policy back to 2003. The Committee will amend its 2003 report to the Board to reflect the voluntary contribution by the Governor to the State of Minnesota that covered the approximately 21 miles the Governor traveled in the state vehicle for political purposes in 2003." With his response Mr. Morgan provided an amendment to the 2004 Year End Report of Receipts and Expenditure for the (Tim) Pawlenty for Governor Committee that shows an unpaid campaign expenditure of \$7.88 owed to Governor Pawlenty for reimbursement of mileage incurred while attending campaign events in 2003.

The matter was considered by the Board in executive session at its meetings on February 22, and March 22, 2005. The Board's decision was based upon the complaint, the responses from Richard Morgan, and records filed with the Board.

Based on the record before it, the Board issues the following:

EVIDENTIARY FINDINGS

1. Minn. Stat. §10A.01, subd. 10, defines a "candidate" to include an individual who seeks election as a state constitutional officer and who has received contributions or made expenditures in excess of \$100. Governor Pawlenty is a candidate under Chapter 10A.
2. Minn. Stat. §10A.105 provides that a candidate must designate a single "principal campaign committee" for each office sought once the candidate receives contributions of over \$100 or the candidate signs the public subsidy agreement. The (Tim) Pawlenty for Governor Committee is the principal campaign committee of Governor Pawlenty.
3. Minn. Stat. §10A.18 provides that a person who has a bill, charge, or claim against a principal campaign committee must submit a bill for the service or material provided.
4. Minn. Stat. §10A.20, subd. 3(b), requires a principal campaign committee to disclose contributions made to the committee in the Report of Receipts and Expenditures filed with the Board.
5. Minn. Stat. §10A.20, subd. 3(g), requires a principal campaign committee to disclosure expenditures made by the committee in the Report of Receipts and Expenditures filed with the Board.
6. Minn. Rules 4503.0500, subp. 8, requires a principal campaign committee to consider the use of an automobile for the committee that is not reimbursed to the owner as a donation in kind valued at the lowest rate used by the state of Minnesota to reimburse its employees for automobile use.

7. Minn. Stat. §16B.55, subd. 5, provides that the requirement that a state vehicle only be used for authorized state business (Minn. Stat. §16B.55, subd. 2) does not apply to the use of a state vehicle by the governor.
8. Minn. Stat. §299D.03, subd. 1 (b) (10), provides in part that the Minnesota State Patrol “.. provide security and protection to the governor, governor elect, either or both houses of the legislature, and state buildings or property in the manner and to the extent determined to be necessary after consultation with the governor, or a designee....”
9. There is evidence that Colonel Anne Beers, Chief of the Minnesota State Patrol, believes the security of the Governor requires 24 hours a day, seven days a week protection by officers of the Minnesota State Patrol.
10. There is evidence that Governor Pawlenty voluntarily used personal funds to reimburse the State of Minnesota \$1,014.62 to cover the cost of using the state vehicle as transport to political events.
11. There is evidence that the Committee has an unpaid obligation to Governor Pawlenty for \$7.88 to cover that portion of the \$1,014.62 paid by Governor Pawlenty to the State of Minnesota for transportation in a state vehicle to campaign events that benefited Governor Pawlenty’s own campaign in 2003. At the mileage rate provided by the Board in 2003, \$7.88 represents a reimbursement request for approximately 27 miles.
12. There is evidence that Governor Pawlenty was reimbursed \$335.63 by the Committee to for that portion of the \$1,014.62 paid by Governor Pawlenty to the State of Minnesota for transportation in a state vehicle to campaign events that benefited Governor Pawlenty’s own campaign in 2004. At the mileage rate provided by the Board in 2004, \$335.63 represents a reimbursement for approximately 1,137 miles.
13. There is no evidence that Governor Pawlenty used his personal car to attend political events that benefited his own campaign in 2003 or 2004.

Based on the above Statement of the Evidence, the Board makes the following:

FINDINGS CONCERNING PROBABLE CAUSE

1. There is no probable cause to believe that any provision of Minnesota Statutes Chapter 10A takes precedence over or limits the discretion given to the Governor or the Commissioner of Public Safety in Minn. Stat. §§16B.55, subd. 5 and 299D.03, subd. 1 (b) (10), which provide the Governor with a state vehicle for transportation and security from the Minnesota State Patrol regardless of the nature of the event the Governor may wish to attend.
2. There is no probable cause to believe that the Governor is required to use funds from the (Tim) Pawlenty for Governor Committee to reimburse the state for the use of the state car or security provided by the State Patrol.

3. There is probable cause to believe that the amounts reimbursed by the Committee to Governor Pawlenty for use of the state vehicle are in relation to the amount paid by Governor Pawlenty to the State of Minnesota for use of the state vehicle to attend political events that benefited his own campaign.
4. There is no probable cause to believe that Governor Pawlenty used his own vehicle to attend political events that benefited the Governor's own campaign in 2003 or 2004. Therefore, there is no probable cause to believe that the Committee failed to disclose an in-kind donation from Governor Pawlenty for the use of his personal car in 2003 or 2004.
5. There is no probable cause to believe that Governor Pawlenty used his own vehicle to attend political events that benefited the Governor's own campaign in 2003 or 2004. Therefore, there is no probable cause to believe that Governor Pawlenty failed to submit a bill for reimbursement to the Committee for use of his personal car in 2003 or 2004.
6. There is probable cause to believe that the (Tim) Pawlenty for Governor Committee properly reported reimbursements to Governor Pawlenty on the Committee's 2004 Report of Receipts and Expenditures and properly amended the 2003 Report of Receipts and Expenditures to show an unpaid obligation to Governor Pawlenty.

Based on the above Findings, the Board issues the following:

ORDER

1. The complaint regarding the alleged violation of Minn. Stat. §10A.18, is dismissed in its entirety.
2. The complaint regarding the alleged violation of Minn. Stat. §10A.20, subd. 3(b), is dismissed in its entirety.
3. The complaint regarding the alleged violation of Minn. Stat. §10A.20, subd. 3(g), is dismissed in its entirety.
4. The complaint regarding the alleged violation of Minn. Rules 4503.0500, subp. 8 is dismissed in its entirety.
5. The record in this matter and all correspondence is hereby entered into public record in accordance with Minn. Stat. §10A.02, subd. 11. Board staff shall provide copies of these Findings to Governor Pawlenty, Richard Morgan, Alan Weinblatt, and Mike Erlandson.

Dated: 3-22-05



Terri Ashmore, Chair
Campaign Finance and Public Disclosure Board