

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL, et al.,)
)
) Plaintiffs,) Civil Action No. 02-0582 (CKK, KLH, RJL)
)
) v.)
) CONSOLIDATED ACTIONS
) FEDERAL ELECTION COMMISSION, et al.,)
)
) Defendants.)

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
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DECLARATION OF JOE LAMSON

1. My name is Joe Lamson.
2. Since January 2001, I have served as the Communications Director for the Office of Public Instruction of the State of Montana, a post I also held from early 1997 until January 2000. During 2000, I managed Nancy Keenan's campaign to represent Montana's Congressional district. During 1996, I managed Bill Yellowtail's campaign to represent Montana's Congressional district. From 1983 through 1996, I served as the state director for United States Representative Pat Williams' Congressional office in Montana. During this same period, I also managed Congressman Williams' election campaigns in Montana. From 1981 to 1983, I was Executive Director of the Montana Democratic Party.
3. In 1997, I provided a sworn declaration in Colorado Republican Fed. Campaign Comm. v. FEC, 41 F. Supp. 2d 1197 (D. Colo. 1999), aff'd, 213 F.3d 1221 (10th Cir. 2000),

rev'd, 533 U.S. 431 (2001) ("Colorado II"). My declaration in Colorado II is attached as Exhibit

1. The statements made in that declaration were true and correct at the time I made them.

4. As explained in my Colorado II declaration, the Montana Democratic Party runs a "coordinated campaign" on behalf of federal and state Democratic candidates in each election cycle. Local political parties join in this effort primarily through volunteers who do grass roots activities, such as voter identification through phone banks, cleaning up voter lists, and getting out mailings. Some of the local parties do raise funds in small amounts, typically not more than \$100 or \$200, but in general these parties do not have a lot of financial resources, and their financial support of the coordinated campaign is limited.

5. As explained in my Colorado II declaration, the Democratic National Committee ("DNC"), the Democratic Congressional Campaign Committee ("DCCC"), and the Democratic Senatorial Campaign Committee ("DSCC") take part in the coordinated campaign and other federal campaign activities, such as advertising, polling and opposition research. These national committees are mainly interested in making sure that the coordinated campaign will benefit federal candidates. Based on my observations, the national committees have not been very involved in state or local races in Montana.

6. Based on my experience in managing many federal election campaigns, I am familiar with campaign advertising. No particular words of advocacy are needed in order for an advertisement to influence the outcome of an election. When political parties and interest groups run "issue ads" just before an election that say "call" a candidate and tell her to do something, their real purpose is typically not to enlighten the voters about some issue, but to influence the result of the election, and these ads often do have that effect. Parties and groups generally run these pre-election "issue ads" only in places where the races are competitive. These "issue ads"

generally stop on the day of the election. For example, these groups could run ads explaining Nancy Keenan's position on the issues after the November general election so that people could discuss them over the Thanksgiving dinner table, but it doesn't seem to work that way.

7. I managed Bill Yellowtail's 1996 campaign to represent Montana's Congressional district, following the announcement of Congressman Williams' retirement. This was a top open seat race in 1996. Mr. Yellowtail prevailed over three other Democratic candidates in the June 1996 primary, then faced Republican Rick Hill in the general election. Following the primary, our polling indicated that Mr. Yellowtail was leading Mr. Hill by several points right through mid-October 1996. It was clear to us in the campaign that for Mr. Hill to win, someone would have to do a hit job on Mr. Yellowtail. That is in fact what happened, in the form of television and radio "issue ads" run against us in the last few weeks of the campaign by a mysterious group called Citizens for Reform, as will be explained in detail below. In the November 1996 election, Mr. Hill received about 52% of the vote and Mr. Yellowtail about 43% of the vote.

8. Political parties and interest groups played important roles in the race to represent Montana's Congressional district in 1996. These groups engaged in the traditional campaign activities on both sides, such as direct mail and phone banks. As I recall, the National Right to Life Committee and other pro-life groups performed phone banking and other campaign activities against Mr. Yellowtail. In addition, Citizens for Reform did direct mail and phone banking against Mr. Yellowtail. On the Democratic side, other groups did direct mail and other activities against Mr. Hill.

9. Political parties and interest groups also ran broadcast ads in the race to represent Montana's Congressional district in 1996. The national committees on both sides ran "issue ads" through their respective state parties to take advantage of the better allocation ratios for federal

funds ("hard money") and non-federal funds ("soft money") that are available to state parties. As I recall, the Republican party ran one "issue ad" against Mr. Yellowtail in the last week of the general election which I felt was a classic "Willie Horton" type of ad, playing on negative stereotypes of Native Americans. On our side, the DCCC ran television "issue ads" supporting Mr. Yellowtail. All these ads were intended to affect the outcome of the election.

