FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

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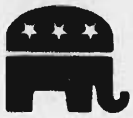

COLORADO REPUBLICANS
1275 Tremont Place, Denver, Colorado 80204 (303) 893-1776
Howard H. Callaway
State Chairman

86 OCT 27 P12:00

October 23, 1986

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, DC 20004

Dear Mr. Steele:

This complaint is filed with the Federal Election Commission ("FEC") pursuant to 2 U.S.C. 441b(a), 2 U.S.C. 441d, 11 C.F.R. 110.11(a) and 11 C.F.R. 114.2 against Ben Campbell ("Campbell") and the Campbell for Congress Committee, P.O. Box 791, Pueblo, Colorado 81002.

INTRODUCTION

In the closing weeks of the 1986 congressional campaign, Ben Campbell has demonstrated a systematic refusal to comply with the law requiring full public disclosure about who is paying for his campaign. His dexterity in flaunting the disclosure provisions of the campaign laws is considerable. By this Complaint, the Colorado Republican Party seeks an FEC investigation into Campbell's practices regarding the three attached advertisements in Colorado's 3rd Congressional District election.

VIOLATIONS

Within the last three weeks, Campbell and his campaign committee have attempted to further Campbell's candidacy by distributing the three attached advocacy pieces. Although two of the

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advertisements (attached as Exhibits A and B) expressly advocate the election of Campbell, neither contains the authorization notices required by Federal law. The disclaimer rules of the Federal Election Campaign Act ("the Act") are designed to provide the public with complete information on the sponsorship and authority for a political advertisement. Campbell's failure to use the required disclaimer is an attempt to conceal from the public crucial information about his sponsors.

Federal law specifically provides that when a communication expressly advocates the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor facility, direct mailing or any other type of general public political advertising, it must clearly and conspicuously display one of the following authorization notices:

> if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or
>
> if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;
>
> if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

2 U.S.C. 441d.

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Both Exhibits A and B clearly benefit the "Ben Nighthorse Campbell for Congress" committee. Exhibit A urges readers to "VOTE CAMPBELL". Campbell and his campaign obviously attempted to benefit from the advertisements. But did Campbell's campaign pay for them? Did the publications? Did some other entity? Does Campbell have unseen, unknown benefactors? Is he receiving help from sources Campbell does not want the public to know about? By violating 2 U.S.C. 441d and 11 C.F.R. 110.11(a), Campbell and his campaign insured that the answers are hidden from the public.

The third Campbell advocacy piece (attached as Exhibit C) has been passed out by the Campbell campaign as an advocacy piece. (See Affidavit attached as Exhibit D). It is a reprint of an article appearing in the magazine of Frontier Airlines. It also lacks a disclaimer and, therefore, violates 2 U.S.C. 441d and 11 C.F.R. 110.11(a). The failure to place a disclaimer on the article raises the possibility that Frontier Airlines reprinted it, which would be a clearcut violation of the prohibition on corporate contributions in federal campaigns. 2 U.S.C. 441b(a); 11 C.F.R. 114.2.

The FEC must determine who did pay for the article and its reproduction, and whether Campbell's use of the article is a knowing and willful violation of federal elections laws.

CONCLUSION

I, therefore, request that the FEC investigate these apparent violations and enforce, as necessary, the United States Code and the Commission's regulations.

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VERIFICATION

The undersigned swears that the allegations and facts set forth in this Complaint are true to the best of his knowledge, information and belief.

Howard H. Callaway

Howard H. Callaway

Subscribed and sworn to before me this 23rd day of October, 1986.

Lenita G. Ballard

Notary Public 1275 Fremont Place
Denver, CO 80204

My Commission Expires: February 25, 1987

8 3 0 4 0 5 4 1 8 5 7

AFFIDAVIT OF _____

Sean Conway for his affidavit deposes and says:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.

2. On October 14, 1986, I witnessed campaign workers for Ben Campbell, a candidate for the United States House of Representatives from Colorado's 3rd Congressional District, passing out the attached article from the magazine of Frontier Airlines.

3. The Campbell for Congress workers passed out copies of this article to the general public in conjunction with their advocacy of Campbell's election to the United States Congress.

Sean P. Conway

Sean P. Conway

Subscribed and sworn before me this 23rd day of October, 1986.

Linda G. Ballard

Notary Public 1275 Fremont Place
Denver Co 80204

My commission expires: February 25, 1988

1986
Colorado State Fair
Fiesta Program

Evany Trujillo
1986 Fiesta Queen

8 8 0 4 0 5 9 0 8 3 9

TROPHY DONORS

Ahora Tax Service
"Best Representative of Mexican Tradition"
Alamo Drug Store
"Best Appearing Saddle Club"
Colorado State Fair
$100 cash award for "Best Non-Professional Float"
Joe's Restaurant
"Best Baton Twirling"
El Valle Restaurant and Lounge
"Most Fitting Parade Theme"
Five Star Bar
"Best Auto Show"
KOAA Television
"Judges Choice"
Larry T's Complete Automotive
"Best Musical Performance by Marching Band"
Palook's on the Avenue
"Best Musical Performance in Mexican Music"
McDonald's Restaurant
"Most Beautiful"
Minnequa Bank
"Best Unison in Drill & Appearance"
Ms. Chris Munoz
"Most Original"
Pepsi Cola Bottling Co.
"Best Appearing Mounted Unit"
Pueblo Chamber of Commerce
"Most Outstanding Organizational Float"

DONORS

Civil Defense -
Betty Jo Hopper
Pueblo Housing Authority
Trolley Line Co
Parks and Recreation
Rush Lumber
Tony Zamarripa
Pueblo Depot Activity
City Transportation Company
Pueblo Police Department
Minnequa Credit Union
McDonalds
Mtn Communications
Jack Quinn
CBS Lumber
Pueblo Bottling Co.
American Beverage
Diocese of Pueblo
Weicker Transfer & Storage
CF&I Steel
Sr Andrea
Ed Lujan
Frank Lazaro
Ft Carson Honor Guard
St Mary-Corwin Hospital
Tony Rotolo
Larry Trujillo
Fred Farmer
Fred Valdez
Chuck Mace
Earl Correy
Bob Pretty
Rose Ann Alfonso
Rose Marie Goodwin
Cortez Construction & Real Estate
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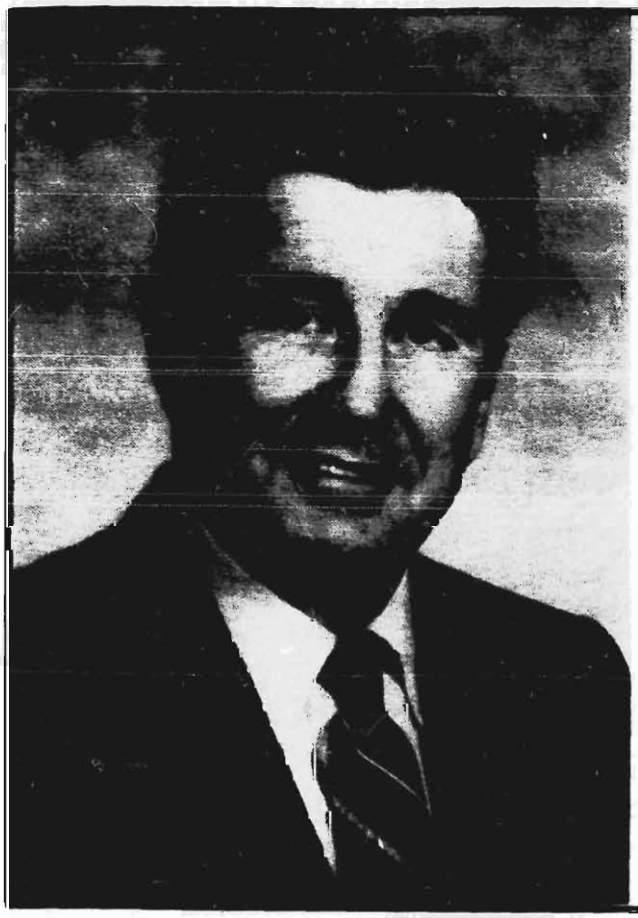
MUCHAS GRACIAS!



Your rich tradition began in Colorado long ago and has contributed to the unique heritage of this state. I proudly join in today's celebration.

Best Wishes

Ben Campbell

Ben
NIGHTHORSE CAMPBELL
for Congress

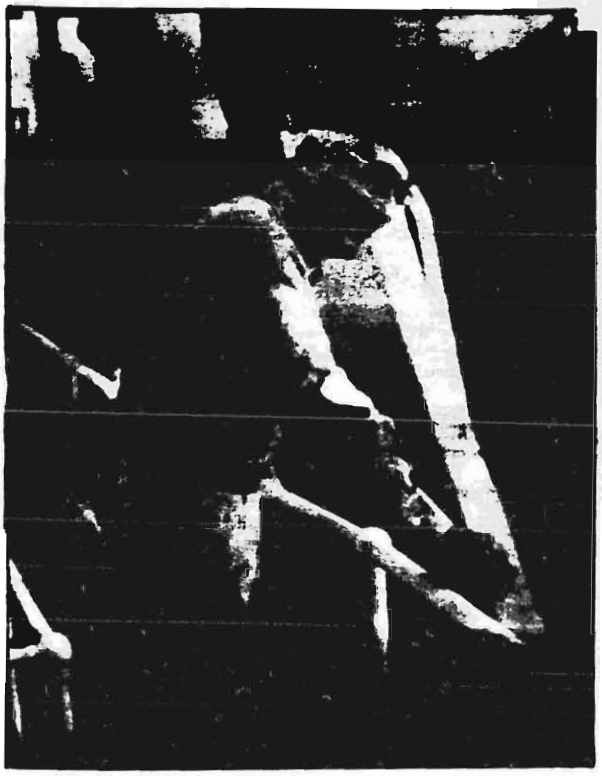
8 8 0 4 0 2 6 2 0 8 4 0

Senior Beacon

IN FOCUS FOR PEOPLE OVER 50

VOL. 5 NO.10 | Serving Pueblo/Arkansas Area | OCTOBER 1986

Jacques Cousteau: explorer of the seas



Jacques Cousteau aboard the Calypso. (See story on page 6.)

SRDA Outstanding Service to Senior Citizens Award

The SRDA Outstanding Service to Senior Citizens of Pueblo Award of 1986 in the Category of Youth is presented to the "Rainbow Connection" from Highland Park School.

This group of 5th graders from Highland Park performed under the direction of teacher Patty Aronotsky at the SRDA Meals on Wheels Banquet in May of this year.

Their enthusiasm and talent highlighted the evening. Volunteers who donate their time to make sure meals are delivered to homebound elderly were treated to the special entertainment by the "Rainbow Connection." It was apparent by their performance that they had practiced and prepared earnestly for the evening.

Congratulations, fifth graders from

The SRDA Outstanding Service to Senior Citizens of Pueblo Award for 1986 in the Human Service Category goes to Mrs. Rena McGovern.

Mrs. McGovern has delivered Meals on Wheels over 14 years! She started as one of the first drivers when the Meals on Wheels Program was originated. She serves as a Member of the Nutrition Project Council representing Meals on Wheels; she also serves as the Council's Secretary. She is active in Saint Patrick's Church and helps with their Senior Citizens Monthly Dinner and Bingo Parties. She also is active in the Retired Employees Group of the Colorado State Hospital. As an example of her dedication, she has committed herself to deliver Meals on Wheels three days a week and often serves extra days as a substitute driver.

Researchers nod at sleep problems

D.D. Miller

SNS — "Sleep research offers an intellectual feast of stunning variety."

So says William Dement, M.D., Ph.D., founder and director of the Sleep Disorders Center at Stanford University School of Medicine.

The progress of research in this area in recent years gives testimony to Dement's statement, but it has not always been the case.

Sleep problems have plagued genus *Homo sapiens* throughout history with only minor success by the medical profession in identifying or curing the conditions.

Literature and other references are filled with examples of man's concern with sleep as a mortal state.

The Bible states that King Solomon's bed was protected by 60 brave men due to fear in the night.

The ancient poets, Homer and Virgil, referred to sleep as the "brother" and kinsman" to death.

In *MacBeth*, Shakespeare described sleep as "death's counterfeit."

In a short story, *The Crack-Up*, F. Scott Fitzgerald wrote: "In the real dark night of the soul it is always three o'clock in the morning."

There are reasons, of course, for man's morbid preoccupation with sleep. Although sleeping is regarded as a natural state, such as breathing or being awake, people *do* die in their sleep. In addition, most of us are troubled with sleep problems at various times during life. Either we cannot get enough sleep, or we sleep too much, or we have a tendency to fall asleep at the wrong times.

Modern medical research, however, has established that many deaths that occur during sleep can be identified. Researchers also know that other sleep-related problems, such as insomnia or excessive sleeping, can be treated.

It is only in about the past 20 years, however, that the specialty, known as *polysomnography*, has developed as a separate medical field. Sleeping problems are recognized not only as symptoms of other physical and mental health conditions, but also, in some cases, a specific illness.

