FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3533

DATE FILMED 3/26/93 CAMERA NO. 3

CAMERAMAN E.E.S.

9304093460 8

Taborsak for Congress

P.O. Box 346, Bethel, CT 06801
130 Main St., Danbury, CT 06810

Tel. 203 778-1992
Fax: 203 730-0864

May 20, 1992

MUR 3533

Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RE: Complaint Concerning Violations
of Federal Election Regulations in the
Fifth Congressional District of Connecticut

Dear General Counsel:

I am an announced candidate for the Democratic nomination in the Fifth Congressional District of Connecticut, and am filing the enclosed Complaint and request for an investigation by the Federal Election Commission.

In late March and early April of 1992, the members of Democratic Town Committees across the Fifth Congressional District of Connecticut — whose membership includes those delegates to the nominating convention which will vote on my candidacy — received a highly inflammatory, deceptive, unsolicited, unsigned, correspondence devoid of return address, disclaimer, or any other identification of the sender or senders, which had the clear intent of causing them to vote against my announced candidacy.

These anonymous mailings advocating my defeat were also intentionally misleading and deceptive, as demonstrated in the enclosed.

These anonymous mailings have cost me and my staff considerable time, energy and campaign funds, and have caused considerable damage to the nomination process for a Federal election, as evidenced by the enclosed protest signed by registered Democrats of Weston, CT, the enclosed newspaper editorial, and news report in which the leading rival candidate for this nomination and the Chairperson of the opposing political party also condemned these anonymous mailings.

I have also enclosed evidence indicating the probable perpetrator or perpetrators of the violations specified in my Complaint.

Actions such as the these anonymous mailings contaminate and erode confidence in the mechanisms of democracy to which millions of American men and women dedicate their time and energies. I sincerely hope the FEC will take strong action in this matter, investigate culpability, levy appropriate penalties, and, prior to the onset of the election season, set a clear example for others who might harbor thoughts of committing similar actions.

Please contact me if I can be of any further assistance. Thank you for your attention in this matter.

Sincerely,

Lynn H. Taborsak

State Representative Lynn Taborsak,
Candidate for the Democratic nomination for
the Fifth Congressional District of Connecticut

Enc.: Three copies of *Complaint Concerning Violations of Federal Election Laws*

92 MAY -1 PM 3:47
FEDERAL ELECTION COMMISSION
SECRETARIAT

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COMPLAINT

CONCERNING VIOLATIONS OF FEDERAL ELECTION REGULATIONS

COMPLAINANT:

State Representative Lynn Taborsak
Candidate for the Democratic Nomination,
Fifth Congressional District, Connecticut

ADDRESS & PHONE OF COMPLAINANT:

Taborsak for Congress
196 Main Street • Danbury, CT 06810
Phone: 203/778-1992 • Fax: 203/730-0884

SUBMITTED TO:

Office of General Counsel
Federal Election Commission
999 E Street, NW • Washington, DC 20463

DATE:

May 20, 1992

FEDERAL ELECTION JURISDICTION:

Nomination of Democratic Candidate for
Connecticut Fifth Congressional District

APPLICABLE REGULATIONS:

11 CFR, §110.11, and/or others

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CONTENTS OF COMPLAINT

filed with the
Office of General Counsel
Federal Election Commission
by
State Representative Lynn Taborsak,
Candidate for the Democratic Nomination,
Fifth Congressional District, Connecticut

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WHEREAS, on several separate occasions in late March and early April, 1992 an unsolicited, anonymous correspondence was mailed to members of Democratic Town Committees in the Fifth Congressional District of Connecticut (Connecticut 5th CD); and the envelopes of said correspondences included no return address, disclaimer, or other identification of the sender or senders. (Photocopies of examples of said envelopes are enclosed as *Exhibits A-1* through *A-7*)

AND WHEREAS, said envelopes each contained a two-sided photocopy (*Exhibits B* and *C*) of what was alleged to be a bill that I, an announced candidate for the Democratic nomination for the Connecticut 5th CD, had submitted to the Connecticut legislature; and the following note was typewritten on the top of said enclosure:

> *PLEASE READ THIS AMENDMENT SUBMITTED BY REP. TABORSAK REQUIRING THE TEACHING OF MASTURBATION TO SCHOOL CHILDREN. THIS IS A COPY OF THE PERTINENT PARTS OF THE PROPOSED BILL. SEE SECTION (C) 3 ON THE REVERSE.*

And said two-sided photocopy included no return address, disclaimer, or other identification of the sender or senders.

