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OFFICE

Office of the General Counsel
c/o Lisa J. Stevenson, Esq.
Deputy General Counsel
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

MUR # 6771

January 6, 2014

Re: Complaint Against Sue Lowden Before The Federal Election Commission

Dear Ms. Stevenson and/or the Office of the General Counsel:

I am filing this complaint seeking an immediate investigation into the failure of ex-United States Senate Candidate Sue Lowden ("Mrs. Lowden") to report outstanding debts incurred by her failed 2010 senate campaign. During that race, the Sue Lowden for U.S. Senate Campaign ("Lowden Campaign") hired Vitale & Associates, LLC ("Vitale"), a Colorado-based polling and public affairs company. After Vitale provided to the Lowden Campaign the services that the parties had agreed upon, the Lowden Campaign failed to pay Vitale. To date, a debt exceeding seventy-seven thousand dollars (\$77,000.00) is owed by the Lowden Campaign to Vitale (the "Vitale Debt").

The Lowden Campaign has a clear and undeniable duty to report this debt in its quarterly FEC filings. As this Commission knows, the Federal Election Commission Campaign Guide (the "FEC Guide") states that "[d]ebts and obligations must be reported continuously until paid. Unpaid bills and written contracts or agreements to make expenditures are considered debts. . . . A debt exceeding \$500 must be reported in the report covering the date on which the debt was incurred." See the FEC Guide at 101 (citations omitted). Yet, Mrs. Lowden and the Lowden Campaign failed to comply with this mandated regulation by omitting the Vitale Debt beginning with the July 2010 Amended Quarterly Report and continuing in all subsequent reports

The Vitale Debt remains unpaid. Mrs. Lowden does not deny the debt is owed. Through her current campaign treasurer, Bob Beers, Mrs. Lowden recently acknowledged and admitted the Vitale debt. See Las Vegas Review-Journal article, "Company stiffed by Lowden campaign seeks contempt citation" dated December 19, 2013, enclosed with this letter. In that article, Mr. Beers is reported to have stated that "the documents regarding more than \$77,000 owed to Vitale . . . have been sent" in response to a legal subpoena concerning the debt. There is no denial of the debt, just admissions that the Lowden Campaign intends to negotiate Vitale down to accepting a lesser amount or nothing.

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It was further reported in the Las Vegas Review Journal and separate newspaper, the Las Vegas Sun, that neither Mrs. Lowden nor the Lowden Campaign have paid the Vitale Debt. See Las Vegas Sun article, "Former Senate candidate Sue Lowden sued over alleged unpaid campaign bill" dated August 8, 2012; and Las Vegas Review-Journal article, "Creditors from campaigns past haunt Sue Lowden" dated August 5, 2013; and Las Vegas Review-Journal article, "Campaign debts dogging Lowden" dated March 4, 2011, enclosed with this letter. Despite multiple public reports concerning the Vitale Debt, Mrs. Lowden and the Lowden Campaign have failed to comply with their continuing obligation to report the debt to the FEC.

For these reasons, I respectfully request that your commission conduct an immediate investigation into Mrs. Lowden's and the Lowden Campaign's failure to comply with this important federal regulation, and impose any and all penalties allowed or deemed appropriate by this commission. The facts outlined in this letter are from public sources and, as such, are general public knowledge. Thank you.

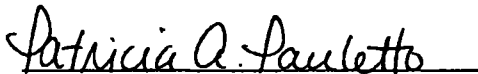
Sincerely,



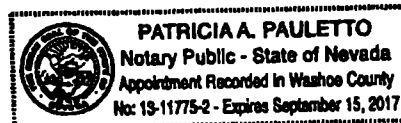
Dave Buell

Sparks, NV 89441

Signed and sworn before me this 8th day of January, 2014.