Today there are research centers and sleep treatment clinics at medical institutions in most metropolitan areas of the United States. The Clinical Sleep Society in Rochester, Minnesota, lists 133 organizations nationwide.

Sleep clinics are staffed by medical

See page 8

New law for VA hospital, nursing home and out-patient care

The Veterans Administration (VA) started new assessment procedures for determining the eligibility for free VA health care for non-service-connected veterans after July 1, 1986.

Public Law 99-272, Veterans Health Care Amendments of 1986, has been designed to ensure that VA hospital care is provided to service-connected and lower-income veterans. While veterans with higher incomes still will be eligible for VA health care on a space-available basis, some of them may be charged a deductible amount based on their income level.

Specifically, three eligibility categories have been established by the new law for VA hospital, nursing home and outpatient care.

Category A veterans include those not subject to the eligibility assessment and non-service-connected (those not injured in military service) veterans whose income doesn't exceed $15,000, if single, or $18,000, if married, plus $1,000 for each additional dependent. The VA is required to provide hospital may be provided in VA facilities on a space-available basis.

Category B veterans are non-service-connected veterans whose income is above $15,000 but does not exceed $20,000, if single, or $18,000, but not exceeding $25,000, if married, plus $1,000 per each additional dependent. Hospital, outpatient and nursing home care may be provided in VA facilities on a space-available basis.

Category C veterans are those non-service-connected veterans whose income exceeds $20,000, if single, or $25,000, if married, plus $1,000 for each

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Jacques Cousteau:explorer of seas

Joe Carreri
Special to *Senior Beacon*

November 21, 1916—The *H.M.H.S. Britannic*—bigger than her sister ship *Titanic* and also labeled "unsinkable"—was steaming her way in the Aegean Sea. Converted to a British hospital ship in World War I, she was engaged on this clear, sunny morning to pick up wounded soldiers in Greece and return them to England.

Suddenly, an explosion ripped through the hull of the ship's bow. Within an hour, the once-glorious luxury liner disappeared into the sea.

For 61 years, how the *Britannic* sank—whether by mine or torpedo—was never resolved. Not until Captain Jacques Cousteau and the crew and divers of the *Calypso* discovered and explored the site where the *Britannic* now lies, was the mystery solved.

For Cousteau and his team, the search for the discovery of where the *Britannic* lies and their evidence as to what caused the sinking of the vessel, was an adventure unlike the hundreds of other exciting undertakings they had accomplished in the past.

Spring, 1977—The *Calypso* heads eastward into the Aegean. With charts prepared by the British Admiralty, Captain Cousteau's team attempts to find a lost relic of the sea.

Agreeing to join Cousteau aboard the *Calypso* is one of the 1,106 survivors, 86-year-old Sheila Macbeth Mitchell of Edinburgh, Scotland. At the time of the sinking, she was a 26-year-old nurse aboard the ship. She hopes to once again see the great ship on which she served.

Also on board is another highly interested observer, William Tantum, vice president of the *Titanic* Historical Society.

After days of scanning the area, Cousteau's team finally locates the *Britannic*. As the wreck is 372 feet below the surface, the initial reconnaissance will be made by the Soucoupe, which can remain underwater at great depth for as long as four hours.

Bits of wreckage

The first objects seen at the bottom of the sea are eerie bits of wreckage. Suddenly, a huge, dark mass is seen in silhouette. It is the *Britannic*. Its great size demands thorough organization and precise timing from the explorers.

During the following days, no less than 68 dives will be made from the *Calypso* to the wreck.

Cousteau also dives: "Quickly, we enter the endless night of the depths...a thousand vignettes of human survival still cling to the wreck which has been taken over by other occupants — the crab, seaworm, the algae, the sponge...the dive is a race with time..."

Cousteau directs and supervises operations. Each dive is to study, identify and experiment. Danger is always present. They film all they have seen. Even 86-year-old Mrs. Mitchell is allowed to go in the diving saucer to the bottom to view the stricken vessel. Her reactions are recorded. It's an opportunity for persons experiencing a chance to revisit a time and an event long past.

The findings of the journey are brought home and studied by specialists. What has been seen and photographed is unique, and eventually it is shared by millions all over the world via television.

Since 1942, Cousteau and his various non-profit organizations have produced more than 100 award-winning documentary films and best-selling books from his journeys around the world. He has shown millions of people a world they never knew existed. He has studied the silent beauty of the ocean floor, informed us about the behavior of sharks and whales and discovered lost relics of the sea. Around the world, Cousteau has become a household word.

Researcher and inventor

Co-inventor of the Aqua-Lung and developer of numerous other technological innovations such as a one-man jet-propelled submarine and the first manned undersea colonies, he is a researcher whose oceanic expeditions have amassed vast amounts of valuable information on marine biology, botany and ecology.

"To explore and unravel the mystery of the sea is my life's work," says Cousteau, who just celebrated his 76th birthday. "When one person, for whatever reason, has a chance to lead an exceptional life, he has no right to keep it to himself."

Cousteau was born in France, but his family never had a permanent home. Since his father was a traveling lawyer, Cousteau's childhood was spent on the move. When he was 10, the Cousteaus lived in New York City for a year.

"My interest in the ocean originated very early," Cousteau said. "Swimming as a child, I loved touching water. It fascinated me. But the real interest in the ocean came when I was already in the navy. I loved the sea and the travel."

Wartime hero

Cousteau in 1942 was shocked when the Germans invaded his homeland. He joined the Resistance and won many awards for his wartime heroism.

His compelling interest in diving led him to develop the Aqua-Lung, ridiculed by the Germans, who considered him "a harmless nut." The Germans also were trying to develop "frogman" equipment. He then made his first underwater film.

In the 50s, Cousteau used what and diving expeditions to chart as much of the ocean floor as he could. It was all new territory, and Cousteau was a pioneer.

With the advent of television, Cousteau found "a way to reach many more millions of people." He also acquired his most prized research instrument: a ship. The *Calypso* was a retired British minesweeper. Now he could travel and also bring his wife, Simone, and two sons, Philippe worked closely with his dad. But Philippe also loved diving.

In 1979, tragedy struck. Philippe was killed in a plane crash.

Jacques Cousteau doesn't talk about the loss of his son, the pain runs too deep. Younger son, Jean-Michel fills the void.

Now at 76, how can Cousteau continue that irrepressible energy?

"Every day, I wonder at how lucky I am to still be alive and to have seen so many things and to carry on, being eager to see more," he said. "If your health is good, you don't feel age. I run. I dive. As a boy, I was sickly. He experienced chronic anemia and emphysema. I wonder, is that a revenge against the period? I had gone through such misery then that now I'm compensated."

Wiry, lean and powerful, Cousteau looks forward to more adventure.

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VOTE CAMPBELL

"Low income in retirement is still the number one problem for far too many older Americans. We must prudently salvage the integrity of the Social Security System. Any restructuring of the programs our elderly depend on: Social Security, Medicare and Medicaid, should be done with logical and sensitive judgement."

Ben NIGHTHORSE CAMPBELL for Congress

FROM MY CORNER

Jim Grasso

ABOUT PARKINSON'S DISEASE

This month's edition of the *Senior Beacon* has some extremely poignant information concerning Parkinson's disease.

First off, Agatha Jackson, who is a volunteer writer to the *Senior Beacon* pens an interesting informational piece concerning this dreaded affliction. Jackson's piece is well-written and easy to understand and is a "must read" article. Another Parkinson's disease article can be found in the Health Focus insert, which is provided to the *Senior Beacon* eight times a year by St. Mary-Corwin Hospital. The article gives an entire overview of the disease and tells of some new breakthroughs in the treatment of Parkinson's. I urge you to read both of these aticles so as to inform yourselves about our battle with Parkinson's disease.

STRANG vs. CAMPBELL

As is our custom, the *Senior Beacon* never endorses any political candidates. It's just a matter of policy. What we try to do is give the views of each hopeful, in their own words, in a special section of the paper each election month. In this way, we feel you can then make an intelligent choice come election day.

It is worth taking a look at the Congressional race between Mike Strang, the incumbant, and challenger Ben Campbell. It shapes up to be the most hotly contested race in recent history. I'm sure that the turning point will be left up to the voters with the best voting record — senior citizens. In the November edition, we will have all the candidates who choose to send in a reply, address the readers of the *Senior Beacon* on their views on senior issues, as well as the public in general. Read them and then vote accordingly!!

SALES TAX ISSUE

A real touchy issue has come before the scrutiny of the voters in Pueblo. It concerns the continued use of a ½-cent sales tax. City Council has put on the ballot a proposal to extend the existing tax another five years. The monies from this tax will continue to be used for its original purpose — to fund the incentive programs used to lure new businesses to the airport complex; but a group named Citizens for Human and Economic Development want to take the sales tax idea one step further.

Frank White, who is the President of the organization, wants to extend the tax law indefinitely. He also wants to use the money for continued economic growth, but only a portion. The rest is to be used for human services, a city landfill and city capital improvement. Both ideas have plenty of merit. It is too bad that the sides could not get together on a compromise proposal, but that is water under the bridge. What remains now is a battle royal. Both sides will air their respective views in the pages of the *Senior Beacon* in our November edition. We urge you to read both camps' views and then vote.

A HUGE THANK YOU

The *Senior Beacon* received numerous thanks for our recent contributions to the Rape Crisis Center and the Day-Stay program at St. Mary-Corwin Hospital for Alzheimer's disease families. For this we say thank you, but the real thanks goes to the over 120 participants and some 30 business sponsors and helpers that made our Charity Golf Tournament such a success. Hats off to all of you.

Homemakers Council schedules tea

The Pueblo County Extension Homemakers Council is holding a Crafts Show and International Tea on Monday, October 6, at the 4-H Dining Hall on the Colorado State Fairgrounds in Pueblo.

There will be Make-It-and-Take-It workshops and displays of the latest in craft ideas from the Extension Homemaker Clubs as well as commercial craft shops in the area.

The show and tea will be held from 1 to 8 p.m. and is open to the public. Everyone is invited to be a guest of the Extension Homemakers at the tea. There will be displays on Germany to give the tea an international touch.

Harrington: Pueblo's "Team"

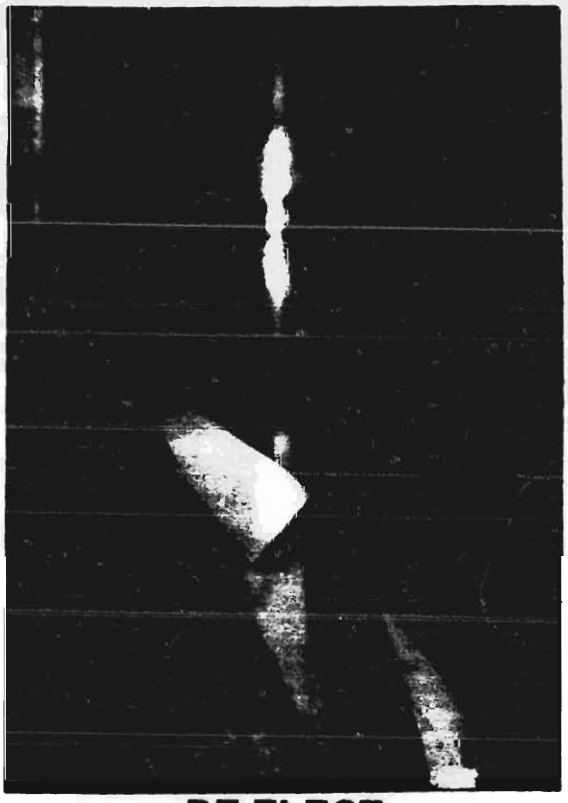
Jim Grasso

Marge Harrington did not plan it that way but she was the lone member of Pueblo's team at the Ninth Annual Rocky Mountain Senior Games held in Greeley the weekend of September 5th, 6th and 7th. This statewide competition was attended by some 600 senior citizens from all over Colorado. Participants competed in many categories including sprint running, race walking, bicycle riding, other track and field specialties and swimming to name a few. This last category, swimming, is the specialty in which Marge excelled.

Mrs. Harrington took Gold Medals in the 50 and 100 meter freestyle events for women in the 63-69 year-old class, but she wasn't through with her medal

Marge Harrington

See page 4



RE-ELECT

STATE REPRESENTATIVE — DISTRICT #44

BOB KIRSCHT

DON'T FORGET TO VOTE ON

TUESDAY NOVEMBER 4, 1986

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And All Of Colorado

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THE SHOE MARKET
1917 W. Northern Ave
544-1464

Senior Beacon

The Senior Beacon is a monthly newspaper dedicated to inform, serve, and entertain the senior citizens of Southern Colorado, and is privately owned and published by Senior Beacon Publications.

Subscriptions are available, prepaid with order, at $5.00 for one year. Send subscription order to the advertising office listed below.

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Reader Submission
The Senior Beacon welcomes reader contribution in the form of senior groups, news items, stories, poetry and recipes. Deadline for copy must be received by the 10th of the month preceding the month of publication.