AND WHEREAS, said envelope also contained a small sheet of paper (*Exhibit D*), which included no return address, disclaimer, or other identification of the sender or senders. And said small sheet of paper titled, "The legislators on this list voted for a state income tax", included my name and office and home phones, and also included the following typewritten note distorting my legal surname:

> ** TABORTAX VOTED FOR THE CT. STATE INCOME TAX*

AND WHEREAS, based on reports from members of several Democratic Town Committees in the Connecticut 5th CD, said anonymous correspondences, which included no return address, disclaimer, or other identification of the sender or senders, were mailed in a large and concerted political advocacy campaign to several hundred persons, including members of the Democratic Town Committees of Beacon Falls, Bethany, Brookfield, Cheshire, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Seymour, and Weston, Connecticut, whose membership includes delegates to the 1992 convention that votes on my candidacy for the Democratic nomination for the Connecticut 5th CD. (See *Exhibit L* for names and phone numbers of persons from each of these Democratic Town Committees who will certify they received said anonymous correspondence.)

AND WHEREAS, said anonymous mailings which included no return address, disclaimer, or other identification of the sender or senders, have caused great concern among local Democrats entrusted with participating in the nomination and election process, as attested to by the enclosed condemnation of said mailings signed by members of the Weston Democratic Town Committee and other registered Democrats of the Town of Weston, Connecticut. (*Exhibit E*)

AND WHEREAS, as reported in an April 6, 1992 front page story from a local daily newspaper, *The News Times* of Danbury, CT (*Exhibit F*), said anonymous mailings which included no return address, disclaimer, or other identification of the sender or senders, have also caused concern to and been strongly condemned by the leading rival candidate for this nomination, Probate Judge James Lawlor, and by the Chairperson of the opposing political party (i.e., Republican Party) of Danbury, CT.

AND WHEREAS, said anonymous mailings which included no return address, disclaimer, or other identification of the sender or senders, have also caused such widespread public concern that the editor of *The News-Times* of Danbury, CT felt compelled to write an editorial condemning this act of "Dirty Politics" (*Exhibit G*).

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AND WHEREAS, said widespread campaign of mailings which included no return address, disclaimer, or other identification of the sender or senders, was intentionally deceptive and misleading, as demonstrated by pre-existing, publicly available, widely disseminated information, including: the "Abstinence and Masturbation" section of my June, 1990 "Capitol Journal" constituent newsletter (*Exhibits H-1* and *H-2*), describing the actual purpose of my 1990 draft amendment that was never intended to be enacted into law; and the enclosed 1990 articles from the Danbury, Connecticut newspaper, *The News-Times* — "Masturbation issue excites 109th District race" (10/31/90) (*Exhibit I-1*), and "Taborsak torpedoes Nahas, 2-1"(11/7/90) (*Exhibit I-2*) — which indicate that the actual purpose of my draft amendment was widely known in 1990, when a rival candidate and a candidate from another Assembly district, Dr. Robert Fand, unsuccessfully attempted to make the same false allegations later made in the anonymous mailings of March and April, 1992. The party or parties who perpetrated the anonymous 1992 mailings should have been familiar with the actual purpose of my draft amendment, and therefore their false allegations were clearly intended for the express purpose of advocating the defeat of my candidacy for the Democratic nomination for the Connecticut 5th CD.

