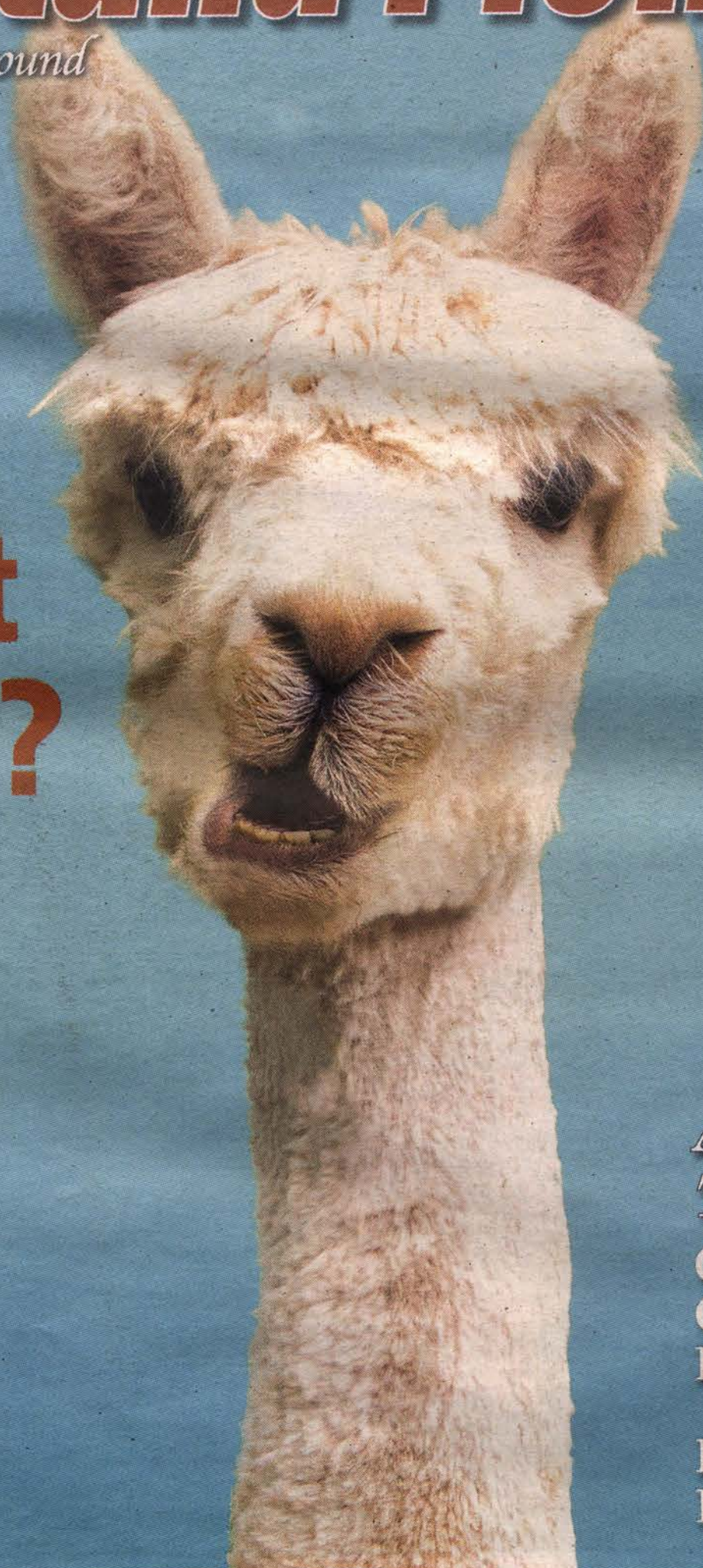


The **Montana Pioneer**

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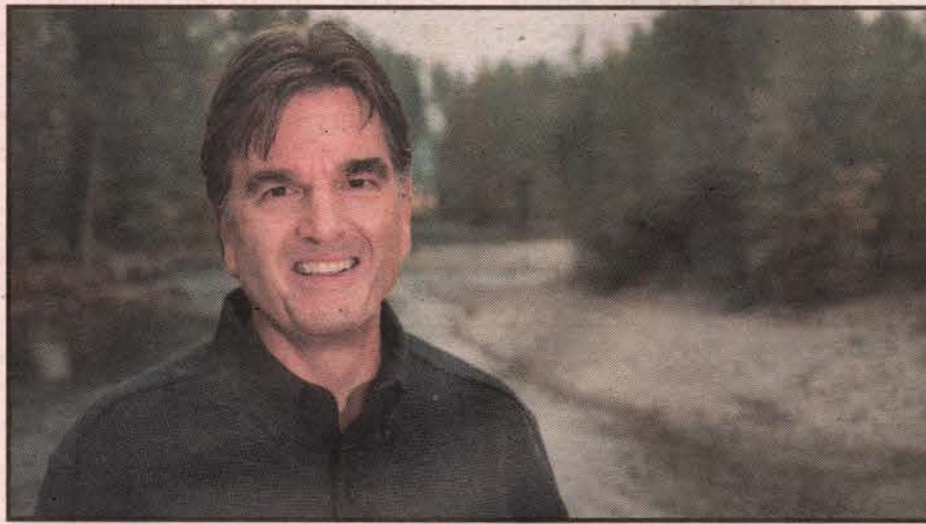
OCTOBER 2020

**What
Am I?**



*Also in
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Bridging the
Decency Divide



Bridging the Decency Divide

Bozeman author discusses new book, *Outsider Rules*

■ BY CYNTHIA LOGAN

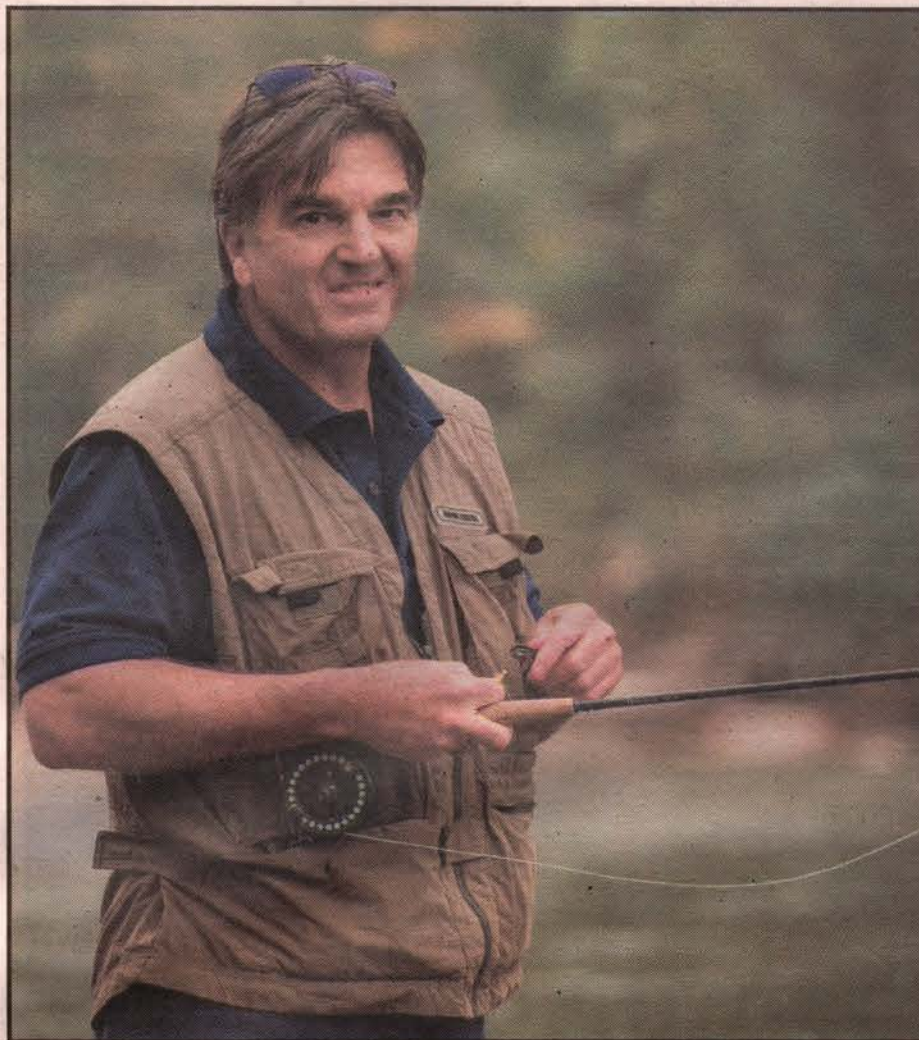
Montana is known as The Last Best Place not just because Big Sky Country boasts world class fly-fishing and stunning natural beauty, but because folks here follow an unwritten code of decency: we wave other drivers in rather than cutting them off; we smile, look you in the eye and say hi when walking by. As many locals have noticed, 'the Montana Way' is inspiring relocations from all over the country. "People are exceptionally friendly here," says Joe Walsh, a transplant from New Jersey. The entire state often feels like a small town, which is why we have relatively easy access to our local and congressional politicians.