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Senior Beacon

JULY 1986

FRONTIER

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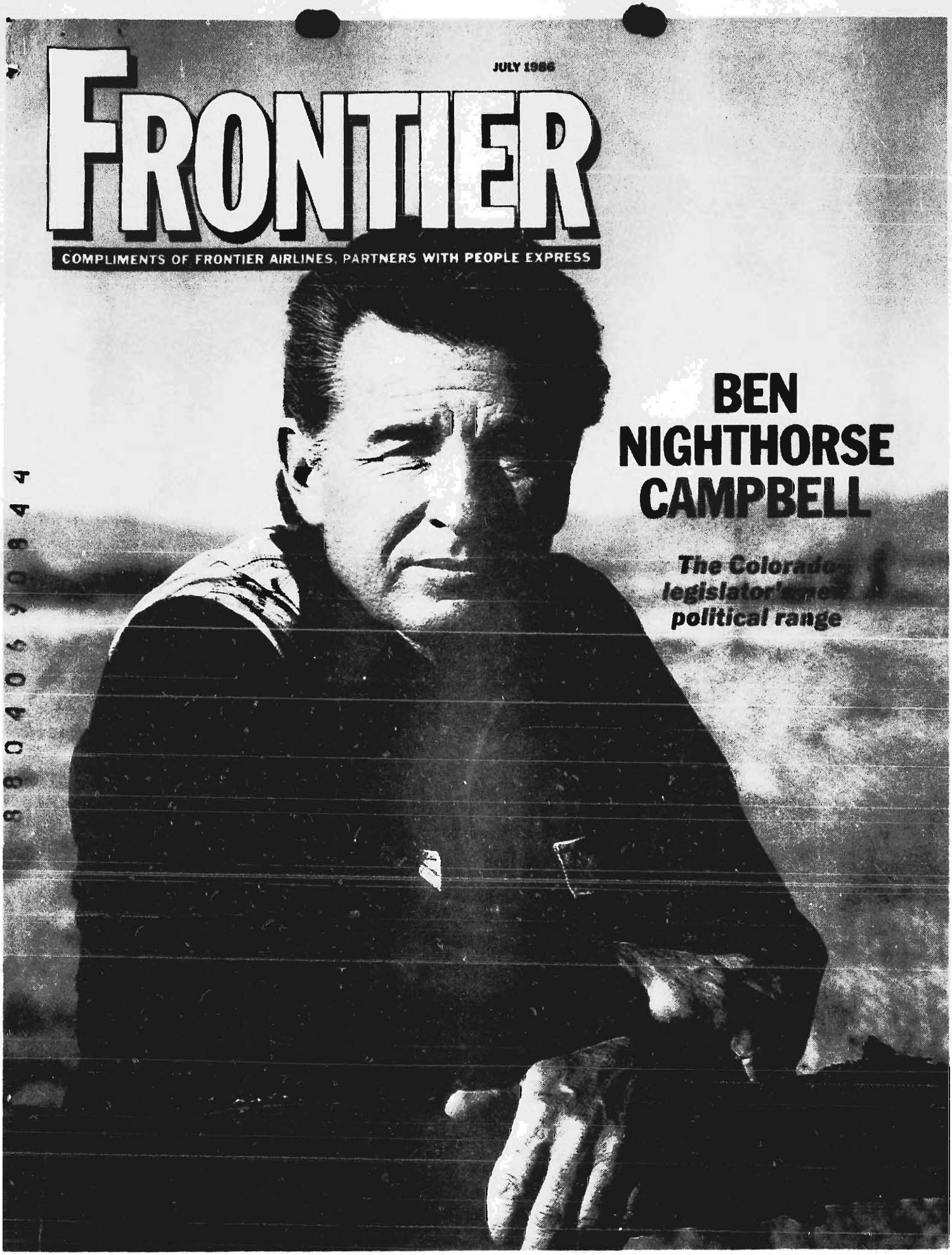

BEN NIGHTHORSE CAMPBELL

The Colorado legislator's new political range

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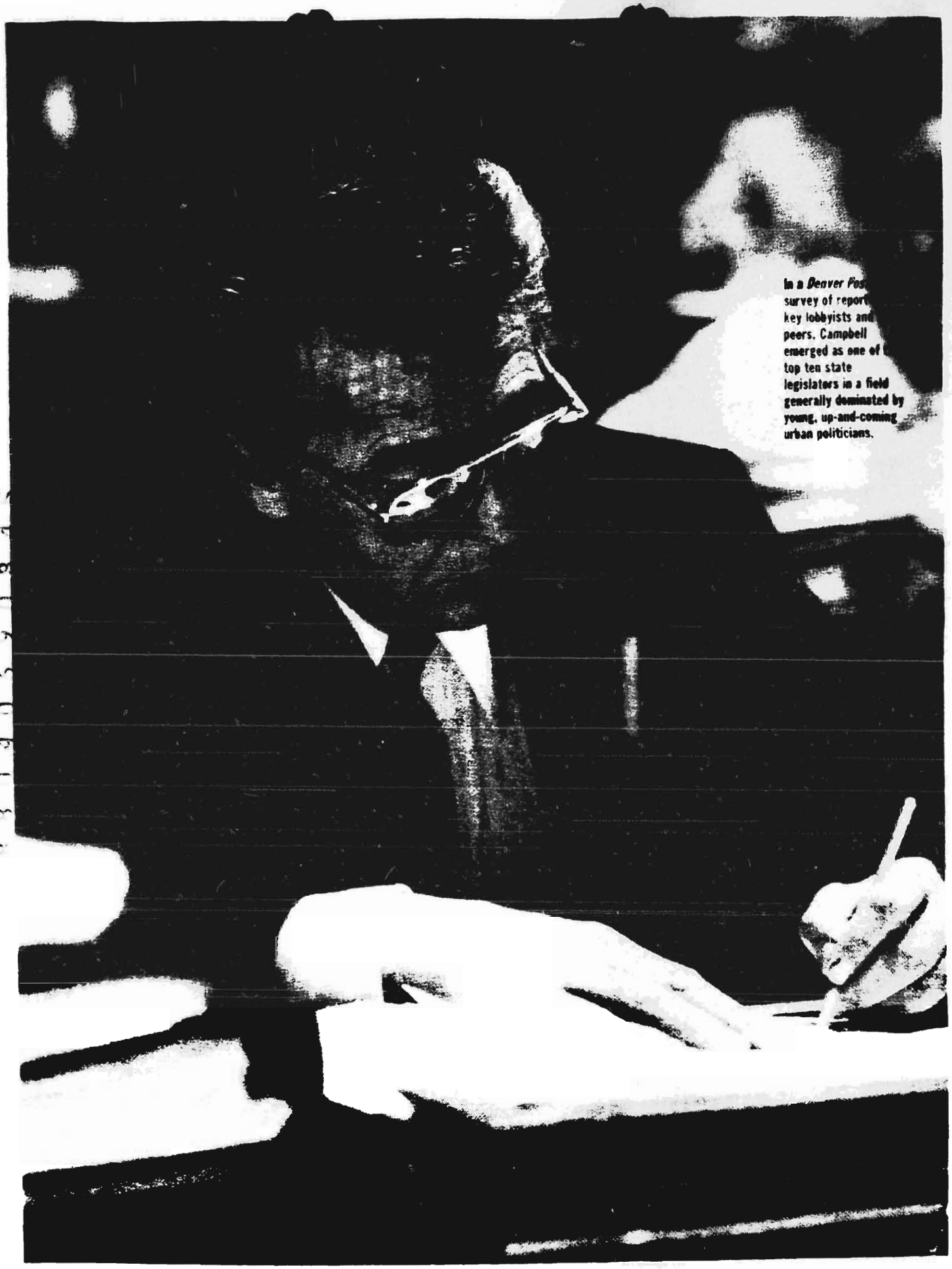

In a *Denver Post* survey of report key lobbyists and peers, Campbell emerged as one of top ten state legislators in a field generally dominated by young, up-and-coming urban politicians.

THE NIGHTHORSE CANDIDACY

Ben Nighthorse Campbell has been in the saddle as a state legislator, jewelry designer, quarter horse breeder, judo champion and Northern Cheyenne chief. Is he now ready for the U.S. Congress?

BY C.R. HILLIARD • PHOTOGRAPHY BY BARRY STAVER

WHEN BEN NIGHTHORSE Campbell left his Ignacio ranch to enter the polished wood and forest green-carpeted chambers of the Colorado House of Representatives four years ago, his sixty-four colleagues suspected he was not just another wide-eyed, freshman lawmaker.

First, there was his shoulder-length, iron gray ponytail. Campbell is three-eighths Northern Cheyenne who lives in the heart of Colorado's Indian country, but his long hair symbolized nothing ethnic and certainly was not intended to make a personal statement. Most people didn't know it, but he felt comfortable wearing it long and wasn't particularly concerned that some voters who met him for the first time wished he would say hello to the barber more often.

Second, there was his reputation, which preceded him like fanfare, even though few people in Denver's political circles were aware of it. Campbell's accomplishments were in other areas. He was twice a national judo champion and captain of the 1964 U.S. Olympic judo team in Tokyo; a breeder of champion quarter horses, including Sailor's Night, the prized syndicated stallion; and a designer and crafter of contemporary Native American jewelry—and expensive jewelry to boot.

Campbell's pieces, done mostly in gold and encrusted with lapis, diamonds, rubies and stones other than traditional tur-

Campbell first gained recognition in Colorado, not as a politician or rancher, but as a designer of contemporary Native American jewelry. 'I had made traditional jewelry as a kid . . . but eventually I wanted to do something in transition.'

quoise—though he uses that, too—have brought in as much as $150,000 a year from discriminating collectors.

But Campbell, the politician, provided the excitement that January day in 1982 when he took his seat midway in the third row of desks in the general assembly. He was a Democrat—and there were fewer and fewer of *those* in the Colorado house—and he was a *conservative* Democrat as well. And just as curious was his soon-to-be evident political style.

He selected his words carefully and spoke infrequently, a virtue seldom found in freshman lawmakers. It wasn't that Campbell couldn't make political speeches. He just didn't unless he felt compelled to—and that wasn't often. And he displayed a dry sense of humor and timing that soon caused other lawmakers to choose *their* words carefully.

When a colleague described how water policy evolved "from the wild West," Campbell, an authority on Indian water rights, replied, "It didn't get wild until you white guys showed up."

Campbell's down-to-earth observations about consumer problems also endeared him to colleagues. He once had a problem with a health spa that was closing without notifying its patrons, he says. But he and the spa owner finally reached an agreement about returning Campbell's deposit. "He agreed to give me my money back, and I agreed to turn loose of his throat," Campbell explains.

Ben Nighthorse Campbell wasn't put together by a campaign consultant, but he has taken to politics and hard campaigning in a way that amazes even his closest friends. And as the November general election approaches he is given an even chance to be the next congressional representative in a cowboy-and-Indian matchup that is attracting national political attention.

Campbell, who has not worn long hair for two years, is pitted against incumbent Congressman Mike Strang, of Carbondale, a Princeton-educated, rancher-stockbroker who entered Republican state politics a decade ahead of Campbell, and who also set down his political roots in the state house.

Campbell, fifty-four, got into politics quite by accident, by virtue of bad weather.

One spring day before the 1982 election, a storm grounded the light plane Campbell was piloting at the Durango airport for several hours. Having nothing better to do, he wandered into a Democratic gathering, and wandered out several hours later, amazed at himself for agreeing to run for House District 59.

Campbell's first political venture promised to be a tough one; a no-nonsense campaign in a no-nonsense district. The economy was on the decline, for one thing. Highways, so necessary to accommodate tourism—the region's lifeblood—were crumbling, mining in the historic town of Silverton was petering out. Some of Campbell's fellow ranchers were losing their places, Fort Lewis College in Durango was fighting to keep its state funding—and student enrollment—at a brake-even level.

Campbell made no promises, except for the vow that he would try to help. He won by 1,225 votes, and two years later was reelected by 8,847 in a contest that was almost no-contest.

Once at the legislature, Campbell proved to be an independent, unpredictable lawmaker. He once defied Speaker Carl Bev Bledsoe's order to be present for a major vote on raising the gasoline tax, making it the highest in the nation. Bledsoe had to halt floor action and send the state patrol out to retrieve the missing legislator.

A fellow Democrat, rancher Bob Shoemaker of Canon City, says he believed it was Campbell's bullheadedness in action. "If he doesn't want to do something, there's no damned way you can get him to do it," he says.

Campbell explains that he didn't recall Bledsoe's no-absences announcement, but some observers feel that he was ambivalent about the bill and didn't want to cast a vote. His district really needed the money, but he didn't want to raise taxes. Campbell ultimately voted no, but the bill passed anyway.

