

FEDERAL ELECTION COMMISSION

In the matter of:
Herbster Angus Farms Inc.
Conklin Company, Inc.
Charles W. Herbster, in his personal capacity as owner and
chief executive officer of Herbster Angus Farms, Inc. and Conklin Company, Inc.

MUR **7906**

COMPLAINT

1. Complainant Laura Wigley brings this complaint before the Federal Election Commission ("FEC" or "Commission") seeking an immediate investigation and enforcement action against Charles W. Herbster, Herbster Angus Farms, Inc., and/or Conklin Company, Inc. for direct and serious violations of the Federal Election Campaign Act ("FECA").

2. Mr. Charles W. Herbster is the owner and chief executive officer of both:

Herbster Angus Farms
65088 707 Trail
PO Box 549
Falls City, NE 68355

Conklin Company, Inc.
3951 N. Kimball Dr.
Kansas City, MO 64161

3. No later than July of 2016, Herbster Angus Farms, Inc. and/or Conklin Company, Inc. qualified as a political committee, spending in excess of \$1,000 on Independent Expenditure in a federal election. The Commission's records show that Herbster Angus Farms, Inc. and/or Conklin Company failed to register with the FEC, submit required reports, and comply with disclaimer requirements. Because the company failed to file timely and accurate Independent Expenditure reports, depriving the complainant and voters of information to which they are legally entitled.

4. Conklin Company, Inc. is mentioned in this complaint because the corporation is also listed in the advertisement placed by Herbster Angus Farms, and Mr. Herbster owns both corporations. The advertisement discussed below (also see Appendix 1) lacks the required disclaimer. Additionally, the required reports have not been filed with the Commission, so it is wholly unclear which of Mr. Herbster's corporations paid for the full and final cost of the advertisement. Herbster Angus Farms, Inc. will be used as the primary name on this complaint, because it appears more prominent on the advertisement. Additionally, Herbster Angus Farms, Inc. appears in the Advertiser Index. The Commission can determine if Conklin Company, Inc. also paid for the cost of the advertisement.

5. Founded in August 2011, *Progressive Cattleman* magazine is available for free “to qualified producers and allied individuals living in the United States.” Subscribers may receive either a print or digital magazine.¹ The magazine features paid advertisements.

6. Progressive Publishing, the parent corporation that includes *Progressive Cattleman*, is owned by Alan and Glen Leavitt.² Among their multiple publications, Progressive Publishing, 238 West Nez Perce, PO Box 585 Jerome, ID 83338 owns both *Progressive Cattleman* and *Progressive Dairyman* magazines.³

7. *Progressive Cattleman* magazine’s sister publication, *Progressive Dairyman*, listed the cost of a one-page full color advertisement as \$4,452 in their 2013 media kit.⁴

8. In July 2016 issue of *Progressive Cattleman* magazine, a two-page, full color advertisement appeared regarding the presidential election. A copy of the advertisement is attached in Appendix 1. The advertisement features a photograph of Charles W. Herbster and Donald J. Trump, the then presumptive 2016 Republican nominee for President of the United States.

9. An estimated cost for Herbster Angus Farms’ two-page, full color advertisement in 2016 would be approximately \$9,000 (or more), based on the previous prices listed in *Progressive Dairyman’s* 2013 media kit. (See Appendix 2)

10. On the left-hand side of the advertisement in *Progressive Cattleman* magazine, it states, “We only choose the best cattle, why would it be any different when it comes to the next President of the United States of America? As a farmer in the cattle business and owner of the **Conklin Company Inc.**, I believe that we need a successful businessman in the White House. Trump is the leader we need for a time such as this. I have known Donald J. Trump for over 10 years and trust his judgement, business expertise and ability to win. Mr. Trump has earned my support, my vote and financial contributions. Contact me to find out how to support the most important election in our lifetime.” ~ Charles W. Herbster⁵ (*emphasis added*)

11. In the lower right-hand corner of the ad, the Herbster Angus Farms’ logo appears. Additionally, the Donald J. Trump for President, Inc. campaign’s phrase “Make America Great Again” appears in a box next to the Herbster Angus Farms’ logo.

