

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

FINDINGS, CONCLUSIONS, AND ORDER

IN THE MATTER OF THE PELOWSKI (GENE) VOLUNTEER COMMITTEE

Background

The Pelowski (Gene) Volunteer Committee is the principal campaign committee of Representative Gene Pelowski Jr. The committee's 2017 year-end report of receipts and expenditures itemized \$802.08 in campaign expenditures paid to Quality Furniture Rental described as "Equipment Rent: furniture rental for St Paul apartment," \$631.39 in expenditures paid to "The Penfield" described variously as "Rent: security deposit & parking at rental unit," "Lodging: utility charges at rental," and "Lodging: energy at rental," and \$691.94 in expenditures paid to Xcel Energy described as "Lodging: energy at rental." The committee's 2018 year-end report itemized \$952.10 in expenditures paid to "The Penfield" described variously as "Rent: Dec rent for St Paul apartment" and "Utilities: St Paul apartment," and \$285.30 in expenditures paid to Xcel Energy described as "Electricity: St Paul apartment." The committee's 2019 year-end report itemized \$613.46 in expenditures paid to Xcel Energy described as "Utilities: Rep's St Paul apartment." The sum total of those expenditures is \$3,976.27, including a total of \$2,125.41 in 2017, \$1,237.40 in 2018, and \$613.46 in 2019.

In April 2020 the Board's executive director opened a staff review regarding the committee's expenditures related to a St. Paul apartment. The expenditures did not appear to be related to the conduct of Representative Pelowski's election campaigns and were not classified as noncampaign disbursements, thus they appeared to have been prohibited by Minnesota Statutes section 211B.12. In response to a letter from Board staff, Kevin Beck, counsel for Representative Pelowski, stated that the expenditures in question were inconsistent with Minnesota Statutes section 211B.12. Mr. Beck explained that the payments "were made in error." Mr. Beck stated that "[t]he error was an unintentional interpretation of campaign and non-campaign expenditures and represents an isolated incident." Mr. Beck also said that the committee's treasurer now "understands the restrictions with respect to any further disbursement of campaign funds."

Analysis

Minnesota Statutes section 211B.12 prohibits a principal campaign committee from using money collected for political purposes "unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement." The payments in question were not related to the election campaigns of the Pelowski Volunteer Committee, and they do not fall under any of the noncampaign disbursement categories established in Chapter 10A.

The Board may impose a civil penalty of up to \$3,000 for a violation of Minnesota Statutes section 211B.12, pursuant to Minnesota Statutes section 10A.34, subdivision 4. When deciding whether to impose a civil penalty, and the amount of that penalty, the Board considers several factors.¹ The Pelowski committee has no history of past violations of Minnesota Statutes section 211B.12 and there is no evidence in the record indicating that the committee willfully violated the statute. The committee disclosed the expenditures in question within reports filed with the Board, which are accessible to the general public, indicating that the committee believed that the expenditures were a permissible use of committee funds. The amount of money involved was significant and provided an economic benefit to Representative Pelowski.

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

Findings of Fact

1. The Pelowski (Gene) Volunteer Committee used \$3,976.27 of its money to pay for utilities, furniture rental, a deposit, parking, and one month's rent associated with Representative Pelowski's apartment in St. Paul.
2. The funds used by the committee consisted of money collected for political purposes.
3. The committee did not understand that the expenses could not be paid for with committee funds and did not intend to misuse those funds.
4. Representative Pelowski gained an economic benefit from the expenses paid by his principal campaign committee.

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

Conclusions of Law

1. The Pelowski (Gene) Volunteer Committee spent \$3,976.27 on services that were not reasonably related to the conduct of Representative Pelowski's election campaigns and that did not qualify as noncampaign disbursements. The committee therefore spent \$3,976.27 in violation of Minnesota Statutes section 211B.12.

¹ Minnesota Statutes section 14.045, subdivision 3, lists factors that agencies should consider when setting the amount of a fine including the gravity, willfulness, and number of violations; the offender's past violations and economic benefit; and any other factor that justice requires.

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

Order

1. Representative Pelowski must personally reimburse the Pelowski (Gene) Volunteer Committee \$3,976.27. This reimbursement payment is the total amount of campaign funds that were used for purposes prohibited by Minnesota Statutes section 211B.12 in 2017, 2018, and 2019.
2. Representative Pelowski must provide documentation within 30 days from the date of this order showing the deposit of the reimbursement payment into the committee's bank account.
3. A civil penalty of \$1,000 is imposed against the Pelowski (Gene) Volunteer Committee for its use of committee funds in violation of Minnesota Statutes section 211B.12. The Pelowski committee is directed to forward to the Board payment of the civil penalty, by check or money order payable to the State of Minnesota, within 30 days of the date of this order.
4. If the committee does not comply with the provisions of this order, the Board's executive director may request that the attorney general bring an action on behalf of the Board for the remedies available under Minnesota Statutes section 10A.34.
5. The Board investigation of this matter is concluded and hereby made a part of the public records of the Board pursuant to Minnesota Statutes section 10A.022, subdivision 5.

/s/ Gary Haugen
Gary Haugen, Chair
Campaign Finance and Public Disclosure Board

Date: September 9, 2020