His record has been eventful on other oc-

continued on page 49

continued from page 27

casions. Republicans have looked to Campbell to sponsor controversial measures, such as the one allowing county commissioners, instead of other legislators, to set their own pay scales. In 1985 after Colorado State University attempted to reduce the independence of a sister school, Fort Lewis College at Durango, the smaller school sought help from Campbell. He introduced a bill to keep Fort Lewis independent and CSU withdrew its action.

Despite his popularity, Campbell intended his second campaign to be his last. Life in the political arena, to put it bluntly, was beginning to hurt.

In the summer of 1984, just before his second victory, Campbell was breaking a skittish two-year-old quarter horse. A barking dog startled the horse, causing it to crash into a corral fence. Campbell and the horse both went down in a tangle of flying hooves and corral mud.

Campbell suffered broken ribs and a broken left elbow—the elbow he needed to control his jewelry torch in the annealing of gold and silver. The prospect of shaking hands at political rallies, and trying not to wince at the pain of broken ribs, and falling even further behind in filling orders for custom jewelry was not a happy one. That was it, Campbell decided. To hell with it. He would complete his second term, and then he was out.

Unknown to Campbell, three-term incumbent Congressman Ray Kogovsek of Pueblo was about ready to make an announcement in Washington. Kogovsek had decided to retire. Colorado Democrats were caught by surprise, and Republicans, after a bitter fight among themselves, helped Strang to victory.

Democrats immediately turned to Campbell, who in just three-and-a-half years had gone from a relative unknown to a thoughtful, hard-working, cooperative legislator. Party leaders considered Campbell to be the ideal candidate, since he seemed to get along with everyone, Republican or Democrat, urban or rural, conservative or liberal.

Sean Conway, manager for the Strang campaign, sees this one-candidate-fits-all image as one of Campbell's weak points. "We have seen a history of him being a conservative legislator. He has been over here [in Western Colorado] touting himself as a conservative Western Sloper. But we don't think he has been."

As evidence, Conway points to a Campbell position opposing the Strategic Defense Initiative. In the May 5, 1986 *Rocky Mountain News*, Conway says, Campbell was quoted as rejecting the proposal endorsed by President Reagan. "Yet in 1983 he supported two Colorado House resolutions that endorse it."

Given the opportunity to assess Campbell further, Conway brings up the legislator's "confusing position" on the Contras. During an initial campaign sweep a few months ago, Campbell initially said he agreed with the president's budget policy to authorize millions of funds for the Contras. But later said that U.S. "involvement should stop short of actually appropriating any money."

Some observers of the state legislature consider these criticisms minor—and beside the point. State house resolutions, especially on national foreign policy issues, carry little meaning and even less weight. Dick Soash, a former state senator who bid unsuccessfully for the Democratic congressional nomination for the Third District two years ago, sees another area in which Campbell may have real difficulties. "He hasn't been an advocate of labor," Soash says. "That could cause him some problems in Pueblo" which is one of the strongest labor cities in the state and which has been hurt economically because of the misfortunes of the CF&I Steel Corporation. Campbell's record indicates, however, that he has not opposed labor bills.

Campbell's new challenge in the 53,000-square-mile Third District might not have been possible had he not bridged a cultural gap that troubled and embarrassed him as a child. Campbell, born in Auburn, California, to a part-Indian father and a Portuguese mother, had little family life as a child. His mother, made frail by tuberculosis, spent twenty-two years of her life in hospitals. His father, after leaving army service at the end of World War I, found work as an orderly in a hospital in which his mother had been a patient.

Campbell's mother eventually became too weak to care for her children. As a result, Campbell and his sister were sent to separate California orphanages.

In 1951 he dropped out of high school, entered the air force and was sent to Korea. Two years later, after service in combat zones, he returned to the U.S., entered San Jose State, and became a teacher and judo instructor.

He trained daily and developed skills that won him the U.S. Judo Championship in 1961, 1962 and 1963. In 1964 he captained the U.S. Olympic team, and reached the medal round, only to suffer knee and shoulder injuries. He carried the American flag in the closing ceremonies.

"I guess they felt sorry for me, limping around like that," he recalls. "I came back to the United States and while my blown knee was healing, this thing about my heritage kept gnawing at me. My dad had never talked about it much. As kids, we 'passed' for white.

"My father, known only as Blackie to the tribe, had told me about my grandfather, Alec Black Horse, but really didn't know much about him, or where he could be found." A yellowed photograph, taken in an eastern Montana frontier town at the turn of the century, provided the clue that eventually led Campbell back to his Indian roots.

Campbell found the picture at a flea market in a small California town. It was a photograph of a young Indian warrior, posing stiffly with a lever-action rifle. From the beadwork on the Indian's moccasins it was evident he was Cheyenne.

"The woman who was selling it took it out of the frame, and on the back was a notation that it was taken in Miles City, Montana, and was of a man named Wolf Voice. So in 1964, I went [there] to find Alec Black Horse, hoping to find Wolf Voice too."

Campbell went to Lame Deer, an Indian community in southeastern Montana and found a realtor who knew the location of the Wolf Voice home. "I found the cabin by a river," Campbell recalls. "An Indian woman came to the door, and I asked her if Wolf Voice lived there. She said he did, and motioned to a back room. I

went inside and there was this old man, probably eighty years old or more . . . . He was a maker of sacred flutes, as it turned out, and he did a lot of work for tribal societies and warrior groups."

Wolf Voice told Campbell how to find Alec Black Horse, the son of Cheyenne spiritual leader and scout Ruben Black Horse. Alec was a subchief of a traditional warrior society, called the Dog Soldiers, and respected among the Northern Cheyenne and other Montana tribes.

Campbell says that Alec Black Horse looked him over when they first met, obviously scrutinizing his white features, sighed and finally said gently, "Oh, it doesn't make any difference. I need another son anyway."

In 1965, Ben Campbell became Ben Nighthorse Campbell on tribal rolls. Last summer, to the haunting throb of tribal drums and the trill of eagle-bone whistles, Campbell was welcomed into the tribe's most honored circle: the Council of Forty-four Chiefs.

His education in the old ways of the tribe has given him new insight into how he must cope with his new role. "It is an interesting thing to live in two cultures, where you move back and forth. There is no way you can live in the old, traditional style anymore. It was hard as a kid to be shunned and be embarrassed about being Indian and white. But as you get older you learn to live with yourself. My children may, some day, be more interested in their heritage. This is a complex society, and we have to learn it and use the process. Indians today have to move in a dominant society."

The last Indian to serve in Congress was Ben Reifel of South Dakota, who left after serving several terms in the 1970s. In all, only seven Native Americans have held Congressional seats. Campbell is only the second legislator of Indian descent to serve in the Colorado General Assembly.

Democratic Party Chairman Buie Seawell is excited about the Campbell campaign. "He is absolutely a perfect candidate for the district," Seawell says. "He is a Western Slope Democrat, yet without the antipathy between the Western Slope and Pueblo. He balances that perfectly. He is well known as a legislator—and a damned nice guy."

While political reporters are already gearing up for what they are billing as the "cowboy-and-Indian race," Campbell is not anxious to focus on that aspect. He is a conservative, not always in concert with his own Democratic party, a rancher who is sympathetic about the financial plight of other ranchers and farmers, and an Indian who believes his brothers and sisters must work harder to help themselves.

The campaign will focus on water for southwestern Colorado and agreements between Indians and their Colorado neighbors on what should be developed, and what should not. Campbell plans to focus on jobs for all Coloradoans, not just Indians, and not just urban dwellers.

His sympathy for people in different walks of life—and his awareness of how difficult it is to please everyone—has already been evident in the state house. One of the most widely publicized issues of the 1986 session was a bill requiring farmers to provide toilet facilities and running water for field workers. That put Campbell in a tough position. As a minority, he philosophically agreed with the bill. But as a rancher, he was also aware that installing those facilities was another expense some farmers could not afford. He reluctantly voted for the bill in committee, saying that he wanted it to receive full house debate, but warned that he might not do so when it reached the floor. The bill died in committee.

At a Hispanic rally, protesting the bill's death, Campbell told the crowd he had voted to support the bill, but neglected to report his full position. *The Denver Post* did, however, in a story the next day, noting that Campbell's speech was more enthusiastic than his vote.

If his political ambitions do not emphasize his Indian heritage, they do not ignore it, either, he says. Lucille Echohawk, a member of a prominent Indian family in Colorado, heads the new National Indian Support Committee that is working on Campbell's behalf, and those joining the effort include actor Will Sampson and Olympic gold medalist Billy Mills, a teammate of Campbell's in 1964.

Last March, at the Denver Powwow and Rendezvous Market, many of Campbell's political followers and friends attended to see him lead some 3,000 dancers, drummers and singers into the Denver Coliseum. Clad in white beaded buckskin and wearing a double-tailed Cheyenne war bonnet given to him by his tribe (each of the seventy-two feathers commemorating a judo victory) Campbell was the central figure in the grand entry.

"It's good to touch base with our heritage once in a while," he said after the ceremony, summing up his feeling about his culture and his work. "It's good to let your people know you haven't forgotten them, and to put on the paint and buckskin to reaffirm where we came from. And when it's all over you wipe off the paint and put on your suit and tie and go back to work." ■

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Howard H. Callaway, Chairman
Colorado Republican Party
1275 Tremont Place
Denver, CO 80204

RE: MUR 2277

Dear Mr. Callaway:

This letter is to acknowledge receipt of your complaint on October 27, 1986, against Mr. Ben Campbell, the Campbell For Congress Committee and Mr. Kenneth L. Lane as treasurer, Frontier Airlines, and the Senior Beacon, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within 24 hours. You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Please be advised that this matter shall remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless the respondents notify the Commission in writing that they wish the matter to be made public.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Chairman
Frontier Airlines
8250 Smith Road
Denver, CO 80207

RE: MUR 2277

Dear Sir or Madam:

This letter is to notify you that on October 27, 1986, the Federal Election Commission received a complaint which alleges that Frontier Airlines has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2277. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Frontier Airlines in connection with this matter. You may respond to the allegations within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by mailgram. If no response is filed within the 15 day statutory period, the Commission may take further action based on available information.

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission, in writing, that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notification and other communications from the Commission.

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

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pl/m

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

James R. Grasso, Publisher
Senior Beacon
PO Box 11006
Pueblo, CO 81001

RE: MUR 2277

Dear Mr. Grasso:

This letter is to notify you that on October 27, 1986, the Federal Election Commission received a complaint which alleges that the Senior Beacon has violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2277. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Senior Beacon in connection with this matter. You may respond to the allegations within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by mailgram. If no response is filed within the 15 day statutory period, the Commission may take further action based on available information.

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Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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Thi matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission, in writing, that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notification and other communications from the Commission.

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Mr. Ben Campbell
PO Box 639
Ignacio, CO 81137

RE: MUR 2277

Dear Mr. Campbell:

This letter is to notify you that on October 27, 1986, the Federal Election Commission received a complaint which alleges that you have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2277. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in connection with this matter. You may respond to the allegations within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by mailgram. If no response is filed within the 15 day statutory period, the Commission may take further action based on available information.

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission, in writing, that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notification and other communications from the Commission.

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

cc: Kenneth L. Lane, Treasurer
Campbell For Congress Committee

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1986

SPECIAL DELIVERY
RETURN RECEIPT REQUESTED

Kenneth L. Lane, Treasurer
Campbell For Congress Committee
PO Box 791
Pueblo, CO 81002

RE: MUR 2277

Dear Mr. Lane:

This letter is to notify you that on October 27, 1986, the Federal Election Commission received a complaint which alleges that the Campbell For Congress Committee and you, as treasurer, have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2277. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and the Campbell For Congress Committee in connection with this matter. You may respond to the allegations within 15 days of receipt of this letter. The complaint may be dismissed by the Commission prior to receipt of the response if the alleged violations are not under the jurisdiction of the Commission or if the evidence submitted does not indicate that a violation of the Act has been committed. Should the Commission dismiss the complaint, you will be notified by mailgram. If no response is filed within the 15 day statutory period, the Commission may take further action based on available information.

You are encouraged to respond to this notification promptly. In order to facilitate an expeditious response to this notification, we have enclosed a pre-addressed, postage paid, special delivery envelope.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission, in writing, that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notification and other communications from the Commission.

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Envelope

cc: Mr. Ben Campbell

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SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEC
COMMISSION SECRETARY

EXPEDITED FIRST GENERAL COUNSEL'S REPORT

1:48

RESPONDENTS: Ben Campbell
Campbell for Congress Committee and
Kenneth L. Lane,
Frontier Airlines
Senior Beacon

MUR No. 2277
DATE TRANSMITTED TO COMMISSION _____
STAFF: Beverly Kramer

COMPLAINANT: Colorado Republican Party

SUMMARY OF ALLEGATIONS

The complaint alleges that three communications expressly advocating the election of Ben Campbell to the U.S. Congress did not carry a required disclaimer stating the name of the person who paid for the communications or whether they were authorized by any candidate or candidate's committee. Due to the complainant's uncertainty as to who sponsored the communications, its allegations are posed in the alternative.