Notary Public

My Commission Expires: 9-15-2017
Date



Parker: Vitale sues Nev. politician

By Penny Parker Denver Post Columnist The Denver Post

Posted:

DenverPost.com

Vitale & Associates, a Denver-based public-affairs consultancy firm, has taken former Nevada U.S. Senate hopeful **Sue Lowden** to Denver District Court for roughly \$78,000 in unpaid invoices for polling services rendered last fall.

The story was first reported by former Denver newspaper gossip columnist **Norm Clarke** in his Friday column for the Las Vegas Review-Journal after Lowden, former chairman of the Nevada Republican Party and former Nevada state senator, was served during a Las Vegas deposition.

The story says that Lowden claims in court documents that she can't pay her campaign debts, despite Internet reports that describe her as a wealthy gambling executive who drives around town in a Bentley.

Lowden's Denver attorney **Brett Huff** declined to comment on the lawsuit. Vitale & Associates, headed by **Todd Vitale**, is represented by Denver lawyer **John Head**, who filed the legal action citing unpaid invoices from April through June.

Most recently, Lowden's attorney filed a motion to dismiss because of lack of jurisdiction, Head said.

"She was (in Colorado) raising money, talking to people about fundraisers, collaborating with (former Colorado Republican Party chief) **Dick Wadhams**," Head said. "I think she's subject to jurisdiction in Colorado."

Columnist Clarke said he obtained documents in December that indicated Lowden had more than \$750,000 in campaign debts.

"She's financially exhausted — that's what the letter from her lawyer said," said Head, whose next move is to have the motion to dismiss dismissed and to continue with the lawsuit.

Arnal gets Chicago nod.

Mexican President **Felipe Calderon** has named **Eduardo Arnal**, consul general of Mexico in Denver, to take over as the new consul general in Chicago. Calderon also named **Andres Imre Chao Eber genyi**, the current consul in Little Rock, Ark., to succeed Arnal as the new consul general of Mexico in Denver.

Both nominations, announced Thursday, were submitted to the Mexican Senate's exterior-relations and the North American exterior-relations commissions for review and confirmation, which I'm told is a formality.

The Mexican Congress is expected to ratify both men to their new positions this month. Arnal has served as consul general of Mexico in Denver since August 2007.

Company stiffed by Lowden campaign seeks contempt citation

A Colorado polling and research company's legal effort to force Sue Lowden to pay her 2010 U.S. Senate campaign debt is getting ugly.

Vitale & Associates filed a court petition last week asking a judge to hold Lowden's campaign treasurer, Bob Beers, in contempt of court for missing an Oct. 16 meeting to turn over documents, resulting in cancellation of depositions that had been scheduled for Oct. 23-24.

Beers said he told the attorney he had a Las Vegas City Council meeting the morning of Oct. 16 and couldn't make it. Beers also noted that the attorney representing Vitale, John F. Head, has been disciplined by the Colorado Supreme Court.

"It's probably not a good idea to schedule me for 9 a.m. on a city council day," Councilman Beers said Thursday in an interview. "I told him this stuff (documents) is ready. I thought he indicated he was going to pick it up another day."

Lowden, who lost the GOP primary for Senate in 2010, is running for lieutenant governor in 2014. Critics have said she should settle her past debts before running for a new office. Lowden's camp said it is trying to negotiate debt forgiveness or partial repayment.

Beers said the documents regarding more than \$77,000 owed to Vitale, which provided polling services to Lowden's Senate campaign, have been sent.

On Thursday Head said he hasn't received the paperwork, and that Beers has repeatedly ignored emailed requests to set a date to deal with the matter.

"The guy wouldn't respond," Head said. "When I asked for documents, he stiff-armed me on all that stuff. City council doesn't trump a federal subpoena."

The nine-page court document requesting Beers be held in contempt was filed Dec. 12 in U.S. District Court in Nevada. It includes emails between Beers and Head trying to settle on dates to produce documents and for depositions of Beers and Lowden.