AND WHEREAS, said correspondences which included no return address, disclaimer, or other identification of the sender or senders, were conceived of, executed, and paid for by an anonymous party or parties, and mailed on several separate occasions to registered local Democrats who include delegates to the convention which nominates the Democratic candidate for the Connecticut 5th CD, for the sole and explicit purpose of advocating the defeat of my candidacy for said nomination.

AND WHEREAS, I and members of my campaign staff were forced to divert considerable time, energies, and campaign funds to remedying the damage to my candidacy done by said anonymous mailings which included no return address, disclaimer, or other identification of the sender or senders; and these remedial efforts included, but were not limited to, telephoning Chairpersons and individual Democratic Town Committee members in towns and cities across the Connecticut 5th CD, and photocopying and sending to Committee members letters of explanation and copies of my June, 1990 "Capitol Journal" constituent newsletter to refute the deceptive allegations in the anonymous mailings.

AND WHEREAS, executing and paying for said anonymous mailings to members of several Democratic Town Committees for the explicit purpose of advocating the defeat of a candidate for nomination for Federal elected office without including a return addresses, disclaimer, or any other identification of the sender or senders, is a willful violation of Federal election law, 11 CFR, Section 110.11, and other regulations.

NOW, THEREFORE, I am requesting that the Federal Election Commission (FEC), its General Counsel and Commissioners undertake the following actions:

(1) Recommend a *reason to believe* finding for this complaint, and vote to proceed with a full FEC investigation.

(2) Find that there is *probable cause to believe* the charges in this complaint based on an FEC investigation.

(3) On the basis of a conciliation agreement or suit filed by the FEC, penalize the party or parties responsible for this violation to the fullest extent stipulated by law, to serve as a deterrent to others who might attempt similar violations.

IN ORDER TO assist the Federal Election Commission in its investigation of this Complaint, I offer the following evidence of the probable identity of the respondent or respondents, i.e., party or parties responsible and liable for conceiving of, executing and paying for said anonymous mailings about which this Complaint is being filed.

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PERPETRATOR OR PERPETRATORS OF THE VIOLATION

The mailings to members of the Democratic Town Committees in the Connecticut 5th CD for the purpose of advocating my defeat for nomination for a Federal elected office were made anonymously, and no party or parties have publicly acknowledged responsibility for conceiving of, executing, or paying for said mailings. However, the following evidence demonstrates very compelling probable cause to believe that the culpable party or parties are one or more members of the United Taxpayers of Danbury, a registered Connecticut political action committee. The PAC's Treasurer is: Ms. Louise B. Hunt, 8 Homestead Avenue, Danbury, CT 06810.

The United Taxpayers of Danbury is headed by Dr. Robert Fand, whose office address is: 79½ North Street, Danbury, CT 06810, business phone number: 203/743-9467. As indicated in *Exhibit I-1*, he is the same individual responsible for launching a 1900 egregious attack against me concerning false allegations about the sex education draft amendment, even though he was a candidate in a different Assembly district.

There is also strong evidence to indicate that a member of the United Taxpayers of Danbury responsible for executing the anonymous mailings is Ms. Sally Noonan, 100 Great Plain Road, Danbury, CT 06811, home phone: 203/744-1033.

These assumptions of probable cause are based on the following:

(1) **MOTIVES:**

(a) **Tax Issues:** The United Taxpayers of Danbury is a political action committee (PAC) opposed to new taxation and legislators who vote for new taxation. As stated above, the anonymous mailings of March and April, 1992 included an anonymous sheet of paper (*Exhibit D*) titled, "The legislators on this list voted for a state income tax", that included my name, office and home phones, and the following typewritten note: *" TABORTAX VOTED FOR THE CT. STATE INCOME TAX.* This message is consistent with the agenda and tactics of the United Taxpayers of Danbury.

(b) **Sex Education Issues:** The anonymous mailings' deceptive allegations that "*THIS AMENDMENT SUBMITTED BY REP. TABORSAK REQUIRING THE TEACHING OF MASTURBATION TO SCHOOL CHILDREN*" (*Exhibits B &C*) is very consistent with previous allegations and tactics of the PAC's leader, Dr. Robert Fand, regarding this draft amendment. As indicated in *Exhibit I-1*, when Dr. Fand was a 1990 candidate in a different state Assembly district, his campaign paid for a newspaper ad attacking me on this issue, and he personally distributed copies of the draft amendment to a class of Danbury High School students that included my own daughter, Julia. He then told my daughter to go home and tell her parents.