Two of the communications are advertisements. One appears in the 1986 Colorado State Fairgrounds Fiesta Program. The second appears in the October 1986 monthly edition of Senior Beacon. The complaint alleges that the Campbell for Congress Committee or some other entity failed to place a disclaimer on the ads in violation of 2 U.S.C. § 441d. In the alternative, the complaint alleges that if the publication's corporate sponsors financed the ads, a violation of 2 U.S.C. § 441b(a) would result.

The third communication is an article concerning candidate Ben Campbell which appeared in a monthly edition of Frontier Airlines magazine and which was allegedly reprinted and distributed to the general public by the Campbell campaign. The

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complaint asserts that the article lacks a disclaimer and, therefore, violates 2 U.S.C. § 441d. The complaint also appears to allege that a violation of § 441b may be involved if Frontier Airlines printed or reprinted the article at the behest of and at no cost to the Campbell campaign.

PRELIMINARY LEGAL ANALYSIS

An examination of the complaint indicates that a violation of § 441d may have occurred to the extent that the advertisements at issue expressly advocate the election of a federal candidate but fail to carry a disclaimer. More information is needed in order to determine whether violations of § 441b are involved.

Accordingly, the respondents must be given an opportunity to respond to the allegations before the Office of the General Counsel makes recommendations regarding this matter.

Charles N. Steele
General Counsel

Date 10/29/86

By: Lawrence M. Noble
Deputy General Counsel

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GCC#1993

THE FEC

86 NOV 12 P12:10

SENIOR BEACON

P.O. Box 11006, Pueblo, CO. 81001 (303) 544-3232

Dear Mr. Noble: 11/10/86

I've read the complaint by Mr. Callaway dated October 23rd 1986 and would like to petition the Commission to dismiss the complaint numbered MUR 2277.

The reason for this petition is that it was a simple oversight on the part of our proofers and Ms. Lynn Cribari of Mr. Campbell's staff. The ads were placed by Ms. Cribari and the Senior Beacon supplied her with the necessary proofs.

The October ad contained no disclaimer for no other reason than it was simply missed in the proofing. Since the Senior Beacon is a monthly newspaper and the error was not spotted until after the Edition was printed, there was absolutely nothing that could be done about it until the next issue.

Enclosed, please find, a copy of the November Edition of the Senior Beacon. On page 18 in the lower left hand corner of the page you will see the same ad that was used in the October edition, only this time you will note that we corrected the error so as to conform to regulations. Also, if you'd be so kind to read an editorial on page three (underlined in red), you will see an explanation to our readers concerning all disclaimers. In addition, you will note that each advertisement in the political section has a disclaimer (pages 11-20).

I believe it would be a waste of the Commission's time to take this error to task to simply prove that an error was made in the proofing of the ad. There was no deliberate effort made to mislead or not inform the public. As far as the ad in the Senior Beacon is concerned it is as simple as that. We are, of course, sorry that this may have been interpreted as more than it really was.

Thank you for your time and consideration in this matter. I hope this was sufficient to clear up our part of the problem.

Respectfully submitted,

James R. Grasso

James R. Grasso, Publisher

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
86 NOV 12 P3:49

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RECEIVED AT THE FEC
GCC # 2037
86 NOV 19 P1:47

Ben
NIGHTHORSE CAMPBELL
for Congress
P.O. Box 791
Pueblo, CO 81002

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
86 NOV 19 P3:40

November 17, 1986

Lawrence M. Noble, Esq.
Deputy General Counsel
Federal Election Commission
Washington, D. C. 20463

Re: MUR 2277

Dear Mr. Noble:

On behalf of Congressman-Elect Ben Nighthorse Campbell and the Campbell for Congress Committee, the following response to Complaint Number MUR 2277 filed by the Colorado Republican Party is provided.

With respect to the allegation concerning the Frontier Airlines Magazine article on Ben Nighthorse Campbell, the Committee believes 11 CFR 110.11(a)(1) is dispositive of the allegation.

> . . . Whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified candidate, or that solicits any contribution . . . a disclaimer meeting the requirements of 11 CFR 110.11(a)(1)(i), (ii), (iii) or (iv) shall appear . . .

According to the foregoing rule, it is the "communication" that must expressly advocate the election or defeat of a clearly identified candidate or that solicits any contribution before a disclaimer is required for that communication. As is evident, the Frontier article neither advocated Mr. Campbell's election or defeat nor solicited any contributions. The Campbell for Congress Committee has in good faith relied upon the plain meaning of the rule. If in fact the rule is otherwise than what the written rule states, the Committee should not be penalized.

As a matter of information, it is the Committee's understanding that the Colorado Republican Party unsuccessfully attempted to have the FEC declare the Frontier article, which was neither written on behalf of nor requested by the Committee, to be a campaign contribution to the Committee when the article became available to the general public in July.

Paid for by the Committee to Elect Ben Nighthorse Campbell
Ken Lane, Treasurer

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With respect to the allegation concerning the Senior Beacon advertisement, it is the undersigned's understanding that you have already received a response from the editor of that publication, Mr. Jim Grasso, explaining the circumstances of the advertisement. A copy of Mr. Grasso's letter, along with the October and November editions of the publication, are enclosed with this response. Mr. Grasso's letter eloquently reflects the Committee's position with respect to that particular allegation. It is not known how Mr. Grasso became aware of the Complaint and Mr. Grasso's response letter was unknown to the Committee until the undersigned contacted him to obtain the October and November publications for submittal to you.

With respect to the advertisement in the Colorado State Fair Fiesta Program for the Fiesta Day Parade held in Pueblo under the auspices of the Colorado State Fair, a one-time publication in August, not in the closing weeks of the campaign as the complaint alleges, the omission of a disclaimer was simply an error. Ms. Lynne Cribari, who performed press/media services for the campaign, provided the desired information for the advertisement to a Fiesta Day representative. Owing to the nearness of the printing deadline for the program, Ms. Cribari was unable to provide a "camera ready" advertisement and was not provided a copy of the advertisement as it would appear in the program prior to printing. The Committee did not know of the lack of a disclaimer.

It must be noted that the complaining party apparently disclosed the filing of the complaint the day of the filing to the news media and prior to the Committee's knowledge of any complaint. The campaign headquarters was contacted by the news media concerning the complaint before the Committee was even aware of any complaint. The undersigned personally spoke with two separate newspaper organizations who had called to obtain a response to try to discover what was filed. Such disclosure was in violation of 11 CFR 111.21 concerning confidentiality.

It is evident from the foregoing information and the accompanying documents that there was no willful or systematic attempt by the Campbell campaign to deceive and defraud the

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public as alleged by the complaint. It is therefore respectfully requested that Complaint MUR 2277 as alleged be dismissed as without foundation or in the alternative, that no action be taken.

Very truly yours,

Kenneth L. Lane

Kenneth L. Lane
Treasurer

Enclosures

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OF COUNSEL

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
NOV 20 P 3:26

November 17, 1986

Charles N. Steele, General Counsel
Lawrence M. Noble, Deputy General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2277 - Frontier Airlines, Inc.

Gentlemen:

This firm, together with the Denver firm of Holmes & Starr, P.C., represents Frontier Airlines, Inc. in Chapter 11 proceedings now pending before the United States Bankruptcy Court for the District of Colorado and captioned as Case No. 86 B 8021 E. The Chapter 11 petitions were filed on August 28, 1986.

Our client has received correspondence from your office dated October 29, 1986, apparently as a result of a complaint being filed by Colorado Republicans, a copy of which was attached. It is our position that any acts against Frontier Airlines, Inc. are stayed by the operation of 11 U.S.C. §362. Nonetheless, we would certainly like to avoid any finding adverse to the interests of Frontier should you dispute the application of the stay to your agency.

Having reviewed the complaint, it is difficult to see how Frontier could possibly have violated any of the statutes under your jurisdiction. Although it is somewhat difficult to ascertain from the complaint exactly what it is Frontier has been accused of, even the complaint itself concedes that the facts known to the complainants only "raise the possibility" that Frontier was involved. No facts are cited in the complaint or the affidavit which would allow a reasonable trier-of-fact to draw such an inference. Frontier magazine is distributed free to thousands of people. Anyone could have reprinted the article in question. Moreover, the article in question is obviously a profile, and does not ask that anyone vote for Mr. Campbell (several pages of the article were missing from the exhibit provided to us).

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We do not feel that a Debtor-in-Possession should be put to the time and expense of contesting proceedings before the Federal Election Commission while it is trying to reorganize in bankruptcy. We feel that this is particularly true where the complaint is so facially defective, as is the case here. Unless I hear from you to the contrary, I will presume that you will take the position that any action against Frontier is stayed by virtue of the bankruptcy proceedings. If you feel otherwise, and wish for this matter to go forward, please advise as soon as possible.

Very truly yours,

John Edward Maas

JEM:keg

cc: Daniel Loeb
Larry Martin
Hardin Holmes
RES
CAE

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ben Campbell	)	
Campbell for Congress Committee	)	MUR 2277
and Kenneth L. Lane, Treasurer	)	
Frontier Airlines, Inc.	)	
Senior Beacon	)	

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GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 24, 1986, the Colorado Republican Party, through Howard H. Callaway, its state chairman, filed a complaint against Ben Campbell, the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, Frontier Airlines, Inc., and the Senior Beacon (Attachment 1). Notification of the complaint was mailed to the respondents on October 29, 1986. By November 20, 1986 the Office of the General Counsel had received replies from all of the respondents (Attachments 2-4).

II. FACTUAL AND LEGAL ANALYSIS

A. The Facts

1. Background

Ben Nighthorse Campbell was a democratic candidate for election in 1986 to the United States House of Representatives from Colorado's third congressional district. The Campbell for Congress Committee was authorized by Ben Campbell to receive contributions and make expenditures during his 1986 primary and general election campaigns. Colorado's primary election was held August 12, 1986. The general election was held November 4, 1986. Mr. Campbell won both elections.

2. The Complaint

The complaint alleges violations of the Act's notice provisions relating to political advertising. 2 U.S.C.

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§ 441d. In addition, the complaint alleges possible violations of the Act's prohibition on corporate contributions or expenditures in connection with federal elections. 2 U.S.C. § 441b.

Specifically, the complaint asserts that Ben Campbell and his campaign committee distributed three advocacy pieces which are attached as exhibits to the complaint. Two of the communications are advertisements. The third communication is an article appearing in Frontier magazine.

The complaint asserts that the two advertisements expressly advocate the election of Ben Campbell to Congress and that neither contains a disclaimer stating the name of the person who paid for the ads and whether they were authorized by any candidate or candidate's committee. Owing to the complainant's uncertainty as to who sponsored the advertisements, its allegations are posed in the alternative. The complaint alleges that the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, failed to place a disclaimer on the ads in violation of 2 U.S.C. § 441d. In the alternative, the complaint appears to allege that if the ads were financed by the corporate sponsors of the publications in which they appeared, a violation of § 441b would result.

The complaint also alleges that the Frontier magazine article, concerning Ben Campbell, was reprinted and distributed to the general public by the Campbell campaign. The complaint alleges that the article expressly advocates the election of Ben

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Campbell for Congress and that, therefore, it is required to bear a disclaimer stating the name of the person who paid for the article and whether it was authorized by any candidate or candidate's committee. The complaint alleges that the article lacks the required disclaimer. Again, owing to the complainant's uncertainty as to who financed the article in question, its allegations are posed in the alternative. The complaint appears to allege that the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, failed to place a disclaimer on the article in violation of 2 U.S.C. § 441d. In the alternative, the complaint appears to allege that a violation of § 441b may be involved if Frontier Airlines, Inc. printed or reprinted the article at the behest of and at no cost to the Campbell campaign.

As basis for the allegations, the complainant relies on photocopies of the three subject communications. The first communication is an advertisement that appears in the October 1986 monthly edition of the Senior Beacon newspaper. The advertisement reads in bold letters "Vote Campbell" and, beside a photograph of Ben Campbell, states "Ben Nighthorse Campbell for Congress. There is no disclaimer on the advertisement stating the name of the person who paid for the ad and whether the ad was authorized by any candidate or candidate's committee. The second communication is an advertisement that appears in the Colorado State Fair Fiesta Program for the Fiesta Day Parade held in Pueblo, Colorado. The ad consists of a photograph of Ben Campbell and a brief message over what appears to be the

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signature of Ben Campbell which reads "Your rich tradition began in Colorado long ago and has contributed to the unique heritage of the state. I proudly join in today's celebration." In bold letters at the bottom of the ad reads "Ben Nighthorse Campbell for Congress." The advertisement does not contain a disclaimer stating the name of the person who paid for the ad and whether the ad was authorized by any candidate or candidate's committee.