¹ <https://progressivepublishing.wufoo.com/forms/us-international-form/>

² “D&B Business Directory: Progressive Publishing.” D&B Business Directory, 12 May 2021, www.dnb.com/business-directory/company-profiles.progressive_publishing.005e677ad8abbc5989b23b31037781c5.html.

³ “Home | Progressive Publishing.” Progressive Publishing, 12 May 2021, www.progressivepublish.com.

⁴ https://www.progressivepublish.com/downloads/2013/general/2013_PD_media_kit.pdf

⁵ “Herbster Angus Farms.” *Progressive Cattleman*, July 2016, www.progressivecattle.com/digital_edition/2016/07/viewer/desktop/#page/14.

12. The advertisement lacks a disclaimer to identify that this is an Independent Expenditure. Additionally, the advertisement mentions the names of two corporations, both of which are owned by Mr. Herbster, Herbster Angus Farms, Inc. and/or Conklin Company, Inc.

SUMMARY OF THE LAW

13. As a political committee, Herbster Angus Farms was and is required to file periodic reports with the Commission that, among other things: (1) identify all individuals who contributed an aggregate of more than \$200 in a year, the amount each individual contributed, and the date of the contribution; (2) identify all political committees that made a contribution, the amount each committee contributed, and the date of the contribution; (3) detail outstanding debts and obligations; and (4) list all expenditures. A political committee must comply with the organizational and recordkeeping requirements of 52 U.S.C. § 30102 and must file periodic disclosure reports, either on a monthly or quarterly basis, of its receipts and disbursements, 52 U.S.C. § 30104(a)(4), (b); 11 C.F.R. §§ 104.1(a), 104.8.

14. Groups of persons who make expenditures in excess of \$1,000 in a calendar year are required to register with and report to the FEC as political committees. See 2 U.S.C. § 434 (4)(A). Herbster Angus Farms spent well over that amount on efforts to influence a federal election; therefore, Herbster Angus Farms is a political committee under federal law and must submit reports to the FEC.

15. Independent Expenditures are expenditures that express advocate the election or defeat of a clearly identified federal candidate and are not coordinated with such candidate or political party, 52 U.S.C. § 30101(17); 11 C.F.R. § 100.16(a).

16. Such reports must disclose information regarding the committee's Independent Expenditures, including the date, amount, and purpose of the Independent Expenditure and a statement indicating whether it is in support of, or in opposition to, a candidate, as well as the name and office sought by that candidate, and the identity of any person to whom over \$200 was disbursed in connection with the Independent Expenditure. 52 U.S.C. § 30104(b)(6)(B)(iii); 11 C.F.R. § § 104.4(c), 104.3(b)(3)(vii), 109.10(d)-(e).

17. A political committee that makes Independent Expenditures must itemize them on its periodic reports. 52 U.S.C. § 30104(b)(4)(H)(iii); 11 C.F.R. § 104.4(a).

18. The advertisement's use of "Donald J. Trump" and "vote" and "Make America Great Again"—a slogan used by the Donald J. Trump for President, Inc. campaign and trademarked by Mr. Trump—has no other meaning than to urge the election or defeat of one or more clearly identified candidate(s). 11 CFR § 100.24(a) (52 U.S.C. 30101(20)). This advertisement can only be interpreted as containing express advocacy for the election of Donald J. Trump as "the next President of the United States."

19. The advertisement lacks a disclaimer of any specification: “If the communication, including any solicitation, is not authorized by a candidate, authorized committee of a candidate, or an agent of either of the foregoing, the disclaimer must clearly state the full name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication, and that the communication is not authorized by any candidate or candidate's committee.” 11 CFR § 110.11 (52 U.S.C. 30120).

RESPONDANTS

20. Charles W. Herbster is the owner and chief executive officer of Herbster Angus Farms and Conklin Company, Inc., among other corporate entities.