(2) **EVIDENCE OF METHOD:** The enclosed affidavit (*Exhibit J*) from Ms. Devon Pfeifer, Secretary of the Democratic Town Committee of Weston, CT indicates that Ms. Sally Noonan, requested and pursued a request for a list of the names and home addresses of members of the Weston Democratic Town Committee for the stated purpose of sending members of this Committee and other Democratic Town Committees in the Connecticut 5th CD a mailing from the United Taxpayers of Danbury. On March 28, 1992 this list was sent to Ms. Noonan by Ms. Pfeifer. On April 1, 1992 the anonymous mailing advocating defeat of my candidacy was sent to members of the Weston Democratic Town Committee. These anonymous mailings were postmarked Stamford, CT, which would be consistent with postings made in or around Danbury, CT, Ms. Noonan's home town. As of this time, no member of the Weston Democratic Town Committee has received any other correspondence identified as having come from the United Taxpayers of Danbury.

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(3) **EVIDENCE OF PERPETRATING THE VIOLATION:** The anonymous mailings caused great concern to members of Democratic Town Committees throughout the Connecticut 5th CD, (*Exhibit E*), to a rival candidate, to the Chairperson of the opposing party (*Exhibit F*), and to the general public and local media (*Exhibit G*); and they caused my staff and me to divert considerable time, energy and resources to remedying the effects of this anonymous and wantonly misleading attack.

Upon learning that Ms. Sally Noonan of the United Taxpayers of Danbury PAC had requested a mailing list of members of the Weston Democratic Town Committee shortly before said members received the anonymous mailings (*Exhibit J*), and on the basis of previous attacks on my reputation by members of this PAC, my campaign manager, Ms. Karlyn Sturmer, on her own initiative, phoned Ms. Noonan to make inquiries. The results of this phone conversation are detailed in the enclosed affidavit by Ms. Karlyn Sturmer (*Exhibit K*). As Ms. Sturmer reports, during this telephone conversation Ms. Noonan acknowledged her participation in these anonymous mailings and expressed pride in its perpetration and in its intended effect in advocating the defeat of my candidacy.

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PROBABLE RESPONDENT AND/OR RESPONDENTS

ON THE BASIS of the evidence above, I name as probable RESPONDENT and/or RESPONDENTS in this Complaint:

- Ms. Sally Noonan, 100 Great Plain Road, Danbury, CT 06811
  Phone: 203/744-1033.

- Other party or parties unknown who are members of, or affiliated with the United Taxpayers of Danbury, a Connecticut political action committee. The leader of the PAC is Dr. Robert Fand, whose office address is: 79 1/2 North Street, Danbury, CT 06810, business phone: 203/743-9467. The Treasurer of this PAC is Ms. Louise B. Hunt, 8 Homestead Avenue, Danbury, CT 06810.

- Other party or parties unknown.

Since said anonymous mailings were sent via First Class Mail to several hundred persons, at an approximate cost of $0.35 each (postage and photocopying), total costs for these mailings easily exceeds $100, and could be as much as $400. While the source of this funding is unknown at this time, there is sufficient probable cause to merit a full investigation of the treasury of the United Taxpayers of Danbury, and of the transactions of its officers, members and contributors to trace the funding of these anonymous mailings. There is also strong probable cause to examine the financial records of the PAC's leader, Dr. Robert Fand, whose 1990 campaign paid for a newspaper ad making the same false allegations as were made in the 1992 anonymous mailings.

Should the FEC find that a member or members of the United Taxpayers of Danbury are responsible for this violation, ignorance of the law can be no excuse, since this organization is a registered political action committee which has conducted on-going political advocacy campaigns, and its leader was a candidate for elected state office; and as such, said committee and its members should be cognizant of, responsible for adherence to, and fully liable for violations of election regulations.