The third communication is an article concerning Ben Campbell that appears in the 1986 July monthly edition of Frontier magazine. The article, entitled "The Nighthorse Candidacy" includes photographs of Ben Campbell and four typewritten pages describing Mr. Campbell's background with particular emphasis on his Indian heritage. While Mr. Campbell's candidacy is discussed in favorable terms, nowhere in the article are there words which expressly advocate the election or defeat of Mr. Campbell. The article does not call for any responsive action whatsoever by its readers. There is no disclaimer on the advertisement stating the name of the person who paid for the article and whether or not it was authorized by any candidate or candidate's committee.

In addition to these communications, the complaint relies on the affidavit of Sean P. Conway. In his affidavit Mr. Conway states that on October 14, 1986, he witnessed campaign workers of Ben Campbell passing out copies of the Frontier Airlines article to the general public.

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3. The Response of Senior Beacon

On November 12, 1986, publisher James R. Grasso submitted a response on behalf of the Senior Beacon. The response states that the advertisement was placed by Ms. Lynn Cribari of Mr. Campbell's staff and that the Senior Beacon supplied her with the necessary proofs. The response explains that the October ad contained no disclaimer "for no other reason than it was simply missed in the proofing." According to Mr. Grasso, the error was not spotted until after the October edition was printed and nothing could be done about it. The response notes that the error was corrected in the November edition and provides a copy of the November ad which includes a disclaimer that reads "Paid for by Campbell for Congress." Also submitted with the response is a copy of an editorial from the Senior Beacon which states the newspaper's policy regarding disclaimers on political ads. The editorial reads, in relevant part, "It is our policy that as political ads come to us without the disclaimer, then the disclaimer is set in 6 pt. type by our editor and staff." The response does not explain why the newspaper's policy was not adhered to as regards the Campbell ad, nor does it clarify whether the Senior Beacon was instructed by the Committee from the outset to place a disclaimer on the ad. Furthermore, we are unable to ascertain, based on this response, whether the requisite disclaimer appeared on the proof that was provided to the Committee.

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4. The Response of the Campbell for Congress Committee

On November 19, 1986, Kenneth R. Lane, treasurer of the Campbell for Congress Committee ("the Committee") submitted a response on behalf of Ben Campbell and the Committee. The response requests that the Commission dismiss the complaint as without foundation, or in the alternative, that no action be taken.

The response argues that the Frontier Airlines article neither advocates Mr. Campbell's election or defeat nor solicits any contributions and, thus, no disclaimer is required. Moreover, the response states that the article was neither written on behalf of nor requested by the Committee.

With respect to the complainant's allegations concerning the Senior Beacon ad, the Committee submits that the response provided by Mr. Grasso of the Senior Beacon reflects the Committee's position.

With regard to the advertisement in the Colorado State Fair Fiesta Program, the Committee states that the ad was placed by Ms. Lynn Cribari who performed press/media services for the campaign. The Committee asserts that Ms. Cribari provided the "desired information" to a Fiesta Day representative but that owing to the nearness of the printing deadline for the program, Ms. Cribari was unable to provide a "camera ready" advertisement and was not provided a copy of the ad as it would appear in the program prior to printing. Whether the "desired information" included a disclaimer required pursuant to 2 U.S.C. §441d is not clear. Moreover, it is not known whether the committee took

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efforts to request a copy of the ad prior to printing. The Committee asserts that it did not know of the lack of a disclaimer.

5. The Response of Frontier Airlines, Inc.

On November 20, 1986, Frontier Airlines, Inc. responded, through counsel, to the allegations in the complaint. Counsel states that Frontier magazine is distributed free to thousands of people and asserts that anyone could have reprinted the article in question. Moreover, counsel claims that the article concerning Ben Campbell is a profile and does not ask that anyone vote for Mr. Campbell.1/

B. The Law

1. The Requirements of 2 U.S.C. §441d.

Section 441d of the Federal Election Campaign Act states, in part, that whenever any person makes an expenditure for a communication that expressly advocates the election or

---

1/ Counsel states that on August 11, 1981, Frontier Airlines, Inc. filed Chapter 11 petitions and that the Chapter 11 proceedings are now pending before the United States Bankruptcy Court for the District of Colorado. Counsel argues that any acts against Frontier Airlines, Inc. are stayed by the operation of 11 U.S.C. § 362. Section 362 is a provision of the Bankruptcy Act of 1898, as amended, which sets forth the circumstances which a petition for bankruptcy operates or does not operate as an automatic stay. Subsection (b) of this section provides, in relevant part, that the filing of a bankruptcy petition "does not operate as a stay . . . of the commencement or continuation of an action or proceeding by a government unit to enforce such government unit's policy or regulatory power." (Emphasis added). Thus contrary to counsel's assertions it appears that the Commission is not barred from considering the complaint against Frontier.

defeat of a clearly identified candidate, such communication shall clearly state the name of the person who paid for the communication and, where required, shall state whether the communication was authorized by any candidate or candidate's committee. Authorization is required, pursuant to 2 U.S.C. §§ 441d(a)(2) and (3) if: (1) the communication is authorized but not financed by the candidate's committee; or (2) the communication is not authorized and not paid for by the candidate's authorized committee. Where a candidate or his/her authorized committee has paid for the communication, authorization is assumed and need not be specifically stated. See 2 U.S.C. § 441d(a)(1) and "Campaign Guide for Congressional Candidates and Committees" page 11, Sec. 3, paragraph 2 (June 1985).

In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that in order for the government to regulate expressive political activity, such activity must "in express terms advocate the election or defeat of a clearly identified candidate for federal office." Buckley, 424 at 44. The Court found that express advocacy is typified by such words of exhortation as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" and "reject." Buckley, 424 U.S. at 44 n.52. See also, 11 C.F.R. § 109.1(b)(2).

Two recent court cases also provide some guidance for analysis of whether a communication constitutes express advocacy. The first of these, FEC v. Massachusetts Citizens for Life

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("MCFL"), 107 Sup. Ct. 616 (1986), peripherally touched on the issue of what constitues express advocacy. The Supreme Court considered the essential nature of the message, in determining whether the publication at issue contained a sufficient exhortation to qualify as express advocacy.

A more detailed analysis of express advocacy was discussed by the Court of Appeals for the Ninth Circuit in FEC v. Furgatch, _____F.2d_____(9th Cir. 1987) The court based its analysis on the proposition that express advocacy is not strictly limited to communications using certain key words or phrases, i.e., those listed by the Supreme Court in Buckley, but the speech at issue must be read as a whole. If that speech conveys an exhortation through some form of a call to action, and that call to action is unambiguous, in that it cannot be reasonably interpreted to mean anything else, the requirement of express advocacy is satisfied.

2. The Prohibitions of 2 U.S.C. §441b(a)

Section 441b(a) of the Act prohibits a corporation from making a contribution or expenditure in connection with a federal election. Conversely, this section also prohibits any candidate or political committee from knowingly accepting a contribution from a corporation. For purposes of § 441b(a), the term "contribution or expenditure" is defined broadly to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . in connection with" a federal election. 2 U.S.C. § 441b(b)(2). The

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Act expressly excludes from the category of "expenditure", "any news story...distributed through the facilities of any...magazine...unless such facilities are owned or controlled by any political party, political committee or candidate." 2 U.S.C. § 431(9)(B)(i). Moreover, Commission Regulations 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2), exclude from the definition of "contribution" and "expenditure", "[a]ny cost incurred in covering or carrying a news story...by any...magazine." The Commission has interpreted "magazine" to mean "a publication in bound pamphlet form appearing at regular intervals...containing articles of news, information, opinion or entertainment, whether of general or specialized interest which ordinarily derive their revenues from subscriptions and advertising." Explanation and Justification of 11 C.F.R. § 114.4(e), 44 Fed. Reg. 76, 735 (1979).

C. Application of the Law to the Facts

1. Application of 2 U.S.C. § 441d.

The information provided by the complaint, and in response thereto, reveals that the Committee paid for advertisements in the Senior Beacon and the Fiesta Program that expressly advocated the election of Ben Campbell for Congress. As such, the advertisements were subject to the provisions of 2 U.S.C. § 441d, requiring that they bear a disclaimer stating that they were paid for by the Campbell for Congress Committee. By the Committee's own admission, the two advertisements in question failed to carry the requisite disclaimers when they

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appeared in the Senior Beacon and the Fiesta Program. These facts are sufficient, in and of themselves, to make out a violation of 2 U.S.C. § 441d. The Committee argues, however, that the Commission should take no further action upon consideration of the circumstances which surround this matter. Those circumstances are not clearly described in either the Committee's response or the response of the Senior Beacon upon which the committee relies. However, the thrust of the committee's argument appears to be that the omission of disclaimers on the ads was a result of the printers' error. The Committee therefore appears to disclaim responsibility for the lack of disclaimer.

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In the instant matter it is not known whether the Committee instructed the Senior Beacon or the Fiesta Day representative to place the requisite disclaimers on its ads. With regard to the Senior Beacon ad, it is not known whether the requisite disclaimer appeared in the proof provided to Ms. Lynn Cribari of the Committee's staff for her review and whether the disclaimer was later omitted in the final print. As to the ad in the Colorado State Fair Fiesta Program, it is not known whether the Committee took the effort to request a copy of the ad before it went to print. In the absence of any information demonstrating that the Committee took efforts to ensure that requisite disclaimers appeared on its ads, this Office recommends that the commission find reason to believe that the Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441d.

A review of the Frontier magazine article and the responses which address this article reveal that the communication does not expressly advocate the election or defeat of a candidate for federal office. The article is a profile of Ben Campbell. It does not unambiguously call for any responsive action by its readers. Consequently, it does not meet the standard of "express advocacy" within the meaning of the precedents established in Buckley and Furgatch and the disclaimer provisions of 2 U.S.C. § 441d do not apply.

2. Application of 2 U.S.C. § 441b

The complaint appears to allege that the Senior Beacon and Frontier Airlines, Inc. violated 2 U.S.C. § 441b by financing, with corporate funds, communications in connection

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with a federal election. Insofar as the response of the Committee and the Senior Beacon reveal that the communication was paid for by the Committee and not the Senior Beacon, the Office of the General Counsel recommends that the Commission find no reason to believe that the Senior Beacon violated 2 U.S.C. § 441b(a). Moreover, we recommend that the Commission find no reason to believe that the Committee accepted a corporate contribution from the Senior Beacon in violation of 2 U.S.C. § 441b(a).

With regard to Frontier Airlines, Inc., the record in this case reveals that the respondent is a corporation and that it published and paid for an article in its July 1986 magazine which had as its subject Ben Campbell, who was seeking election to Federal office in 1986. The respondent states that Frontier Magazine is distributed free to thousands of people but disclaims any responsibility for having reprinted the article which, the complaint asserts, was distributed to the general public by Campbell campaign workers. The Campbell Committee states that the article was neither written on behalf of nor requested by the Committee.

In light of these facts, our analysis begins with the preliminary consideration of whether Frontier Airlines' activities rise to "a contribution or expenditure in connection with" a Federal election. The United States Court of Appeals for the Third Circuit has held that in order for a contribution or expenditure to be regarded as being made in connection with a

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federal election, a nexus must be established between the alleged contribution or expenditure and the federal election in question. Miller v. AT&T, 507 F.2d 759, 764 (1974). Where communications are involved, the Commission has found it useful to analyze the following criteria in determining whether a nexus exists between the expenditures with regard to communications and any Federal election: (1) the timing of the communication; (2) the distribution of the communication; and (3) the electoral content of the communication.2/

In examining the above criteria, the facts of this case are indicative that the expenditures in question were made in connection with a federal election. The article discusses the candidate in favorable terms and as a candidate. For example, the article describes Campbell as a "thoughtful, hardworking, cooperative legislator" and states that "Party leaders considered Campbell to be the ideal candidate." Moreover, the article was published and distributed in July of 1986, just prior to the August 12, 1986, primary election.

Next, our analysis turns to the question of whether Frontier Airlines' activities fall outside the coverage of § 441b by application of the news story exemption set forth at 2 U.S.C.

2/ The Supreme Court recently set forth certain considerations pertinent to application of the prohibitions of Section 441b in the context of a not-for-profit, ideological corporation. FEC v. MCFL, 107 Sup. Ct. 616 (1986). That decision does not affect the analysis where, as here, the corporation is for-profit, business corporation.

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§ 431(9)(B)(i). On this issue the General Counsel's Office concludes that the available facts are insufficient to properly analyze whether the exemption applies. The respondent does not assert application of the news story exemption and provides no information concerning whether Frontier magazine is owned or controlled by any political party, committee or candidate. Moreover, the available information does not disclose how the story idea was generated nor how the magazine derives its revenues. We have only a copy of the article outside its bound pamphlet form and no other Frontier magazines with which to compare the magazine which featured the Campbell story. In view of the foregoing and for purposes of developing the facts to determine whether the news story exemption applies, this Office recommends that the Commission find reason to believe Frontier Airlines, Inc. violated 2 U.S.C. § 441b(a). Moreover, we recommend that the Commission find reason to believe that the Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441b(a) by accepting a contribution from Frontier Airlines, Inc.

