

IDAHO STATE DEMOCRATIC PARTY

P. O. Box 445
Boise, ID 83701
Phone (208) 336-1815
Toll Free in Idaho 1-800-542-4737
FAX (208) 336-1817
e-mail iddems@micron.net

October 6, 1998

MLIR 4820

Lawrence M. Noble, Esq.
Office of the General Counsel
Federal Election Commission
Sixth Floor
999 E Street, N.W.
Washington, D.C. 20463

**Re: Complaint Against Idaho State Central Committee, and
Representative Helen Chenoweth**

Dear Mr. Noble:

This letter constitutes a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("FECA"), 2 U.S.C. § § 431 et seq., and related regulations of the Federal Election Commission ("FEC" or the "Commission"), 11 C.F.R. § § 100.1 et seq., by the Idaho Republican State Central Committee ("IRSCC"), and Representative Helen Chenoweth.

Television ads promoting Representative Chenoweth began running this week as part of Republican party's wider efforts to elect or reelect various Republican candidates. On September 1, 1998, the National Republican Congressional Committee Chairman, John Lindner, spoke of his Committee's, the RNC's, and state Republican parties' coordinated efforts, dubbed "Operation Breakout" to implement a series of ads meant to "'put[...] the GOP on the offense of the political debate." National Journal's CongressDaily (Sept. 2, 1998). In the news report, Chairman Lindner referred to the upcoming ads as "issue ads." This characterization is distinguishable from a legal reality, however, since the ads reveal themselves as directly supportive of candidates such as Representative Chenoweth.

The IRSCC bought time to run one of these Operation Breakout advertisements on education. The ad compares the positions of the two candidates for the First Congressional District in Idaho. A copy of the text of the ad is attached.

This ad is clearly designed to promote an individual candidate -- not the Republican party or its national legislative policy. As the FEC noted in FEC

[DA982790.074]

Paid for by Idaho State Democratic Central Committee, Carolyn Boyce, Treasurer

10/6/98

Remember to check your income tax form for "Tax Check-Off" for the Democratic Party. Thank you.



57-C

Advisory Opinion 1995-25, 1 Fed. Election Camp. Fin. Guide [CCH] ¶ 6162, "the Commission concludes that legislative advocacy media advertisements that focus on national legislative activity and promote the Republican Party should be considered as made in connection with both federal and nonfederal elections, unless the ads would qualify as coordinated expenditures on behalf of any general election candidates of the party" These ads clearly qualify.

The ad contains a tag line asking viewers to "call Helen Chenoweth, tell her to keep working for smaller class sizes and better schools." This presumably was added in an attempt to constitute a "call to action" that would in some way distinguish an issue ad from a campaign ad. The ad, however, is comparing the campaign positions taken by Williams and Chenoweth. There is no reasonable basis for comparing Williams and Chenoweth, except that they are candidates for federal office. The comparison is for no reason other than to call attention of the voters to the positions taken by the candidates on education and to influence the outcome of the federal election. The ad does not qualify as an effort to influence Representative Chenoweth's legislative activities -- a requirement that makes issue ads meaningfully different from pure electioneering. Here, there is simply no difference.¹

Section 441a (d) of the FECA allows each party to make certain expenditures on behalf of general election nominee. Pursuant to 2 U.S.C. § 441a (d)(3)(B), the IRSCC is limited in its spending on behalf of Representative Chenoweth's campaign, and such spending must be reported as coordinated expenditures. The cost of the air time for the commercials outlined above, not to mention production costs further added to other expenditures made by the party on behalf of Congressman Chenoweth, far exceed the relevant limits. Further, it is unlikely, given the press strategy of the Republican Committees that they will properly characterize any of the money as coordinated expenditures. Consequently, the IRSCC has violated both the spending limits and the reporting provisions of the FECA. Representative Chenoweth, too, has violated the act, pursuant to 2 U.S.C. § 441a (f) which prohibits a candidate from "knowingly accept[ing] any contribution or mak[ing] any expenditure in violation" of that provision of the FECA.

¹ The ads also do not qualify under the recent Supreme Court decision as independent expenditures. Colorado Republican Fed. Campaign Comm. v. FEC, 116 S.Ct. 2309 (1996).

[DA982790.074]

-2-

10/6/98

some portion of the costs related to the ads were for the purchase of money which are not permitted to be used in connection with the federal elections. Yet the ads promote only a federal congressional candidate and her campaign proposals which have no impact on nonfederal elections. This use of prohibited funds to promote a federal candidate is a further violation of federal campaign laws.

The available information suggests that the IRSCC and Representative Chenoweth may have violated the FECA and FEC regulations by making expenditures that violated FECA limits. Furthermore, it is anticipated that Respondents will fail to properly report the money spent as coordinated expenditures. The funds used are from prohibited sources. The FEC should conduct a prompt and complete investigation to determine the scope of this matter and any violations committed by those parties. Finally, if the FEC finds that future violations of 441a (d) limits are likely, the undersigned requests that the Commission seek a permanent injunction against additional illegal expenditures.

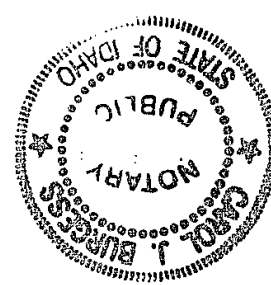
Respectfully submitted,

W. Anthony Park
State Chair, Idaho Campaign
Party

Subscribed and sworn to before me this 9th day of October, 1998.

My Commission expires 6/20/03.

Carol J. Burgess
Notary Public for Idaho



[DA982790.074]

-3-

10/6/98

Lawrence M. Noble, Esq.
October 6, 1998
Page 3

By treating this ad as an issue ad, further, the IRSCC have apparently decided that it is appropriate to use funds that are not lawful under federal law for these expenses. The IRSCC, by calling these ads issue ads, are in all likelihood paying for some portion of the costs related to the ads with corporate treasury funds or other moneys which are not permitted to be used in connection with the federal elections. Yet the ads promote only a federal congressional candidate and her campaign proposals which have no impact on nonfederal elections. This use of prohibited funds to promote a federal candidate is a further violation of federal campaign laws.

The available information suggests that the IRSCC and Representative Chenoweth may have violated the FECA and FEC regulations by making expenditures that violated FECA limits. Furthermore, it is anticipated that Respondents will fail to properly report the money spent as coordinated expenditures. The funds used are from prohibited sources. The FEC should conduct a prompt and complete investigation to determine the scope of this matter and any violations committed by those parties. Finally, if the FEC finds that future violations of 441a (d) limits are likely, the undersigned requests that the Commission seek a permanent injunction against additional illegal expenditures.

Respectfully submitted,

W. Anthony Park
State Chair, Idaho Campaign
Party

Subscribed and sworn to before me this 9th day of October, 1998.

My Commission expires 6/20/03.

Carol J. Burgess
Notary Public *for IDAHO*