On Sept. 17, for example, after Beers didn't respond to an earlier email, he finally answered an email from Head asking, "Would you please call me?"

"Yes," Beers answered. "Tomorrow is a city council meeting so I am not able to communicate. I suspect it will end before 5 so I can call you in the afternoon."

"But, he never called as promised," the Dec. 12 court document says.

On Sept. 19, after Beers said he would be available for depositions on Oct. 24-25 except for in the morning, Head wrote back, seeking to set a time and day to turn over documents.

"I still want to talk to you about production of documents," Head wrote. "If I don't hear from you by the end of today, I will pick a date, time and place for production and issue a subpoena."

"Document location is underway," Beers responded, but he didn't agree to any date.

As a result, Head set the Oct. 16 date without getting confirmation from Beers.

"At no time did Mr. Beers respond to the effect that he was unable to comply with the date and time selected for his document production," Head told the court.

Head flew to Las Vegas from Denver on Oct. 16, but Beers was a no show for a 9 a.m. meeting.

At 9:21 a.m., Head sent an email to Beers, "Where are you?" but he got no reply. So Head returned to Denver. He finally heard from Beers in the afternoon.

"Hi John, ready to deliver but today I am required to attend a LV City Council meeting (I was elected to the body last year)," Beers wrote.

Head also asked the court to make Beers reimburse him for the trip to Las Vegas (\$992.22) and for his time (\$2,800 at a rate of \$350 per hour) for that day.

Head said Vitale might be willing to negotiate a lower debt repayment with Lowden.

"We're not going to take pennies on the dollar," he said, adding, "never say never."

"She claimed she was so rich that she paid her bills and not to worry about it," Head said. "So we kept on working. When she lost she said, 'Sorry, I don't have any money.'"

Asked about the disciplinary matter against him, Head said it has nothing to do with the Lowden case.

"That's no excuse for not responding to a subpoena," he said.

Head was censured in 2010 for failing to put in writing a flat-fee agreement and for depositing his client's advance fee into an operating account. He refunded the money eight months after his client's request, according to the Colorado Supreme Court.

Head also collected money from clients to pay third-party vendors but "failed to timely remit those funds to the third-party vendor," the high court said in an unrelated disciplinary case.

Lowden has settled less than half of more than \$500,000 in remaining 2010 campaign debt, according to statements from Beers and filings with the Federal Election Commission. For some unknown reason, the Vitale debt isn't listed in the FEC filings.

Beers said Lowden would like to settle all the debt, but it's unclear if that's possible. Previously, he said Lowden may end up walking away from the debt. He said there are new attorneys working with the FEC on the matter, as well.

"We've been trying to settle everything," Beers said. "I know that's when she would like to do. But I don't know what the outcome will be."

Contact reporter Laura Myers at lm Myers@reviewjournal.com or 702-387-2919. Follow her on Twitter @lm Myerslvj.

LAS VEGAS SUN

Former Senate candidate Sue Lowden sued over alleged unpaid campaign bill

By **Steve Green**

Wednesday, Aug. 8, 2012 | 6:15 p.m.

Defeated Nevada 2010 U.S. Senate candidate Sue Lowden was sued again Wednesday over allegations she and her campaign failed to pay about \$78,000 to a Denver polling and public affairs company.



Vitale & Associates LLC filed suit in federal court in Las Vegas against Lowden.

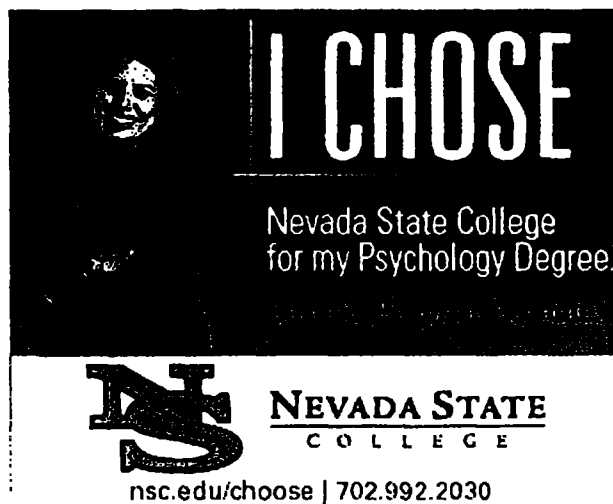
Lowden was defeated in the Republican primary by Tea Party favorite Sharron Angle, who went on to lose to incumbent Democratic Sen. Harry Reid.

