

Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

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COMMISSION
OFFICE OF GENERAL
COUNSEL
2006 FEB 21 A 9:03

February 9, 2006

MUR # 5714

Dear Sir:

This writing constitutes a formal complaint to the Federal Election Commission (the "Commission"). This complaint is based upon information and belief; media accounts supporting this complaint are attached hereto.

This complaint alleges violations of Federal Election Campaign Act ("FECA") and Commission regulations by the Montana State Democratic Central Committee.

The complaint alleges the following:

1. On August 8, 2005 the Montana State Democratic Central Committee began airing television attack advertisements against Senator Conrad Burns. See, [Sarah Cooke, "Democrats run first ad attacking Burns," *Billings Gazette*, August 8, 2005], *attached hereto as Ex. A*.
2. The Commission defines Federal Election Activity to include "a public communication that refers to a clearly identified candidate for Federal office, regardless of whether a candidate for State or local election is also mentioned or identified, and that promotes or supports, or attacks or opposes any candidates for Federal office. This paragraph applies whether or not the communication expressly advocates a vote for or against a Federal candidate." See, [11 CFR 100.24 (a) (3)]
3. Prior to the Democrats airing their attack advertisements on August 8, Senator Burns had been mentioned numerous times as a candidate for Federal office. On July 16, 2005, the Associated Press reported that Senator Burns "raised nearly \$1 million during the past three months to help finance his re-election bid for a fourth term, reports filed Friday with the Federal Elections Commission show." See, ["Burns' war chest passes \$3 million, *Billings Gazette*, July 16, 2005] *attached hereto as Ex. B*. Reports that Senator Burns was seeking re-election to the Senate and his filing finance reports with the FEC indicate that he was clearly an identifiable candidate for Federal office.
4. The Commission stipulates that "a State, district, or local committee of a political party...must report all receipts and disbursements made for Federal election activity if the aggregate amount of such receipts and disbursements is \$5,000 or more during the calendar year." See [11 CFR 300.36(b)(2)]
5. The Commissions regulations further state that "a State, district, or local committee of a political party...that must file reports under paragraph (b) of

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this section must comply with the monthly filing schedule in 11 CFR 104.5(c)(3)." See [11 CFR 300.36(c)(1)]

6. According to the Commission's online Disclosure Database, Montana State Democratic Central Committee did not file monthly reports for any of the months in 2005.
7. The Montana State Democratic Central Committee did file a year-end report with the Commission on January 31, 2006. Upon review of that report, there is no salary listed for the Committee's Executive Director, Jim Farrell.
8. In *Great Falls Tribune* news article from February 2, 2006, Mr. Farrell explained that all of his salary comes from the Committee's non-federal account: "Farrell said that because he does most of his work on legislative, as opposed to federal, races, his salary will show up in the report that he said would be filed today with the state." See [Gwen Florio, "Democrats miss deadline for campaign finance report," *Great Falls Tribune*, February 2, 2006] attached hereto as Ex. C.
9. The Commission stipulates that "salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must be allocated between or among Federal, non-Federal, and Levin accounts. Only Federal funds may be used." See, [11 CFR 300.33(c)(2)]
10. Based on my knowledge of the duties of a state party Executive Director and the amount of activity the Montana State Democratic Central Committee has had in the Senate race in Montana over the last six months, it is my belief that it is impossible that Mr. Farrell has spent less than 25% of his time per month on Federal election activity.

Based on the above-alleged violations of FECA, I respectfully request that the Commission further investigate whether:

- (1) The Montana State Democratic Central Committee violated FECA by failing in their campaign finance reporting obligations.
- (2) The Montana State Democratic Central Committee violated FECA by failing to report Executive Director Jim Farrell's salary.

Sincerely,



CHARLES DENOWH
Executive Director
Montana Republican Party
PO Box 935
Helena, MT 59624

Attachments

All-purpose Acknowledgment



STATE OF Montana, COUNTY OF Lewis & Clark

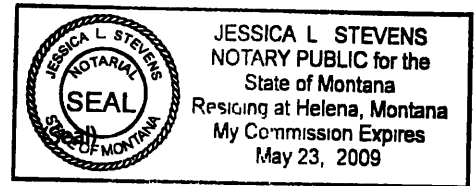
On February 9th 2000 before me, the undersigned, a Notary Public in and for said State, personally appeared

Charles Denowh

personally known to me -OR- proved to me on the basis of satisfactory evidence/ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Name (type or printed) Jessica L. Stevens
My commission expires May 23, 2009



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Exhibit A



Story available at <http://www.billingsgazette.net/articles/2005/08/08/state/export219106.txt>

Published on Monday, August 08, 2005

Last modified on 8/8/2005 at 4:58 pm

Democrats run first ad attacking Burns

By SARAH COOKE Associated Press

HELENA -- The Montana Democratic Party began airing a TV ad Monday attacking incumbent Republican Sen. Conrad Burns for what it called an "improper relationship" with a GOP lobbyist under federal investigation.