21. Mr. Herbster has been involved with federal and local campaigns in the following manner:

- a. On June 9, 2016, a Nebraska political blog reported an exclusive interview that stated: (Charles W.) “Herbster will also serve as a top advisor to the Trump campaign on issues of agriculture and ranching.”⁶
- a. As National Chairman of the Agricultural and Rural Advisory Committee for the 2016 Donald J. Trump for President, Inc. campaign.^{7,8}
- b. As Nebraska’s sole 2016 State Victory Finance Chair for the RNC and Donald J. Trump for President, Inc..⁹
- c. He appeared at public events as a surrogate to represent the Donald J. Trump for President, Inc. campaign.^{10,11}
- d. As a donor of \$500,000 to the 58th Presidential Inaugural Committee.¹²

⁶ Streetsweeper. “Nebraska’s Charles W. Herbster Attends Trump Finance Meeting in NYC.” Leavenworth St., 9 June 2016, nebraska.wheelsdownpolitics.com/2016/06/09/nebrasikas-charles-w-herbster-attends-trump-finance-meeting-in-nyc.

⁷ Kullgren, Ian. “Nebraska Cattle Rancher Heads Trump’s Ag Council.” POLITICO, 21 July 2016, www.politico.com/tipsheets/morning-agriculture/2016/07/nebraska-cattle-rancher-heads-trumps-ag-council-215450.

⁸ Agri-Pulse Communications, Inc. “Meet the Leaders of Trump’s Ag Team.” YouTube, uploaded by Agri-Pulse Communications, Inc., 28 July 2016, www.youtube.com/watch?v=UPoi8II137U.

⁹ “RNC And Donald J. Trump For President Announce 2016 State Victory Finance Chairs.” GOP.Com, 1 July 2016, gop.com/rnc-and-donald-j-trump-for-president-announce-2016-state-victory-finance-chairs.

¹⁰ Massey, Jim. “Herbster ‘All in’ on Trump for President.” The Country Today, 6 Sept. 2016, www.leadertelegram.com/country-today/front-page/herbster-all-in-on-trump-for-president/article_cb5af914-8b91-5e13-9131-83b1c8198512.html.

¹¹ Boudreau, Catherine. “Cattle Ranchers Roundup in Billings.” POLITICO, 12 Sept. 2016, www.politico.com/tipsheets/morning-agriculture/2016/09/cattle-ranchers-roundup-in-billings-conaway-roboters-access-to-credit-key-during-farm-downturn-this-week-ag-groups-descend-on-capitol-hill-216264.

¹² Huffman, Jason. “NAFTA Renegotiation Is on Trump Time.” POLITICO, 21 Apr. 2017, www.politico.com/tipsheets/morning-agriculture/2017/04/nafta-renegotiation-is-on-trump-time-219909.

- e. As the 2020 chairman of the Farmers and Ranchers for Trump committee.^{13,14}
- f. As a donor of over \$3 million to federal campaigns, as well as over \$4.3 million to non-federal races in Nebraska.
- g. Mr. Herbster was a previous candidate for governor of Nebraska in the 2013-2014 election, and he is a current candidate for governor of Nebraska in 2021-2022.

22. Given his level of involvement with federal and non-federal campaigns, Mr. Charles W. Herbster should be personally aware of his responsibilities to report an Independent Expenditure to the Commission.

COMPLAINANT

23. Complainant Laura Wigley is a citizen of the United States and a registered voter in Nebraska. As a registered voter, Ms. Wigley is entitled to receive information contained in disclosure reports required by the FECA. 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–.22, 109.10. Ms. Wigley is harmed in exercising her right to vote when an individual, candidate, political committee, or other regulated entity fails to report campaign finance activity as required by the FECA. See *FEC v. Akins*, 524 U.S. 11, 20 (1998) (quoting *Buckley v. Valeo*, 424 U.S. 1, 66–67 (1976))

CONCLUSION

24. WHEREFORE, complainant Laura Wigley requests that the Commission conduct an investigation into these allegations; declare the respondents to have violated the FECA and applicable FEC regulations; and order respondents to correct these violations by providing to complainant and filing with the FEC disclosure reports required of political committees that, among other things, identify and make public each person who made contributions aggregating more than \$200. In addition, the complainants request that the FEC impose sanctions appropriate to these violations, and take such further action as may be appropriate, including referring this matter to the Department of Justice for criminal prosecution.