Wednesday's suit says Lowden "promised to personally pay all campaign debts" but has failed to pay Vitale & Associates.

A request for comment was placed with Lowden.

The Las Vegas Review-Journal and the Denver Post reported in 2011 that Vitale & Associates had sued Lowden for the \$78,000 in Colorado state court in Denver.

That case was dismissed when a judge found Vitale and Lowden didn't have sufficient dealings in Colorado for that court to have jurisdiction.



Most Popular

Creditors from campaigns past haunt Sue Lowden

Sue Lowden may be looking forward to a run for statewide office in 2014, but her creditors only want to talk about 2010.

That is when Lowden ran in the Republican primary for U.S. Senate for the chance to challenge Majority Leader Harry Reid, D-Nev., a race she lost to nominee Sharron Angle.

Federal campaign records show Sue Lowden for U.S. Senate still owes about \$532,000 from that race, and at least one creditor is fighting the issue in court.

The consulting firm Vitale & Associates alleges Lowden should be personally liable for about \$77,000 worth of work done for the campaign.

John Head, the company's lawyer, said Lowden's argument that her campaign — not her — owes the money rings hollow because in the heat of the race she promised to pay vendors herself.

"Her rationale for running was that 'I'm rich, I can cover this,' then she turns around and stiffes all these people working for her," Head said. "It ain't right."

Lowden, who has announced her interest in running for lieutenant governor, did not respond to an email seeking comment. State Sen. Mark Hutchison, R-Las Vegas, is pursuing the Republican nomination for lieutenant governor with the blessing of Gov. Brian Sandoval and of U.S. Sen. Dean Heller, making Lowden's potential candidacy that of an outsider.

Abran Vigil, Lowden's attorney, said Lowden "will vigorously defend against Vitale's claims."

Creditors have been tailing Lowden since the summer of 2010, when she lost the primary to Angle despite entering the race as a favorite. Earlier this year, an appeals court in Ohio upheld a lower court verdict that said Lowden wasn't personally responsible for about \$200,000 owed to consultant Rex Elsass.

Lowden's attorney is making a similar argument to fend off Head's lawsuit in federal court. But Head said he is using a different legal tactic than Elsass' attorneys used.

Head cited a case in connection with Pennsylvania Republican Dick Thornburgh's 1991 U.S. Senate campaign. After the race, Thornburgh argued he wasn't personally liable for about \$170,000 owed to consultant Karl Rove. But Rove successfully argued that the campaign official who agreed to pay for the services was acting as Thornburgh's agent.

Head said he is pursuing a similar argument against Lowden. According to court documents she spent about \$2 million of her own money on the race.

Vigil said the Thornburgh case may not matter. "It is not a Nevada case, and it is not even a 9th Circuit case," Vigil said. "So, whether the court adopts its reasoning is yet to be seen."

Head said he would continue to pursue the case "or die trying," adding that Todd Vitale is both his client and his stepson.

1/7/14

Creditors from campaigns past haunt Sue Lowden | Las Vegas Review-Journal

"He pulled money out of his pocket to pay these vendors," Head said. "When she stiffed him, he had to cover all that himself."