• **Determining Identity of Perpetrator(s) of the Anonymous Mailings:**

In order to determine the identity of the party or parties responsible for executing the anonymous mailings made without a return addresses, disclaimer, or any other identification of the sender or senders for the explicit purpose of advocating the defeat of my candidacy for nomination for Federal elected office, handwritten addresses on the envelopes included as *Exhibits A-1* through *A-7* can be subjected to forensic comparison with handwriting samples from the RESPONDENT(S) to determine probable culpability.

• **Determining Source(s) of Funding the Violation:**

In order to determine the sources of funding for the anonymous mailings made without a return address, disclaimer, or any other identification of the sender or senders for the explicit purpose of advocating the defeat of my candidacy for nomination for Federal elected office, the Treasurer's reports and bank records of the United Taxpayers of Danbury political action committee can be requested from their Treasurer, Ms. Louise B. Hunt, 8 Homestead Avenue, Danbury, CT 06810.

Information on the PAC's financial activities is available from the Campaign Finance Section, Office of the Connecticut Secretary of State, 30 Trinity Street, Hartford, CT 06106, Phone: 203/566-3059. This PAC was required to file an April 9, 1992 report on receipts and expenditures made between January 1, 1992 and April 2, 1992; however, committees could file an Exemption from Itemized Reporting if their total receipts and expenditures for this period did not exceed $1,000.

There is strong probable cause to also investigate the financial records of the PAC's leader, Dr. Robert Fand (office address & phone: 79½ North Street, Danbury, CT 06810, 203/743-9467), whose 1990 campaign paid for a newspaper ad making the same false allegations as were made in the 1992 anonymous mailings, even though he was a candidate in a <u>different</u> Assembly district.

ENFORCEMENT ACTION REQUESTED

The anonymous mailings made in March and April, 1992 to members of Democratic Town Committees in the Connecticut Fifth Congressional District — who include delegates to the convention which will vote on my candidacy for the Democratic nomination for this Congressional District— were deceptive, unsolicited, unsigned, and **devoid of return address, disclaimer, or any other identification of the sender or senders**, and had the **clear intent of advocating the defeat of my candidacy** for this nomination. They are therefore in apparent violation of Federal election regulations such as 11 CFR, §110.11.

As indicated in the enclosed exhibits, these anonymous mailings caused great concern to registered Democrats of this district, to the leading rival candidate, to the Chairperson of the local opposition party, and to the local press. Furthermore, my staff and I were forced to divert considerable time, energies, and campaign funds to remedy the damage to my candidacy caused by these anonymous mailings.

Since there is probable cause to believe that the named RESPONDENT(S) were responsible, alone or in conspiracy with others, for conceiving of, executing and funding said anonymous mailings, and since said RESPONDENT(S) are members of a registered political action committee and their leader is a former candidate for elected state office, and therefore cannot plead ignorance of the law as an excuse, I am requesting that the FEC apply the fullest penalties of the law in this case. A simple reprimand or cease and desist agreement will not suffice, if others are to be deterred from committing similar violations to the democratic process through which Americans choose the persons who will represent them in the United States Congress.

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I HEREBY DECLARE as of the date first written above, that the information and materials in this request, as well as materials in the following exhibits are, to the best of my knowledge, true and accurate, and are being submitted as a Complaint to the Federal Election Commission in good faith.

Lynn H. Taborsak

COMPLAINANT

State Representative Lynn Taborsak (signature)

Signed and sworn to before me, this 27th day of May, 1992:

Serafina M. Bacher

Name • Notary Public

SERAFINA M. BACHAR MY COMMISSION EXPIRES MARCH 31, 1994

Signature & Seal • Notary Public

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• **EXHIBITS A > D: Photocopies of Components of Anonymous Materials Mailed to Democratic Town Committee Members in the Connecticut Fifth Congressional District**

Exhibit A-1 >
Exhibit A-7.... Photocopies of hand-addressed envelopes with no return address, disclaimers, or any other identification of the sender or senders in which materials advocating the defeat of my candidacy were mailed to members of several Democratic Town Committees in the Fifth Congressional District of Connecticut. (For use in handwriting analysis.)