10. As I recall, the AFL-CIO also ran television "issue ads" on behalf of Mr. Yellowtail in the race to represent Montana's Congressional district in 1996. I believe these ads were mostly positive, promoting things like Mr. Yellowtail's support for college loans, though there may also have been comparison with Mr. Hill, and a request that people call and tell Mr. Hill something. These ads were intended to help our campaign win, and I believe they did help our campaign.

11. On about October 21, 1996, Citizens for Reform began running a television "issue ad" that had an enormous impact on the outcome of the election in Montana's Congressional district. We sent staff to the television stations to try to get information on ads run in the race, and based on that we estimated that the Citizens for Reform buy was well over \$100,000, which was a very heavy buy in Montana at that time. As I recall, Citizens for Reform also ran a second television ad during this period, and they also ran radio ads, all with the same basic theme. In fact, we estimated that this group was paying for about a third of the total advertising budget against Mr. Yellowtail during the latter part of October 1996, with the remainder being ads run by the NRCC and Mr. Hill's campaign. As I recall, the "issue ad" that Citizens for Reform began running on about October 21, 1996 had the following basic script:

Who is Bill Yellowtail? He preaches family values, but took a swing at his wife. And Yellowtail's response? He only slapped her, but "her nose was not broken." He talks law and order...but is himself a convicted felon. And though he talks about protecting children, Yellowtail failed to make his own child support payments--then voted against child support enforcement. Call Bill Yellowtail. Tell him to support family values.

See Final Report of the Committee on Governmental Affairs: Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns, 3 S. Rep. No. 105-167, 105th Cong., 2nd Sess. (March 10, 1998) at 6305. Our polling data from October 19, 1996, just before the Citizens for Reform ads began, showed Mr. Yellowtail leading Mr. Hill by about eight points. After these soft money ads had run for about a week, our polling data showed that Mr. Yellowtail trailed Mr. Hill by about five points. I believe the Citizens for Reform ads were a big factor in this change, and in Mr. Hill's victory in the election. We were unable to match the volume of advertising presented by these ads on top of the Hill campaign and NRCC ads.

12. The Yellowtail campaign had trouble finding out who was running the 1996 Citizens for Reform ads in Montana. As I recall, a local television station pointed us to a group in New Orleans. That group said they didn't know anything, but gave us a telephone number in Oklahoma that turned out to be connected to the J. C. Watts campaign. I believe someone there then flipped us to a phone number in Washington, D.C., and we finally found Citizens for Reform. We later learned that Citizens for Reform was actually a front for Triad, a group that ran broadcast attack ads against many Democrats nationwide in the 1996 election cycle.

13. I also managed Nancy Keenan's 2000 campaign to represent Montana's Congressional district. Ms. Keenan, the Democratic candidate, ran at first against the Republican incumbent Rick Hill, then after Congressman Hill dropped out of the race, against Dennis Rehberg. In the general election, Mr. Rehberg received about 51% of the vote and Ms. Keenan about 47% of the vote. Like the Yellowtail campaign in 1996, this 2000 race was a targeted, high profile race. Political parties and interest groups focused a lot of attention and spent a great deal of money on this race.

14. Towards the start of the race, while Mr. Hill was still in it, we felt we had to determine whether we could get the national resources that are often needed to unseat an incumbent. So Ms. Keenan went to Washington, D.C., and visited with a number of organizations to determine what their interest in the race would be. As I recall, these included the DNC, the DCCC, EMILY's List, and a variety of unions including the AFL-CIO, the Teamsters, and the National Education Association. I was closely involved with the planning and follow-up for Ms. Keenan's visits with these groups. Ms. Keenan had been in politics a long time at the state level, and she was pretty well known as a strong proponent of labor and some of the other groups. So these meetings tended to focus less on where she was on policy matters than on issues related to how competitive she would be in the race, such as her campaign plan, her fundraising plans, and why she thought she was going to win. To get the support of many of these groups, it's important to have the support of the local affiliate before asking for help at the national level. This was true of the campaigns I managed for Congressman Williams and Mr. Yellowtail as well.