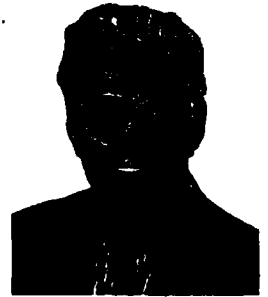
Contact reporter Benjamin Spillman at bspillman@reviewjournal.com or 702-383-0285

1-800-752-4624

Campaign debts dogging Lowden

Norm Clarke

Norm Clarke is one of Las Vegas's most notable and recognizable celebrities. This eye-patched man-about-town knows it all about this vibrant city in the desert -- where to go, what to do, and most importantly, where to see and be seen.



Follow on: Agassi reaching major milestone

More Columns/Blogs

A month after a process server tracked down Sue Lowden during a Las Vegas deposition, the former Republican front-runner for the 2010 U.S. Senate nomination is claiming in court documents that she can't pay her campaign debts.

She has been paying off campaign bills at a "substantially reduced amount" because she has "limited resources at this time," according to her attorney in Colorado, where she was sued by a GOP media services firm.

The legal battle began last fall when Lowden's lead polling company, Denver-based Vitale & Associates, filed a lawsuit in Denver District Court seeking almost \$78,000.

Lowden's attorney, Brett Huff, sent a letter Feb. 15 to Todd Vitale's attorney saying Lowden is financially exhausted from a "very expensive" campaign.

Documents obtained by Vegas Confidential in December indicated Lowden had more than \$750,000 in campaign debts at that time, including to top-level staffers.

She was served Jan. 27 when a process server learned she was being deposed by an Ohio media consultant who sued her for more than \$200,000 in unpaid campaign debts.

Vitale's attorney, John Head, said in a complaint that Lowden reportedly is worth between \$50 million and \$200 million.

Head noted that, late in her campaign, a number of published reports had Lowden's camp vowing she would spend what it takes from her own purse to finish the race.

She ended up losing by a landslide to Tea Party favorite Sharron Angle, who had 40 percent of the vote to Lowden's 26.1 percent, a stunning slide after Lowden's 18-point lead over Angle and a 10-point Lowden lead over Democratic Sen. Harry Reid in early polls.

Head said Lowden is "probably driving around in her Bentley with a load of chickens in the back as barter to settle her campaign debts." He was referring to the mocking Lowden received for suggesting Americans should barter for health care.

Lowden, reached by telephone Thursday, said, "I'm not going to comment on an ongoing case. I would have to see the (Huff) letter before I would comment, and I'm not aware of any letter."

MAY I RECOMMEND ...

The popularity of local head-shaving benefits for the St. Baldrick's Foundation is growing faster than peach fuzz on industrial-strength Rogaine. Nine Fine Irishmen (New York- New York) and Boulder Station, have joined McMullan's Irish Pub as host clip joints Saturday . Hash House A Go Go's three locations all week will serve a pancake made of Irish oatmeal, butterscotch and almonds. A portion of the pancake proceeds will go to the St. Baldrick's fundraising efforts of Marcy Humm, who underwent a liver transplant last fall. She decided to shave her head because medications are making her hair fall out.

SIGHTINGS

NASCAR star Kyle Busch, dining Wednesday at Lavo (Palazzo) with his wife, Samantha. Detroit Lions rookie sensation Ndamukong Suh, at Dos Camino (Palazzo) on Thursday. At Gold & Silver Pawn Shop, home of the "Pawn Stars," on Wednesday: NASCAR drivers Clint Bowyer and Jeremy Clements, with rock guitar virtuoso Ronnie Montrose, who was buying his wife a ring and necklace. ... Australian tennis star Lleyton Hewitt, in the Human Nature (Imperial Palace) audience on Wednesday.

THE PUNCH LINE

"Moammar Gadhafi gave a rambling speech that lasted nearly three hours. So now we know where all of Charlie Sheen's cocaine went." -- Conan O'Brien

Norm Clarke can be reached at (702) 383-0244 or norm@reviewjournal.com. Find additional sightings and more online at www.normclarke.com.