As a child, Bozeman author Roger Fleming (new fulltime Montana resident and registered D.C. lobbyist) thought the last line of the Pledge of Allegiance was 'One Nation Under God, Invisible, with Liberty and Justice For All.' He is now acutely aware that the word is Indivisible. But are we? The events of 2020 have left most Americans asking, "How did we get here?" Social media and the ability to curate news to provide affirmation over information have certainly contributed to our partisanship, but we would be remiss to overlook changes in the way our politicians are elected and how they stay in office. Since the introduction of unlimited, untraceable money into political campaigns—ramped up by the 2010 Supreme Court decision in *Citizens United*—it seems this nation is rife with division. As one of the states that led the way on campaign fi-

nance reform, can Montana help bridge what has become a 'decency divide'?

Maybe. Fleming's new book, *Outsider Rules* is a fictional account of the 2006 Montana U.S. Senate race, when D.C. began inserting itself more into Montana politics with pre-dark money fundraising. (Back then it was \$14 million; this year, an estimated \$100 million will be spent on the Bullock/Daines Senate race, 90% of which is likely to come from outside Montana.) A native of South Florida, Fleming is an attorney who lobbies on behalf of smaller telecom companies. Many of his corporate clients have helped bridge the digital divide by building in areas where big players won't go. A graduate of Emory University, his first lobbying experience concerned defeating a bill in the Florida state legislature which would have involuntarily annexed one of the last farms in Broward County. Thanks to his efforts, though completely surrounded by condos and golf courses, veggies are still growing on those 500 or so acres.

A decent guy, but still... he's a lobbyist. Aren't lobbyists part of the problem? Fleming doesn't flinch when asked about his profession's unscrupulous reputation. He chooses his words carefully, but without averring. "There tend to be two kinds of lobbyists," he says, "back slapping and substantive. You'll find the first type at the Capital Grille having drinks with staffers until midnight, whereas the substance wonks will be at their desks at 8 am. I think the most effective lobbyists are a little of both," says Fleming, who's had his own firm (based in Montana) for ten years now. "I have to be a little of both



(Top left) Roger Fleming. (Right) Fleming takes a break to fly fish on a Montana stream. Photos courtesy of 406 Photo.

to advocate in Congress and at the FCC. I've represented competitive broadband carriers for almost two decades and tried to protect their rights under the 1996 Telecom Act" (he previously served as counsel on the US House Judiciary Committee where he learned the antitrust aspects of that law and its impact on small carriers). The Act gave smaller companies access to former Bell Companies' networks.