The Burns campaign and the National Republican Senatorial Committee called the ad blatantly false and asked TV stations to stop airing it. Other GOP officials questioned its release more than a year before the 2006 election, and blasted it as mud slinging.

The television spot, which was airing on TV stations statewide, criticizes Burns for what it said was his vote to give one of the nation's wealthiest American Indian tribes \$3 million from a federal program intended for cash-strapped tribal schools.

The Michigan tribe was a client of lobbyist Jack Abramoff, who donated money to Burns' political action committee and is now under investigation for possibly bilking his Indian clients.

The ad urged voters to call Burns and "tell him to start working for Montana."

"Conrad Burns has forgotten that he works for the people of Montana, not for high-powered lobbyists trying to win his favor with campaign contributions," Montana Democratic Party Chairman Dennis McDonald said.

The spot is running through the week and is costing "tens of thousands of dollars," said Tim Tatarka, spokesman for the Montana Democratic Party.

Montana Republican Party Chairman Karl Ohs said the ad was inaccurate and "demonstrates Democrats don't have anything real to talk about."

"With nearly 15 months to go in this election, the Democrats have chosen mud slinging over real issues of importance to Montanans," he said.

In the ad, Democrats contend Burns received \$136,000 from Abramoff and then "fought for and passed" the \$3 million federal Indian grant. Former Democratic Party Chairman Bob Ream has called the grant a "potential payoff" for Abramoff's financial support and asked the U.S. Senate earlier this year for an investigation.

In a letter to TV station managers Monday, National Republican Senatorial Committee attorney William McKinley said Federal Election Commission records show Abramoff has

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never given to Burns' campaign committee. Those records indicate he did donate \$5,000 to Burns' political action committee in 2001, but that the \$136,000 in campaign donations actually came from Abramoff's tribal clients.

FEC records also show one of those clients donated to the Montana Democratic Party in 2002.

Burns has said the aid to the Michigan tribe was requested by that state's congressional delegation as part of the 2004 Interior Appropriations Bill. The legislation received bipartisan support in the U.S. Senate, passing 87-2, National Republican Senatorial Committee spokeswoman Brian Nick said.

"We're hoping the television stations are responsible and pull it down," he said of the ad.

McDonald stood by the TV spot and said he would not respond to the GOP's request.

"I can clearly understand why they would want the ad down," he said. "The truth hurts."

Speaking from his home in Melville, McDonald said Democrats released the ad this far before the election because they had the information and "folks in Montana should be aware of it."

"It's a desperate start to a desperate campaign by the State Democrat Party to try and buy back a seat in the U.S. Senate," said Mark Baker, chairman of Friends of Conrad Burns.

Burns is running for a fourth U.S. Senate term. So far, four Democrats have entered the race to unseat him: state Auditor John Morrison; Senate President Jon Tester, a Big Sandy farmer; Paul Richards, a former legislator from Boulder; and Clint Wilkes of Bozeman, who runs an Internet consulting company.

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Exhibit B



Story available at <http://www.billingsgazette.net/articles/2005/07/16/state/export215846.txt>

Published on Saturday, July 16, 2005.

Last modified on 7/16/2005 at 12:39 am

Burns' war chest passes \$3 million

Associated Press

HELENA - Sen. Conrad Burns, R-Mont., raised nearly \$1 million during the past three months to help finance his re-election bid for a fourth term, reports filed Friday with the Federal Election Commission show.

The \$965,407 Burns collected since April 1 brings his campaign total to almost \$3.2 million, with 15 months remaining before the 2006 general election. Special-interest groups called political action committees, or PACs, provided him with about 41 percent of that.

Burns raised about \$5.2 million for his 2000 campaign.

The latest finance report means Burns raised money at the rate of \$10,609 a day during the three-month period of April through June. The incumbent has eight times more money than his closest Democratic rival.

State Auditor John Morrison officially began his Senate campaign April 25. He has raised \$403,551 and spent \$29,853 since getting his first donation April 18. That left Morrison with \$373,698 at the end of June. He collected contributions at a daily rate of \$5,453, and PACs supplied Morrison with \$6,500, or 1.6 percent of his money.