Additionally, the Office of the General Counsel recommends that the Commission find no reason to believe that Ben Campbell violated the Act. Although the complaint identifies Mr. Campbell as a respondent in this matter, no specific allegations are made against the candidate in his individual capacity, nor are any facts presented which would establish a violation of the Act by candidate Ben Campbell.

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III. RECOMMENDATIONS

1. Find reason to believe the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441d.

2. Find reason to believe that the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441b(a).

3. Find no reason to believe that Ben Campbell violated the Act.

4. Find no reason to believe that the Senior Beacon violated 2 U.S.C. § 441b(a).

5. Find reason to believe that Frontier Airlines, Inc. violated 2 U.S.C. § 441b(a).

6. Close the file as it pertains to Ben Campbell and the Senior Beacon.

7. Approve and send the attached letters to respondents and the interrogatories and requests for the production of documents to the Frontier Airlines, Inc., the Campbell for Congress Committee and Kenneth L. Lane, as treasurer.

5/6/87
Date

Lawrence M. Noble
Acting General Counsel

Attachments
1. Copy of complaint
2. Senior Beacon response to complaint
3. Committee response to complaint
4. Frontier Airlines response to complaint
5. Proposed letters, interrogatories and requests for the production of documents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ben Campbell	)	
Campbell for Congress Committee	)	MUR 2277
and Kenneth L. Lane, Treasurer	)	
Frontier Airlines, Inc.	)	
Senior Beacon	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 19, 1987, do hereby certify that the Commission took the following actions in MUR 2277:

1. Decided by a vote of 6-0 to

   a) Find reason to believe the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441d.

   b) Find reason to believe that the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441b(a).

   c) Find no reason to believe that Ben Campbell violated the Act.

   d) Find no reason to believe that the Senior Beacon violated 2 U.S.C. § 441b(a).

(continued)

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e) Close the file as it pertains to Ben Campbell and the Senior Beacon.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

2. Decided by a vote of 4-2 to find no reason to believe that Frontier Airlines, Inc. violated 2 U.S.C. § 441b(a).

Commissioners Aikens, Elliott, Josefiak, and McGarry voted affirmatively for the decision; Commissioners McDonald and Thomas dissented.

3. Decided by a vote of 6-0 to reconsider the first decision made in this matter.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the reconsideration.

4. Decided by a vote of 6-0 to

a) Find reason to believe the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441d.

b) Find no reason to believe that the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, violated 2 U.S.C. § 441b(a).

(continued)

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c) Find no reason to believe that Ben Campbell violated the Act.

d) Find no reason to believe that the Senior Beacon violated 2 U.S.C. § 441b(a).

e) Close the file as it pertains to Ben Campbell, the Senior Beacon, and Frontier Airlines, Inc.

f) Direct the Office of General Counsel to send appropriate letters.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the motion.

Attest:

5-21-87
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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OGC

SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE: JULY 16, 1987

SUBJECT: STATEMENT OF REASONS FOR MUR 2277

Attached is a copy of the Statement of Reasons in MUR 2277 received in the Commission Secretary Office July 15, 1987 at 5:13 P.M.

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FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ben Campbell	)	MUR 2277
Campbell for Congress Committee	)	
and Kenneth L. Lane, Treasurer	)	
Frontier Airlines, Inc.	)	
Senior Beacon	)	

87 JUL 15 P5:13

STATEMENT OF REASONS

On May 19, 1987, the Federal Election Commission rejected the Office of General Counsel's recommendations in MUR 2277 to find reason to believe that Frontier Airlines, Inc., had violated 2 U.S.C. §441b and to find reason to believe that the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, had violated 2 U.S.C. §441b(a).

In MUR 2277, the Commission reviewed the allegation that an article published in Frontier Airlines' customer magazine about the candidacy of Ben Campbell for Congress violated the Federal Election Campaign Act's prohibition against corporate expenditures in federal elections. 2 U.S.C. §441b. The Act exempts from the definition of "expenditure," however, any "news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned or controlled by any political party, political committee or candidate." 2 U.S.C. §431(9)(B)(i).

In resolving the preliminary issue of the applicability of the press exemption, see Reader's Digest Association v. FEC, 509 F. Supp. 1210 (S.D.N.Y. 1981), the Commission observed that in-flight magazines are routinely distributed by airlines to provide passengers entertainment and diversion during airline flights,

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and would generally qualify as an exempted publication. A majority of the Commission concluded that the available evidence did not indicate the particular magazine issue involved in this matter was a special publication, or that the magazine was owned or controlled by any political party, political committee or candidate. See FEC v. Massachusetts Citizens for Life, Inc., 107 S.Ct. 616, 624 (1986).

Accordingly, a majority of the Commission determined that the airlines' publication of the article was within the press exemption, and found no reason to believe Frontier Airlines, Inc., had made a corporate expenditure on behalf of a federal candidate in violation of 2 U.S.C. §441b (Commissioners Thomas and McDonald dissenting). The Commission then, on a unanimous vote, found no reason to believe the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, accepted a corporate contribution in violation of 2 U.S.C. §441b(a).

Commission majority:

7/14/87 — Thomas J. Josefiak, Vice Chairman

7/14/87 — Joan D. Aikens, Commissioner

7/14/87 — Lee Ann Elliott, Commissioner

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7-15-87

John Warren McGarry,
Commissioner

Commissioners Thomas and McDonald voted against finding no reason to believe Frontier Airlines, Inc., violated 2 U.S.C. §441b, and supported the General Counsel's recommendation to find reason to believe Frontier Airlines, Inc., made a corporate expenditure on behalf of a federal candidate. Commissioners Thomas and McDonald joined the majority in the Commission's unanimous vote to find no reason to believe the Campbell for Congress Committee and Kenneth L. Lane, as treasurer, accepted a corporate contribution in violation of 2 U.S.C. §441b(a) because the record did not present evidence of coordination between Frontier Airlines, Inc., and the Campbell for Congress Committee.

Joining the majority on the unanimous vote:

7/15/87

Scott E. Thomas,
Chairman

7/15/87

Danny Lee McDonald,
Commissioner

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1987

The Honorable Ben Campbell
1724 Longworth House Office Building
Washington, D.C. 20515

RE: MUR 2277
Rep. Ben Campbell

Dear Representative Campbell:

On October 29, 1986, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 19, 1987, determined that on the basis of the information in the complaint, and information provided by the respondents there is no reason to believe that a violation of any statute within its jurisdiction has been committed by you. Accordingly, the Commission closed its file in this matter as it pertains to you. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble
Acting General Counsel

9304059089 7

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1987

John Edward Maas, Esquire
Roath & Brega
One United Bank Center
Suite 2222
1700 Lincoln Street
Denver, CO 80203

RE: MUR 2277
Frontier Airlines, Inc.

Dear Mr. Maas:

On October 29, 1986, the Federal Election Commission notified your client, Frontier Airlines, Inc., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your client at that time.

The Commission, on May 19, 1987, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that Frontier Airlines, Inc. violated 2 U.S.C. § 441b(a), a provision of the Act. Accordingly, the Commission closed its file in this matter as it pertains to Frontier Airlines, Inc. This matter will becomew a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble
Acting General Counsel

2304059089

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1987

James R. Grasso, Publisher
Senior Beacon
P.O. Box 11006
Pueblo, CO 81001

RE: MUR 2277
Senior Beacon

Dear Mr. Grasso:

On October 29, 1986, the Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on May 19, 1987, determined that on the basis of the information in the complaint, and information provided by you there is no reason to believe that the Senior Beacon violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter as it pertains to the Senior Beacon. This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g (a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble
Acting General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1987

Kenneth L. Lane, Treasurer
Campbell for Congress Committee
P.O. Box 791
Pueblo, CO 81002

RE: MUR 2277
Campbell for Congress
Committee
Kenneth L. Lane, as
treasurer

Dear Mr. Lane:

The Federal Election Commission notified the Campbell for Congress Committee and you, as treasurer, on October 29, 1986, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act.") A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on May 19, 1987, determined that there is reason to believe that the Campbell for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441d, a provision of the Act. Specifically, it appears that the Committee financed advertisements in the October 1986 monthly edition of the Senior Beacon and in the Colorado State Fair Fiesta Program expressly advocating the election of Ben Campbell to Congress and failed to include on the advertisements requisite disclaimers stating that the advertisements were paid for by the Campbell for Congress Committee. With respect to the allegations concerning Frontier Airlines, the Commission found no reason to believe that the Campbell for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441b of the Act.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding the matter in question. Please submit answers to the enclosed interrogatories and request for the production of documents within fifteen days of receipt of this letter. Statements should be submitted under oath.

8804059089

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel does not ordinarily give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Lee Andersen the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Interrogatories and request for production of documents

cc: Hon. Ben Campbell

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2277
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Kenneth L. Lane, Treasurer
Campbell for Congress Committee
P.O. Box 791
Pueblo, CO 81002

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

Please respond to the following. Please note that questions 1-8 pertain to an advertisement in the October 1986 edition of the Senior Beacon expressly advocating the election of Ben Campbell to Congress. Question 9 pertains to an advertisement in the 1986 November monthly edition of the Senior Beacon expressly advocating the election of Ben Campbell for Congress. Questions 10-14 pertain to an advertisement in the Colorado State Fair Fiesta Program expressly advocating the election of Ben Campbell to Congress. As used below, all references to "the Committee" refer to the Campbell for Congress Committee.

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1. State the instructions that were given by the Committee to the Senior Beacon concerning the publication of its advertisement in the October 1986 edition of the Senior Beacon. If instructions were given in writing, please submit a copy of such instructions.

2. State whether the Committee instructed the Senior Beacon to include in the advertisement a disclaimer stating that the advertisement was paid for by the Committee. If so,

   a) identify the Committee person who gave such instruction to the Senior Beacon.

   b) identify the person(s) to whom the instructions were given.

3. Describe the measures taken by the Committee to ensure that the disclaimer required by 2 U.S.C. § 441d appeared on the advertisement in the October 1986 edition of the Senior Beacon.

4. State whether the Committee requested the Senior Beacon to supply it with a proof of the advertisement before the advertisement went to print.

5. State whether the Committee reviewed a proof of the advertisement before it went to print. Please submit a copy of the proof that was reviewed by the Committee.

6. State whether the requisite disclaimer appeared on the proof of the advertisement that was reviewed by the Committee.

7. Describe the measures taken by the Committee to correct the omission of the required disclaimer on its advertisement.

8. Please state the total amount of expenditures made by the Committee with regard to the production and placement of its advertisement in the October 1986 edition of the Senior Beacon.

9. State whether the Committee instructed the Senior Beacon to include the required disclaimer on its advertisement that was subsequently printed in the 1986 November edition of the Senior Beacon.

10. State the instructions that were given by the Committee to the Fiesta Day representative concerning the publication of its advertisement in the Colorado State Fair Fiesta Program. If instructions were given in writing, please submit a copy of such instructions.

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11. State whether the Committee instructed the Fiesta Day representative to include in the advertisement a disclaimer stating that the advertisement was paid for by the Committee. If so,

    a) identify the Committee person who gave such instruction to the Fiesta Day representative.

    b) identify the person to whom the instructions were given.

12. Describe the measures taken by the Committee to ensure that the disclaimer required by 2 U.S.C. § 441d appeared on the advertisement in the Colorado State Fair Fiesta Program.

13. State whether the Committee requested a proof of the advertisement for its review before the advertisement was to be printed in the Colorado State Fair Fiesta Program.

14. State the total amount of expenditures made by the Committee for the production and placement of its advertisement in the Colorado State Fair Fiesta Program.

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Ben
NIGHTHORSE CAMPBELL
for Congress
P.O. Box 791
Pueblo, CO 81002

July 13, 1987

Mr. Scott E. Thomas
Chairman,
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Thomas:

On behalf of the Campbell for Congress Committee, and the Treasurer of the Committee, the following responses are provided to the Interrogatories propounded in the case of FEC complaint number MUR 2277.

1. No formal instructions given. The editor of the Senior Beacon picked up a copy of a press release from Lynne Cribari, the campaign press director, at the campaign headquarters, from which release Mr. Grasso, from the Senior Beacon, was to prepare the advertisement. It was simply agreed that Mr. Grasso, as is common, would prepare the ad based upon raw information from the press release. The press release would have been typed on Committee letterhead paper, which did contain the disclaimer. No copy of the specific press release was kept by Ms. Cribari.

2. There is no recollection by Ms. Cribari of giving specific instructions regarding a disclaimers. However, somehow the disclaimer was made known to Mr. Grasso, since the November edition included the disclaimer. See Answer 9.

a) Lynne Cribari would have been the person communicating with the Senior Beacon.

b) James Grasso, publisher, would have been the person with whom Ms. Cribari would have communicated.

3. None. It was assumed the disclaimer would be present.

4. No specific request made for proof.

5. Ms. Cribari does not recall seeing a proof. She could have but just doesn't remember.

6. See Answer 5.

7. No measures were taken to correct the omission because no one from the Committee was aware of the omission until after the Colorado Republican Party filed its complaint on October 27, 1986. The Senior Beacon is a monthly newspaper. The next available monthly edition within which to correct the error would have been November's edition, which did contain the disclaimer.