Laura A. Wigley

Lincoln, NE 68506

May 14, 2021

¹³ McCrimmon, Ryan. "Trump Revisits 2016 Playbook to Court Rural Midwest Vote." POLITICO, 26 Aug. 2020, www.msn.com/en-us/news/politics/trump-revisits-2016-playbook-to-court-rural-midwest-vote/ar-BB18o90P?li=BBnb7Kz.

¹⁴ Siders, David. "'Trumpiest Trumpster of the Bunch': GOP Gets a Gut Check." POLITICO, 19 Apr. 2021, www.politico.com/news/2021/04/18/nebraska-republican-candidates-trump-482703.

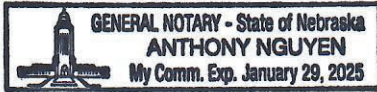
NEBRASKA NOTARY ACKNOWLEDGEMENT

State of Nebraska
County of Lancaster

The foregoing instrument was signed and sworn to before me this 15th day of May,

2021, by *[Signature]* [Name of Person Acknowledging].

[Seal]



[Signature]
[Signature of Person Taking Acknowledgement]

General Notary
[Title or Rank]

N/A
[Serial Number, if any]

01-29-25
[Commission Expiration]

APPENDIX 1

PROGRESSIVE CATTLEMAN

JULY 2016

Saddle up and keep it safe

How to balance safety and
production in following OSHA
rules. **PG. 30**



In this issue

Buying power and beef

For customers, what do softening beef prices bode for the future? **PG. 14**

Built to last, built to please

The benefits of customizing your cattle-working facilities **PG. 36**

Designing a drylot facility

A new training poster explains adapting a drylot cow-calf facility. **PG. 22**



DIGITAL
EDITION

SPONSORED BY:

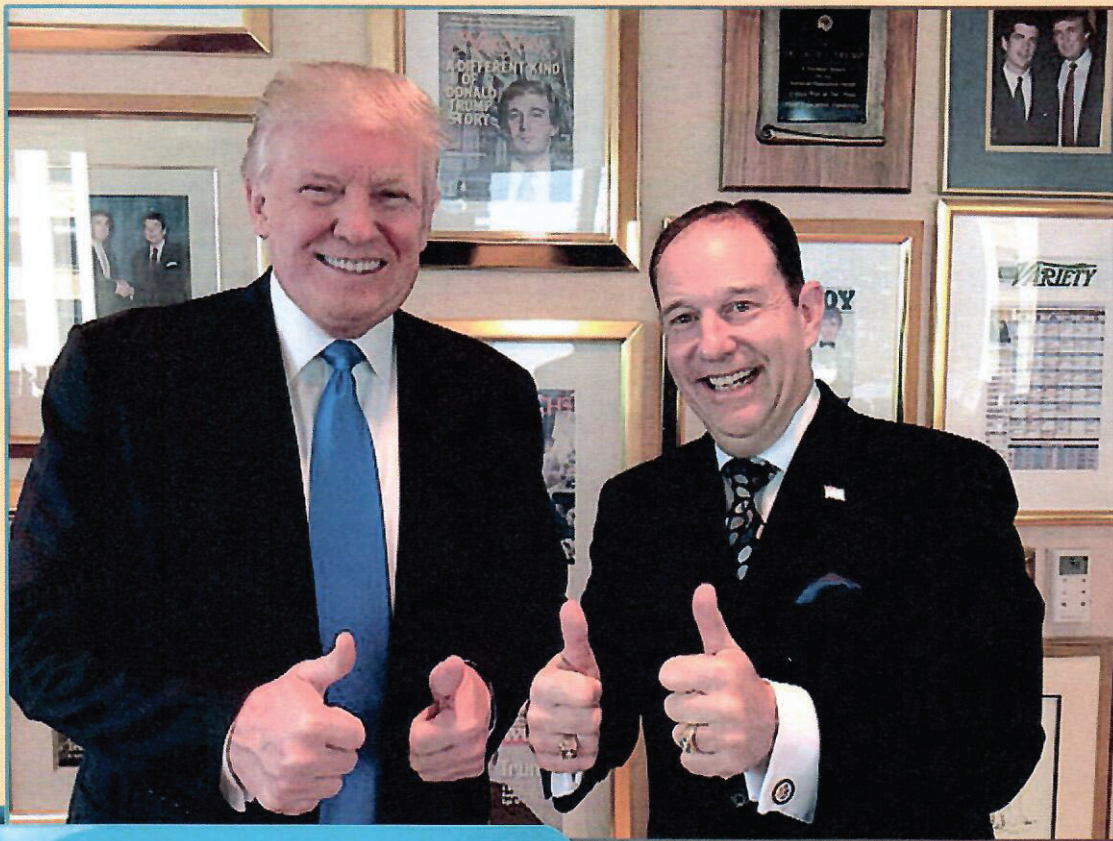


H.J. BAKER & BRO., INC.
ESTABLISHED 1850

www.progressivecattle.com

Do your Donors get the Thumbs Up?

At Herbster Angus Farms, donors are our foundation and will leave their mark for generations. Cows must excel in actual performance data and have to pass stringent criteria to participate on our "A" team. Udder quality, longevity, docility, structural correctness and fertility matter to us. We not only value our herd, but the herds of our loyal customers, and we strive to sell bulls and semen that will better the Angus breed.



Donald J. Trump and Charles W. Herbster
in Trump's Office, Manhattan, NY

"We only choose the best cattle, why would it be any different when it comes to the next President of the United States of America? As a farmer in the cattle business and owner of the Conklin Company Inc., I believe we need a successful businessman in the White House. Trump is the leader we need for a time such as this. I have known Donald J. Trump for over 10 years and trust his judgment, business expertise and his ability to win. Mr. Trump has earned my support, my vote and my financial contributions. Contact me to find out how to support the most important election in our lifetime."

~ Charles W. Herbster



Sandpoint Blackbird 8809 ~ 16143141

Our \$500,000 valuation, top ranking and superior sire producing donor

Sandpoint Blackbird 8809, the 2nd highest selling cow in Angus history with a valuation of \$500,000, is a stunning donor. Ranking in the top 1% of the breed for WW, YW, Milk, MW, CW, Marb, RE, \$W, \$F, \$QG and \$B, she sets a high standard all while having an outstanding phenotype. Producing a \$15,000 bull in the 2016 Herbster Angus Farms bull sale, this female has a great future in our program. Look for her sons by International and Sportsman to headline our sale.

RB Lady Standard 305-890

is our \$175,000 herd matron that continues to put her stamp on the Angus breed for birth-to-yearling spread. Ranking as the #1 cow in the breed with a .75 accuracy in that category, she is a true breed changer. The "Lady" progeny have very predictable genomic profiles and exceptional actual performance data. Her sons averaged over \$21,000 in our 2016 bull sale, taking her total progeny sales to over \$2.7 million. Bull calves by International and Harvester will be sale features in the 2017 Herbster Angus Farms bull sale.



RB Lady Standard 305-890 ~ 16128291

Our \$175,000 #1 birth-to-yearling cow in the breed

★★★★★
**MAKE
 AMERICA
 GREAT AGAIN!**

HERBSTER
ANGUS FARMS

www.herbsterangus.com

Charles W. Herbster
 (402) 801-1420

Falls City, Nebraska
herbsterangus@sentco.net



ADVERTISER INDEX

2EZ Bale Mover	32	Midsouth Perma Column.....	6	R & R Machine Works	37	Skidril.....	17
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Jaylor Fabricating	Cover						
JCB Inc.	29						
Kuhn North America Inc.	15						
Luco Manufacturing.....	26						
Micronutrients	Cover						

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- BUDGETED & REVOLVING LINES OF CREDIT
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- EQUIPMENT LOANS
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RUSH-CO

AVS
POWER VENTILATION SYSTEMS

Perfect solution for natural ventilation in livestock & dairy buildings

- Electric motor operates on a simple drum switch
- Based on curtain size, a single drive unit can operate up to 600 linear ft of curtain
- Compatible with all building types (wood, steel, hoop, masonry)
- System can be set or stored in partially opened positions
- Structural tubing is industrial grade and galvanized inside and out
- The operating switch, motor, and electrical are outdoor NEMA rated
- Drive assembly ships pre-wired and pre-assembled

RUSH-CO
RUSHMORE BUILDINGS

Less stressed, more relaxed = higher, faster weight gain and increased profits

- Galvanized tubing for a strong, affordable and secure environment
- Easy to assemble, no internal columns to interfere with moving machinery, huge energy savings due to little or no daytime lighting needs
- Sizes from 24' to 120' wide by unlimited lengths