As a young lawyer in Congress, Fleming appreciated the information and education he saw. Lobbyists provide members and staff who were inundated with roughly 7000 bills over the course of a two year Congressional session. (While the word 'lobbyist' conjures Big Tobacco, Big Pharma and the like, there are thousands of lobbyists representing non-partisan groups from the AARP to Veterans of Foreign Wars.) "Every Member's office divvies up issues; the House side has fewer staff, so one legislative staffer may have to cover up to 20 issues," he explains. "If you're on Committee staff, the scope narrows, so you aren't answering constituent mail, and can work on a more focused set of issues. You can become a subject matter expert instead of a generalist an inch deep and a mile wide." Lobbyists know their industries very

well and can provide one- or two-page background summaries, which are extremely helpful to legislators.

Initially a lobbyist for U.S. West in the late '90s, Fleming was assigned, among others, the state of Montana, whose Senator, Conrad Burns, was Chairman of the Communications Subcommittee. After joining Dutko Worldwide, a private, public affairs company, Fleming's first client was Montana State University. In 2003 he was hired to help raise funds for MSU's Burns Technology Center (now Academic Technology and Outreach). It was the use in 2006 of YouTube, the Internet and 'trackers' (who followed the candidate throughout the day) to launch personal attacks on Senator Burns that inspired Fleming to write *Outsider Rules* (he's quick to disclose that as a lobbyist he has supported candidates from both political parties).

Wearing a black and grey flannel shirt at our meeting outside a Bozeman café, the Rolex on Fleming's left wrist stands out. "It was given to me by a doctor the night my father died many years ago," he says, adding that the desire to be an attorney was always in the back of his mind,

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since both his father and grandfather were lawyers. "My father, having witnessed the practice of law change over the years, didn't enthusiastically recommend law school, but I went anyway. I enjoyed Constitutional Law and Criminal Procedure the most." Fleming's grandfather, Thomas F. Fleming, moved from Georgia to Fort Lauderdale, Florida in the early 1920s and became a partner at McCune, Hiasen & Fleming. "My grandfather was headed to Miami when he met Charles McCune and Carl Hiasen on a train," relates Fleming. "They needed a trial lawyer and talked him into getting off the train in Lauderdale before it reached Miami." The elder Fleming went on to establish Fleming, O'Brien and Fleming, one of the more prestigious law firms in South Florida in the 1970s and '80s. "When I graduated from law school I did get an offer from my dad's firm, but my first job was actually with the McCune, Hiasen law firm."

In 2012 Fleming met his now life partner, Alice, at a D.C. party. While opposites attract, she checked his positions on crucial issues before accepting a date: "He's definitely good on environmental issues and understands the complexities of climate change," says the international lawyer, who when they met was working with environmental refugees. In 2017 they married; a first foray for both. The couple enjoys a bi-partisan marriage, moderated by their chocolate lab, Matilda. While he still maintains an office in Washington, Fleming is opening a new office in Bozeman this month. Breaks involve hiking, fly-fishing and motocross riding on his Husqvarna dirt bike. "I've been riding Husqvarnas since I was 15," he says with boyish enthusiasm.

Writing on weekends and during vacations, it took Fleming

nearly ten years to weave his insights regarding the money behind our election system into his well-researched narrative. Outsider Rules' protagonist, dedicated Congressional staffer Nick Taft, exits the halls of Congress for an eye-opening journey through Washington's lobbying world, awash in money and bereft of morality. Through Kale McDermott, a seasoned lobbyist, he learns the ways of survival in Washington's power grid. "Power in D.C. resides outside of D.C.," says Fleming. "The money that fuels D.C.'s lobbyists generally comes from companies doing business across America, outside of the Capital. To be effective in D.C., you have to be able to raise money for Congressional candidates."