15. Political parties played an important role in the race to represent Montana's Congressional district in 2000. On the Democratic side, the DCCC and the Montana Democratic Party were very involved. The DNC and the DCCC made donations to the coordinated campaigns that helped in upgrading the voter file, and the DCCC ran "issue ads." The Montana Democratic Party ran the 2000 coordinated campaign, which focused on identifying voters and the get-out-the-vote effort, and to some extent on voter registration. As I recall, the NRCC did phone banks and direct mail supporting Mr. Rehberg, much of it taking the same kind of "issue ad" approach as their broadcast ads, which will be discussed below. For instance, you might

receive a post card trashing Ms. Keenan, and basically urging the reader to call Mr. Rehberg and tell him that you appreciate what he's been doing.

16. Numerous interest groups also provided support to both sides of the race to represent Montana's Congressional district in 2000. On Ms. Keenan's side, the Women's Vote project of EMILY's List was very active in our race and in the coordinated campaign. In fact, they had a contract with the Montana Democratic Party to provide coordinated campaign support, and they were very helpful to Ms. Keenan's campaign in doing voter identification, mailings and phone banks. I believe Ms. Keenan was a featured candidate on their web site. Labor organizations, such as the AFL-CIO and the National Education Association, gave general support for building up the voter file as part of the coordinated campaign, and separately they also did mailings to their membership. On the other side of the race, I recall that the Chamber of Commerce helped Mr. Rehberg by doing direct mail, and the Christian Coalition and right-to-life groups distributed leaflets and did get-out-the vote activities for him. I understand that Mr. Rehberg also raised funds for the National Federation of Independent Business, and as I recall they supported his campaign by communicating with their members here about it.

17. Political parties ran broadcast ads in the race to represent Montana's Congressional district in 2000. The DCCC ran a number of broadcast "issue ads" through the Montana Democratic Party promoting Ms. Keenan or raising questions about Mr. Rehberg. On the Republican side, the NRCC ran a large number of broadcast "issue ads" through the Montana Republican Party, and I would say they were probably the most influential ad sponsor in the campaign. As I recall, the parties on both sides ran positive "issue ads" in support of their candidates during summer 2000. However, I believe in early October 2000, the NRCC started running television ads against Ms. Keenan that I might call guilt-by-association ads, linking her

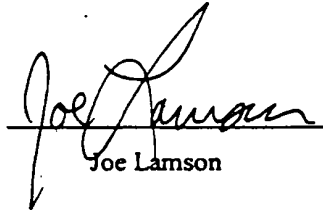
to "liberal" groups such as People for the American Way ("PFAW"). The Keenan campaign taped and transcribed a number of the television ads run against Ms. Keenan, and four examples of our transcripts of NRCC ads that aired in October 2000 are attached as Exhibit 2 to this Declaration, with titles assigned by my staff. At the same time, the Rehberg campaign ran television ads that stressed some of the same themes as the NRCC ads. A script of a Rehberg campaign ad that my staff transcribed is attached as Exhibit 3 to this Declaration. My records show that both the Rehberg attack ad attached as Exhibit 3 ("Liberal Values") and the NRCC attack ad attached as Exhibit 2-4 ("Values Attack") were aired on October 23, 2000. Both ads assert that Ms. Keenan's values are not those of Montanans, that she served on the board of PFAW, and that through that group she purportedly fought against school prayer, a ban on partial birth abortions, and the protection of children from internet pornography in public libraries. The Rehberg campaign ad also claims that "some of the most liberal groups in America are funding Nancy Keenan's campaign" and lists dollar amounts for several, including \$35,000 for PFAW, in my view a clear assertion that soft money is used to influence federal elections. After the NRCC attack ads started, our campaign responded with ads about Mr. Rehberg, and the DCCC also produced ads that went after him, for example on his support for a general state sales tax. Our polling data indicated that we had a comfortable lead on Mr. Rehberg until the NRCC attack ads started. After that point, our lead shrank and within a few weeks we were trailing Mr. Rehberg. All of these party ads were clearly intended to affect the outcome of the election, and I believe they did affect the outcome.

18. Interest groups also ran broadcast ads in the race to represent Montana's Congressional district in 2000, although many of the groups actually had trouble getting air time just before the election because of all the party and candidate ads that were running.

Nevertheless, as I recall the Chamber of Commerce ran a couple weeks or so of television "issue ads" against Ms. Keenan in October 2000, attacking us on health care and linking us to the Clinton-Gore White House. A script of a Chamber of Commerce ad that my staff transcribed and which aired in October 2000 ("Prescription Drugs") is attached as Exhibit 4 to this Declaration. These ads were clearly intended to affect the outcome of the election.

19. In my experience as a federal election campaign manager, if you're in a close race and there are interest groups out there helping you with things like broadcast "issue ads," you usually appreciate that support.

20. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.



Joe Lamson

Executed on this 13 day of September, 2002