Exhibit B..... Photocopy of front side of two-sided sheet enclosed in the anonymous envelope. This page, which has no return address, disclaimers, or any other identification of the sender or senders, includes the typewritten note: *Please read this amendment submitted by Rep. Taborsak requiring the teaching of masturbation to school children. This is a copy of the pertinent parts of the proposed bill. See section (C) 3 on the reverse.*

Exhibit C..... Photocopy of reverse side of Exhibit B, the two-sided sheet enclosed in the anonymous envelope. This side of the sheet also contained no return address, disclaimers, or any other identification of the sender or senders.

Exhibit D..... Photocopy of small sheet of paper also enclosed in the anonymous envelope. This sheet, titled, "The legislators on this list voted for a state income tax", included my name and office and home phones; and also included the following note distorting my legal surname: * *TABORTAX VOTED FOR THE CT. STATE INCOME TAX* . Like the envelopes (Exhibit A-1 through A-7) and the other enclosure (Exhibits B & C), it included no return address, disclaimers, or any other identification of the sender or senders.

• **EXHIBITS E > G: Photocopies of Responses to These Anonymous Mailings to Democratic Town Committee Members in the Connecticut Fifth Congressional District**

Exhibit E..... Photocopy of April 8, 1992 petition signed by members of the Weston Democratic Town Committee and other registered Weston, CT Democrats, who condemned said mailings which included no return addresses, disclaimers, or any other identification of the sender or senders.

Exhibit F..... Photocopy of April 5, 1992 article, "Anonymous letter stings Taborsak", by Helen O'Neil staff reporter of *The News-Times*, a Danbury, Connecticut daily newspaper, in which both my leading rival for the nomination, Probate Judge James Lawlor, and the Chairperson of the local opposing political party, Danbury Republican Town Committee Chairperson, Barry Connell, condemn the anonymous mailings.

Exhibit G..... Photocopy of April 15, 1992 editorial, "Dirty politics", in *The News-Times*, of Danbury, Connecticut condemning the anonymous mailings.

(List of Exhibits continues...)

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• **EXHIBITS H > I: Photocopies of Publicly-Available, Pre-existing, 1990 Materials Demonstrating the Intentional Deception in the Anonymous Mailings**

Exhibit H-1.... Photocopy of front side of my June, 1990 "Capitol Journal" newsletter to constituents of my state assembly district.

Exhibit H-2.... Photocopy of reverse side of my June, 1990 "Capitol Journal" constituent newsletter, including the "Abstinence and Masturbation" section that clearly describes the actual purpose of my draft amendment which was never intended to be enacted into law.

Exhibit I-1..... Photocopy of proof of October 31, 1990 article, "Masturbation issue excites 109th District race", by Helen O'Neil staff reporter of *The News-Times*, a Danbury, Connecticut daily newspaper. This clearly indicates that the actual purpose of my draft amendment was widely known in 1990, when the rival candidate and Dr. Robert Fand, leader of the United Taxpayers of Danbury PAC, and a 1990 candidate in a different state Assembly district, unsuccessfully attempted to make the same false accusations that were later made in the anonymous mailings of March and April, 1992. Therefore the annotated excerpt from this draft amendment mailed anonymously in 1992 with the typewritten note — *"Please read this amendment submitted by Rep. Taborsak requiring the teaching of masturbation to school children. This is a copy of the pertinent parts of the proposed bill. See section (C) 3 on the reverse.* — was clearly intended to be misleading and deceptive, as had been the case in 1990.

Exhibit I-2..... Photocopy of November 7, 1990 article, "Taborsak torpedoes Nahas, 2-1", by Dave Dunleavy staff reporter of the Danbury, Connecticut newspaper, *The News-Times*, which further indicates that the actual purpose of my draft amendment was widely known in 1990.