Both fictional characters' jobs depend upon the re-election of a Montana Senator. "Dialogue in the story highlights the conflict between the mercenary lobbyists and the missionary lobbyists discussing the fact that they only raise money to help candidates get re-elected so they'll help their clients with their very narrow special interests. They don't care one iota about those public servants' stands on critical issues facing the country," says the author. On the other hand, Fleming expresses a hopeful attitude through Kale's voice: "I think people in rural America are smarter... they've been able to hold on longer to their roots. Montana is the perfect place to put an end to this nonsense—relatively few people, a small congressional delegation and good old western common sense."

Montana is indeed an outlier. Although Republicans rule the state's House and these days tend to win the state's only seat in the U.S. House of Representatives, voters have elected Democrats in the past four gubernatorial campaigns and five of the past six U.S. Senate races.

"It's a populist purple state," says David Parker, a political scientist at Montana State University. And, as Gregory Giroux writes in Bloomberg Businessweek, Montana has voted Republican in every presidential election since the 1960s with the exception of Bill Clinton, who benefited from third-party candidate Ross Perot's strong showing here in 1992. Since then, the Senate map has come to sharply resemble the Electoral College, because most Americans now cast their ballots for the same party all the way down the ticket. A generation ago fewer than half the country's 100 senators came from the same parties that won their states' presidential votes; now the number stands at 89.

According to Fleming, American-style political lobbying/campaigning is as old as America, and there have been many legal attempts to limit such activities. "The foundation of much of current US campaign finance law came about through the Federal Election Campaign Act of 1971, requiring disclosure of campaign contributions, and the 1974 amendments to that law limiting contributions to campaigns and expenditures by campaigns, individuals and corporations. It also created the Federal Election Commission to enforce such laws; reporting requirements allowed money to be traceable." But somehow, even before the Citizens United decision, things got out of hand. "Before the Democrats' Culture of Corruption platform ushered in new ethics laws in 2007, lobbyists' use of credit cards for entertaining Members and staff was over the top," says Fleming, nodding. "We all did it. I spent a lot of money at bars in D.C. Stories abounded of some staffers calling lobbyists from a bar to flat out ask for their credit card number."

Having won both the House and Senate in 2006, Democrats

passed a federal statute making it illegal for registered lobbyists to buy a member of Congress anything of value—enforceable by the D.C. U.S. Attorney. "In the book I say that unfortunately it's been ironic—that as well intentioned as it was, in some ways that law has made interactions with members and lobbyists more transactional than before. Prior to that law, a lobbyist could take a Senator to lunch for \$250 and discuss pending legislation. Today they would have to attend a campaign-sponsored PAC fundraising lunch, and pay up to \$2,000 or more for the same privilege.

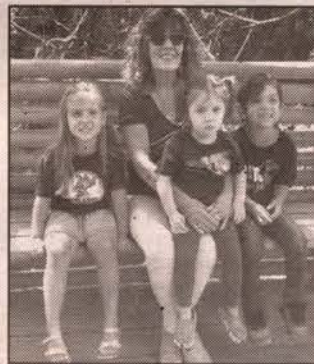
Still, Fleming acknowledges that different rules apply here in Montana. "Let me put it like this: in rural states where members tend to be more down to earth—less caught up in big urban politics—and are a part of smaller congressional delegations, it might be less complicated to begin an effort to look at issues such as campaign finance reform." And despite 'insider's inside information' that could make anyone cynical, Roger Fleming holds out hope: "Not every lawmaker is beholden to dark money. Also, I think many people both inside and outside of Washington are now aware that the Citizens United impact was not what was contemplated by that court's majority. Several states are taking the initiative to counter the impacts of untraceable money."

With endorsements by both Republicans and Democrats, Outsider Rules draws no specific conclusions but, says Fleming, "offers readers an entertaining look into the reality of modern day campaigning and lobbying in America." And, as one reviewer wrote about Fleming's last book, Majority Rules, this novel has the potential to stir the debate and move it in the proper direction.



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