Jon Tester, a Big Sandy farmer and president of the state Senate, reported raising \$57,689 since May 20, four days before he entered the U.S. Senate race. He has spent \$18,258 and has received \$1,630 from PACs.

Clint Wilkes of Bozeman, who runs an Internet consulting company, could not be reached for campaign-finance information.

Paul Richards, a communications consultant from Boulder and the fourth Democrat in the Senate race, did not file a report because he began his campaign only this week.

In the U.S. House race, incumbent Republican Denny Rehberg holds a big money-raising lead over Monica Lindeen, his Democratic challenger, who kicked off her campaign less than a month ago.

Rehberg has raised \$96,520 in the past three months. Combined with \$225,580 remaining from the 2004 election and money raised during the first three months of this year, he has \$394,211 available, so far, with which to seek a fourth term. Rehberg has spent \$82,043.

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Of the money raised during the first half of this year, nearly two-thirds or \$108,000 has come from PACs.

For his 2004 re-election campaign, Rehberg had about \$834,000 to spend, including money left over from his 2002 race.

Lindeen, who entered the race June 22, reported raising \$31,180 by the end of the month. That included a \$1,000 personal loan to her campaign. About half her money, or \$15,100, came from PACs.

She has spent \$624 and had in the bank \$30,556 to start the year's second half.

Lindeen, a state representative from Huntley, is serving her fourth term in the Montana House. Term limits prevent her from seeking re-election next year.

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Exhibit C

Democrats miss deadline for campaign finance report

By GWEN FLORIO
Tribune Capitol Bureau

HELENA — The Montana Democratic State Central Committee spent \$73,464 between late August and late November for ads blasting incumbent U.S. Sen. Conrad Burns, a Republican, according to reports filed with the Federal Election Commission.

However, the committee failed to file a concurrent report by the Tuesday deadline with the state Commissioner of Political Practices.

Party executive director Jim Farrell blamed the delay on a computer glitch, and said the report would be filed today. But Republicans protested furiously.

"They have broken the law by not reporting who is paying for the barrage of negative attacks they have subjected Montanans to," said Jason Klindt, campaign spokesman for Burns. "Did they rob a bank, did they find it under a tree, or are East Coast liberals trying to buy a Senate seat?"

The Democratic Party spent much of the fall, and into 2006, using every opportunity to take shots at Burns, whose seat is viewed as one of the most vulnerable for takeover in November. Its ads have focused on Burns' ties with the associates of Washington lobbyist Jack Abramoff, who pleaded guilty last month in a congressional influence-peddling case.

Indeed, Farrell on Wednesday blamed the Republicans' accusations about the campaign-finance reports as a "desperate" ploy to change the subject from Abramoff

Chuck Denowh, executive director of the Montana Republican Party, suggested maybe the Democrats would like to turn that particular criticism on themselves.

"The other side likes to talk about ethics and integrity, but they're not showing it. I was shocked that they had not filed yet."

The Democratic committee is officially in noncompliance for

not filing its report on time, but will return to compliance if it is filed today, according to the Political Practices office.

In addition to the money spent on ads, the report filed with the FEC listed \$15,373 in fund-raising expenses, and \$23,192 in research fees to Tatarka Consulting Inc. in Missoula. The committee also took in \$158,898 from the national Democratic Senatorial Campaign Committee



The Republican State Central Committee had almost no such expenses, save for a paltry \$1,301 for telemarketing. That's because Burns can more than afford to fight

back on his own, given his war chest of more than \$3 million.

The most notable thing about the Democrats' report is what's not listed.

Back in September, the Democrats brought in Jim Farrell, who formerly worked for the late Minnesota Sen. Paul Wellstone, as executive director. Farrell was joined in November by Matt McKenna, a Bozeman-based campaign spokesman, who had worked for former Alaska Gov. Tony Knowles. The two have waged an aggressive war of words against Burns, giving the major Democratic candidates — state Auditor John Morrison and state Senate President Jon Tester — the luxury of confining most of their comments to issues

However, neither of their salaries is listed

Farrell said that because he does most of his work on legislative, as opposed to federal, races, his salary will show up in the report that he said would be filed today with the state. McKenna didn't file an invoice until January; hence, his salary won't show up until the first-quarter report is filed at the end of March, Farrell said.

At the Republican committee, Denowh earned \$3,210 in December, according to the report, while spokesman Chuck Butler was paid \$912

Contact Gwen Florio at 406-442-9493, or gfloriogreatfal.gannett.com

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