• **EXHIBITS J > L: Photocopies of Statements by Third Parties Concerning a Party or Parties Possibly Responsible for Perpetrating the Anonymous Mailings, and List of Persons Who Will Certify Receipt of the Anonymous Mailings**

Exhibit J..... Affidavit by Ms. Devon Pfeifer, Secretary of the Weston Democratic Town Committee concerning requests by RESPONDENT, Ms. Sally Noonan, for names and addresses of members of the Weston Democratic Town Committee for the purpose of sending mailings from the United Taxpayers of Danbury to members of the Weston Democratic Town Committee and other Connecticut 5th CD Democratic Town Committees.

Exhibit K..... Affidavit by Ms. Karlyn Sturmer, manager of my Congressional campaign, detailing a telephone conversation in which RESPONDENT, Ms. Sally Noonan, admitted to participation in perpetrating the anonymous mailings.

Exhibit L..... Names and phone numbers of members of Democratic Town Committees in Beacon Falls, Bethany, Brookfield, Cheshire, Danbury, New Fairfield, Newtown, Redding, Ridgefield, Seymour, and Weston, Connecticut, who will certify they received said anonymous mailings.

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EXHIBITS

FOR COMPLAINT
filed with the
Office of General Counsel
Federal Election Commission
by
State Representative Lynn Taborsak,
Candidate for the Democratic Nomination,
Fifth Congressional District, Connecticut