Building Applications

- Salt & Sand Storage
- Composting Facilities
- Jobsite Storage/Temporary
- Factory Cold Storage
- Equipment Maintenance Shop
- Cattle & Dairy Facilities
- Hog & Poultry Facilities
- Grain & Hay Storage
- Rush-Co Makes Replacement Covers For All Brands

APPENDIX 2

1X per year net rate

DISPLAY AD RATES

Size	All regions		Any three regions		Any two of the four regions		Western U.S.		East Coast or Midwest		Northwest or Southwest	
	Black & white	Color	Black & white	Color	Black & white	Color	Black & white	Color	Black & white	Color	Black & white	Color
Full	\$3,709	\$4,452	\$3,139	\$3,767	\$2,568	\$3,083	\$1,998	\$2,398	\$1,655	\$1,987	\$1,143	\$1,371
3/4	\$2,967	\$3,561	\$2,512	\$3,014	\$2,056	\$2,466	\$1,599	\$1,918	\$1,325	\$1,589	\$913	\$1,097
Jr.	\$2,411	\$2,893	\$2,041	\$2,450	\$1,670	\$2,004	\$1,300	\$1,560	\$1,076	\$1,292	\$743	\$891
1/2	\$2,115	\$2,538	\$1,790	\$2,147	\$1,464	\$1,757	\$1,139	\$1,366	\$944	\$1,133	\$651	\$782
1/3	\$1,521	\$1,826	\$1,287	\$1,545	\$1,055	\$1,265	\$820	\$1,007	\$679	\$815	\$469	\$562
1/4	\$1,261	\$1,514	\$1,068	\$1,282	\$874	\$1,048	\$680	\$816	\$563	\$676	\$388	\$467
1/6	\$928	\$1,114	\$785	\$942	\$643	\$771	\$500	\$599	\$415	\$498	\$286	\$344
1/8	\$780	\$936	\$661	\$792	\$540	\$648	\$420	\$505	\$349	\$418	\$241	\$289
1/12	\$594	\$714	\$504	\$604	\$412	\$493	\$321	\$384	\$266	\$319	\$184	\$221
1/16	\$446	\$536	\$378	\$453	\$309	\$371	\$241	\$289	\$199	\$240	\$138	\$166

FREQUENCY DISCOUNTS

You can regularly change ad size and/or content and still qualify for discounts. Round rates to nearest dollar. You can combine frequencies from all of our publications.

3x = 7% **12x = 20%**
6x = 10% **18x = 25%**
9x = 15% **24x = 28%**

1X per year net rate

MARKETPLACE RATES

Size	National	
	Black & white	Color
1/4	\$1,072	\$1,287
1/8	\$789	\$947
1/8	\$663	\$795
1/12	\$505	\$607
1/16	\$379	\$455
Per column inch	\$115	\$135
Line ads (\$30 minimum)	\$2 per word	NA

“Absolutely!! ... You have the greatest ‘dairy’ publication going.”

Ed Gilman, HJ Baker Feed Products, Nixa, Missouri

Why do we focus on 100+ cow dairies?

10
TIMES MORE
BUYING
POWER

100+ cow operations produce **86.4%** of the total U.S. milk supply



PREMIUM POSITIONS

	One region	Two regions	Three regions	All regions	Any other guaranteed position
Inside front					
Full	\$340	\$612	\$850	\$1,105	
1/2 (4 column)	\$221	\$398	\$553	\$718	
Inside back					
Full	\$300	\$540	\$750	\$975	
1/2 (4 column)	\$195	\$351	\$488	\$634	
Back cover					
Full	\$440	\$792	\$1,100	\$1,430	
1/2 (4 column)	\$286	\$515	\$715	\$930	
Page 1 standard paper					
1/2 (4 column)	\$143	\$257	\$358	\$465	

10% premium on ad cost

Prices are in addition to the total ad cost. No discounts apply. Our positioning policy is to run your ad in the front half of the magazine half the time and in the back half of the magazine half the time. This keeps all advertisers on a level playing field.