Paid for by the Committee to Elect Ben Nighthorse Campbell

Steve Holdren, Treasurer

0 0 0 6 0 4 0 2 3 2

Ben
NIGHTHORSE CAMPBELL
for Congress
P.O. Box 791
Pueblo, CO 81002

8. $110.00

9. Ms. Cribari does not recall any specific instructions. Any information would have been provided at the same time information for the October ad was provided. See Answer 1. By the time the Committee was aware of the omission, being provided by the FEC on October 29, 1986 with the complaint, the November edition of the Senior Beacon, upon information and belief, was already printed.

10. No formal instructions were given by the Committee to the Fiesta Day parade representative regarding printing of its advertisement. Ms. Cribari provided a typed paragraph on what the body of the ad was to say, along with a picture of the candidate, and a copy of the campaign logo. None of the foregoing items used in the ad were kept by Ms. Cribari. No "camera ready" ad was provided to the printer.

11. Ms. Cribari does not recall whether she did or not. She assumed she did because she was familiar with the disclaimer requirement; according to Ms. Cribari, it would be a natural piece of information to provide. In addition, Ms. Cribari was familiar with the printer's extensive experience in printing political ads, based upon the Campbell campaign and through knowledge of other campaigns in which the particular printer who printed the parade brochure performed printing services.

a) Ms. Cribari would have been the person to communicate with advertisement officials.

b) Mr. Schuster of Schuster's Quick Print in Pueblo, which did the printing of the parade brochure, would have been the person with whom Ms. Cribari believes she dealt.

12. No measures were taken for the reasons provided in preceding Answer.

13. No specific request made for a proof.

14. $100.00

Upon information and belief, the undersigned states under oath that the foregoing answers are true.

Kenneth L. Lane
Kenneth L. Lane
Treasurer (former)
Campbell for Congress Committee

DISTRICT OF COLUMBIA.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 13th DAY OF JULY, 1987.

John Paul Tomme
JOHN PAUL TOMME

My Commission Expires June 30, 1992

Paid for by the Committee to Elect Ben Nighthorse Campbell

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CCC# 3921

Ben
NIGHTHORSE CAMPBELL
for Congress

Andersen

P.O. Box 791
Pueblo, CO 81002

July 13, 1987

Mr. Scott E. Thomas
Chairman,
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Thomas:

On behalf of the Campbell for Congress Committee and as former Treasurer, the undersigned hereby requests initiation of pre-probable cause conciliation, pursuant to 11 C.F.R. Section 111.18(d) in the matter of complaint number MUR 2277.

Respectfully,

Kenneth L. Lane

Kenneth L. Lane
Treasurer (former)
Campbell for Congress
Committee

87 JUL 15 P3:32

RECEIVED
FEC MAIL CENTER
GENERAL COUNSEL

9804059002

Paid for by the Committee to Elect Ben Nighthorse Campbell

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
87 SEP 28 A11:10:55

In the Matter of	)	
	)	
Campbell for Congress Committee and Steve Holdren, as treasurer	)	MUR 2277

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 22, 1987, the respondents were notified of the Commission's reason to believe finding that they violated 2 U.S.C. § 441d by failing to include on two, committee-financed advertisements advocating Ben Campbell's election the requisite disclaimers stating that the advertisements were paid for by the Campbell for Congress Committee. The respondents reply that a newspaper advertisement was printed without a disclaimer because of an oversight by the paper's publisher. A second advertisement appearing in a parade program did not list the disclaimer because of the same error. The respondents state they were unaware of the omissions until a complaint was filed by the Colorado Republican Party. The respondents also state that the newspaper error was corrected in the next month's edition.

The respondents request conciliation prior to a finding of probable cause to believe. This Office recommends that the Commission enter into conciliation with the respondents at this time.

II. DISCUSSION OF CONCILIATION PROVISIONS

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III. RECOMMENDATIONS

1. Enter into conciliation with Campbell for Congress Committee and Steve Holdren, as treasurer, prior to a finding of probable cause.

2. Approve the attached conciliation agreement.

3. Approve and send the attached letter.

9/25/87
Date

Lawrence M. Noble
Acting General Counsel

Attachments
I. Conciliation request
II. Proposed conciliation agreement
III. Letter

8804069004

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Campbell for Congress Committee and Steve Holdren, as treasurer	)	MUR 2277
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 30, 1987, the Commission decided by a vote of 4-0 to take the following actions in MUR 2277:

1. Enter into conciliation with Campbell for Congress Committee and Steve Holdren, as treasurer, prior to a finding of probable cause.

2. Approve the conciliation agreement, as recommended in the General Counsel's Report signed September 25, 1987.

3. Approve and send the letter, as recommended in the General Counsel's Report signed September 25, 1987.

Commissioners Elliott, Josefiak, McDonald, and Thomas voted affirmatively for the decision; Commissioners Aikens and McGarry did not cast a vote.

Attest:

9-30-87
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary: Mon., 9-28-87, 10:55
Circulated on 48 hour tally basis: Mon., 9-28-87, 4:00
Deadline for vote: Wed., 9-30-87, 4:00

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

7 October 1987

Steve Holdren, Treasurer
Campbell for Congress Committee
P.O. Box 791
Pueblo, Colorado 81002

RE: MUR 2277
Campbell for
Congress Committee
and Steve Holdren,
as treasurer

Dear Mr. Holdren:

On May 19, 1987, the Federal Election Commission found reason to believe that the Campbell for Congress Committee violated 2 U.S.C. § 441d. At your request, on September 30, 1987, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Lee Andersen, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
Acting General Counsel

Enclosure
Conciliation Agreement

9304069006

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
87 DEC 21 PM 3:47

In the Matter of	)	
	)	
Campbell for Congress Committee and Don Pagano, as treasurer	)	MUR 2277
	)	
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On September 30, 1987, the Commission approved the request of the Campbell for Congress Committee and its treasurer ("Respondents") to enter into conciliation negotiations prior to a finding of probable cause to believe. A proposed conciliation agreement was mailed to Respondents on October 7, 1987.

On or about November 4, 1987, Respondents telephoned this Office to state that there had been a change in treasurers and to request that the conciliation agreement be revised to reflect this change. Accordingly, a revised conciliation agreement was mailed to the Respondents on November 4, 1987. On November 18, 1987, the Office of the General Counsel received a signed conciliation agreement from the Respondents and a check for the civil penalty. The signed conciliation agreement identifies Don Pagano as the Committee's new treasurer and as a respondent in this matter. In that there are no other substantive revisions in the signed agreement, this Office recommends the acceptance of the attached conciliation agreement.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Campbell for Congress Committee and Don Pagano, as treasurer.

2. Close the file.

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3. Approve and send the attached letters.

12/21/87
Date

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement
2. Civil Penalty Check
3. Proposed letters

Staff Person: Lee Andersen

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CAMPBELL FOR CONGRESS 386
RE-ELECTION COMMITTEE
PO BOX 791
PUEBLO, CO 81002-0791

1009

Nov. 11 1987 42-51/1070

PAY TO THE ORDER OF Federal Election Committee $500.00

Five hundred and no/100 DOLLARS

United Bank
United Bank of Pueblo
(303) 544-5090 • 201 West Eighth Street • Pueblo, CO 81003

FOR Civil Penalty Don Pagano

⑈001009⑈ ⑆107000518⑆ 43 169 9⑈

QCCH 4788

MEMORANDUM

TO: DEBRA A. TRIMIEW

FROM: CECILIA LIEBER

TO: CECILIA LIEBER

FROM: ~~DEBRA A. TRIMIEW~~ Michele Broussard

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 NOV 18 PM 3:27

CHECK NO. 1009 { A COPY OF WHICH IS ATTACHED } RELATING TO

MUR 2277 (Anderson) AND NAME campbell for Congress Committee and Don Pagano, as treasurer

WAS RECIEVED ON 11/18/87. PLEASE INDICATE THE ACCOUNT INTO WHICH IT SHOULD BE DEPOSITED:

/ x / BUDGET CLEARING ACCOUNT { 95F3875.16 }

/ / CIVIL PENALTIES ACCOUNT { 95-1099.160 }

/ / OTHER _____

SIGNATURE Michele Broussard DATE 11/19/87

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	
Campbell for Congress Committee	)	MUR 2277
and Don Pagano, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 5, 1988, the Commission decided by a vote of 6-0 to take the following actions in MUR 2277:

1. Accept the conciliation agreement with the Campbell for Congress Committee and Don Pagano, as treasurer, as recommended in the General Counsel's Report signed December 21, 1987.

2. Close the file.

3. Approve and send the letters, as recommended in the General Counsel's Report signed December 21, 1987.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

1-5-88
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary: Mon., 12-21-87, 3:46
Circulated on 48 hour tally basis: Tues., 12-22-87, 11:00
Deadline for vote: Tues., 01-05-88, 4:00

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1988

Mr. Don Pagano, Treasurer
Campbell for Congress Committee
P.O. Box 791
Pueblo, CO 81002

RE: MUR 2277
Campbell for Congress
Committee and
Don Pagano, as
treasurer

Dear Mr. Pagano:

On January 5, 1988, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your behalf in settlement of a violation of 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter. This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact R. Lee Andersen, the attorney assigned to this matter at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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QCC# 4788

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
87 NOV 16 AM 9:37

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Campbell for Congress Committee and Don Pagano, as treasurer	)	MUR 2277
	)	

CONCILIATION AGREEMENT

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 NOV 18 PM 3:28

This matter was initiated by a signed, sworn and notarized complaint by Howard H. Callaway on behalf of the Colorado Republican Party. The Federal Election Commission ("the Commission") found reason to believe that Campbell for Congress Committee and its treasurer, ("Respondents") violated 2 U.S.C. § 441d.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Campbell for Congress Committee, was the principal campaign committee of Ben Campbell in his bid for election to the United States House of Representatives in 1986.

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2. Respondent, Don Pagano, became treasurer of the Respondent Committee on September 29, 1987.

3. During 1986, the Respondent Committee paid for two advertisements which expressly advocated the election of Ben Campbell.

4. Section 441d of Title 2, United States Code, requires that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such communication must bear a disclaimer stating the name of the person who paid for the communication.

5. Respondents failed to include on the two committee-financed advertisements advocating the election of Ben Campbell the requisite disclaimer stating that the advertisements were paid for by the Ben Campbell for Congress Committee.

V. Respondents failed to place disclaimers on two advertisements advocating the election of Ben Campbell, in violation of 2 U.S.C. § 441d.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Five Hundred Dollars ($500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil

action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

1/11/88
Date

FOR THE RESPONDENTS:

Don Pagano
Treasurer

11-12-87
Date

93140570014

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1988

Mr. James R. Grasso, Publisher
Senior Beacon
P.O. Box 11006
Pueblo, CO 81001

RE: MUR 2277
Senior Beacon

Dear Mr. Grasso:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact R. Lee Andersen, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

8804069015

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1988

John Edward Maas, Esquire
Roath & Brega
One United Bank Center
1700 Lincoln Street
Denver, CO 80203

RE: MUR 2277
Frontier Airlines, Inc.

Dear Mr. Maas:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact R. Lee Andersen, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1988

The Honorable Ben Campbell
1724 Longworth House Office Building
Washington, D.C. 20515

RE: MUR 2277
Ben Campbell

Dear Mr. Campbell:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact R. Lee Andersen, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

8804059017

If you have any questions, please contact the R. Lee Andersen, the attorney assigned to this matter at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
First General Counsel's Report
Statement of Reasons
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 11, 1988

Mr. Howard H. Callaway, Chairman
Colorado Republicans
1275 Tremont Place
Denver, Colorado 80204

RE: MUR 2277

Dear Mr. Callaway:

This is in reference to the complaint you filed with the Federal Election Commission on October 24, 1986, concerning Ben Campbell, the Campbell for Congress Committee and Don Pagano, as treasurer, Frontier Airlines, Inc. and the Senior Beacon.

The Commission found that there was no reason to believe Ben Campbell violated the Federal Election Campaign Act of 1971, as amended ("the Act"). In addition, the Commission found that there was no reason to believe that Frontier Airlines, Inc., the Campbell for Congress Committee and the Senior Beacon violated 2 U.S.C. § 441b(a). Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to reject the General Counsel's recommendation to find reason to believe that Frontier Airlines, Inc. and the Campbell for Congress Committee violated 2 U.S.C. § 441b(a). This document will be placed on the public record as part of the file in this matter.

With regard to the Campbell for Congress Committee and Don Pagano, as treasurer, the Commission found reason to believe these respondents violated 2 U.S.C. § 441d by failing to include disclaimers on committee-authorized and financed advertisements advocating the election of Ben Campbell. On , 1987, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on January 5, 1988 . A copy of this agreement is enclosed for your information.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

THIS IS THE END OF MUR # 2277

DATE FILMED 4/1/88 CAMERA NO. 4

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