9 3 0 4 0 9 3 4 6 2 0

Harvey Bellin
70 Birch Hill Road
Weston, Ct 06883

1 APR 1992

1 APR
1992

Devon Pfleifer
7 north avenue
Weston, Ct, 06883

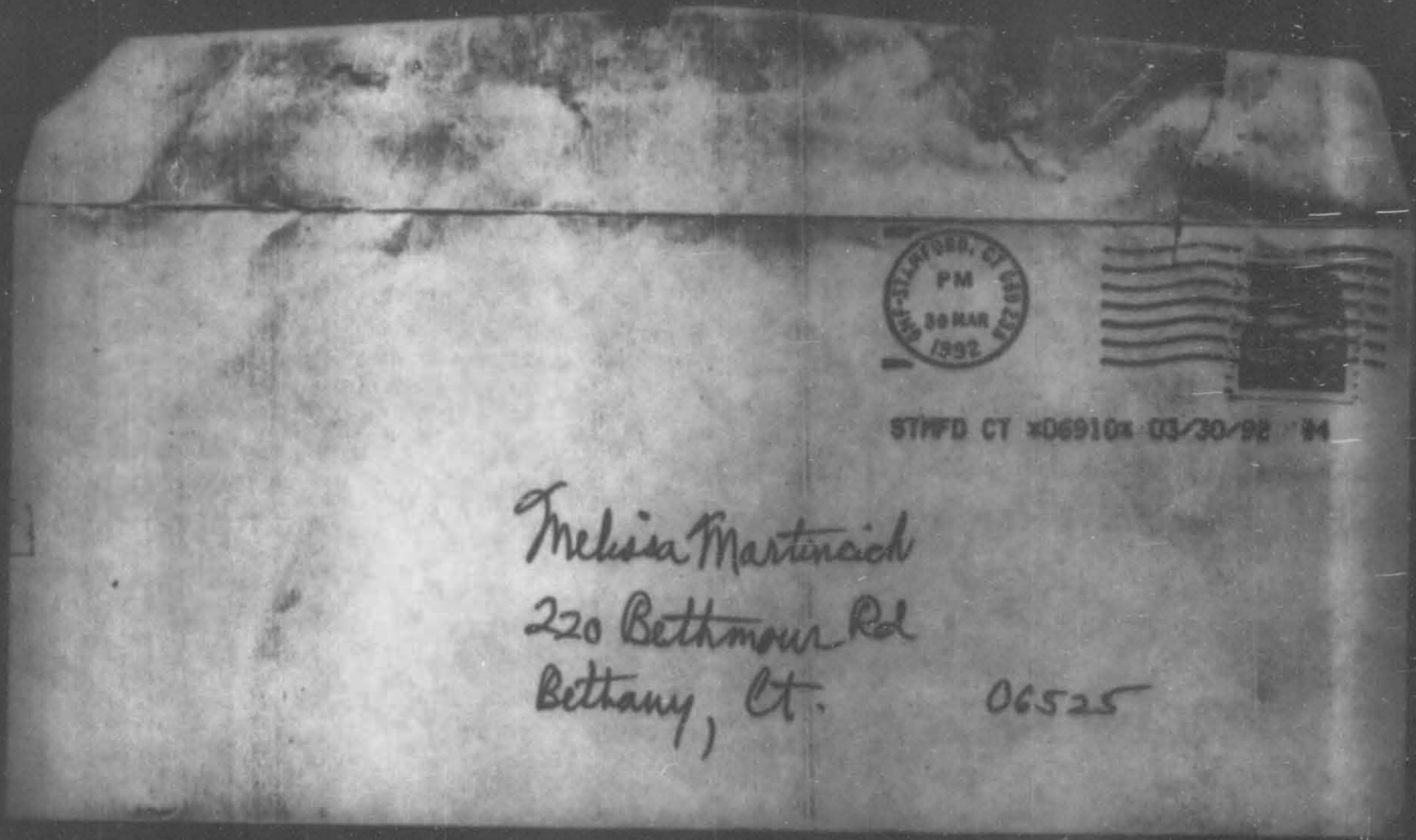
STMFD CT x06910x 03/30/92 04

Mary H. Gelfman
374 N. Salem Rd.
Ridgefield Ct 06877

John Betkoski III
Munson Road
Beacon Falls, Ct 06403

STMFD CT *DESIGN 03/30/92 04

Linda D. Da Silva
157 Kohanza St.
Danbury, Ct.


PM
30 MAR
1992
STMFD CT x06910x 03/30/92 $4
Melissa Martinaich
220 Bethmour Rd
Bethany, Ct. 06525

PM
30 MAR
1992

STMFD CT x06910x 03/30/92

Jon Painter
40 No. Humiston Dr.
Bethany, Ct. 06525

Exhibit B

AMENDMENT

LCO No. 4233

General Assembly

February Session, A.D., 1996

Offered by REP. TABORSAK, 100th DIST.

To Subst. House Bill No. 5770 File No. 394 Calendar No. 0205

Entitled "AN ACT CONCERNING HUMAN GROWTH AND DEVELOPMENT."

Strike everything after the enacting clause and insert the following in lieu thereof:

"Section 1. Subsection (a) of section 10-16b of the general statutes, as amended by public acts 89-133 and 89-185, is repealed and the following is substituted in lieu thereof:

(a) In the public schools the program of instruction offered shall include at least the following subject matter, as taught by legally qualified teachers, the arts; career education; consumer education; health and safety, including, but not limited to, human growth and development, nutrition, first aid, disease prevention, community and consumer health, physical, mental and emotional health, including youth suicide prevention, substance abuse prevention and safety and accident prevention; language arts, including reading, writing, grammar, speaking and spelling; mathematics; physical education; science; social studies, including, but not limited to, citizenship, economics, geography, government and history; and in addition, on at least the secondary level, one or more foreign languages and vocational education. For purposes of this subsection, (1) language arts may include American sign language or signed English, provided such subject matter is taught by a qualified instructor under the supervision of a teacher who holds a certificate issued by the

(over)

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(b) ALL PUBLIC SCHOOL CLASSES THAT TEACH HUMAN GROWTH AND DEVELOPMENT INCLUDING SEX EDUCATION AND THE DISCUSSION OF SEXUAL INTERCOURSE SHALL EMPHASIZE THAT MASTURBATION IS THE ONLY PROTECTION THAT IS ONE HUNDRED PER CENT EFFECTIVE AGAINST UNWANTED TEENAGE PREGNANCY, SEXUALLY TRANSMITTED DISEASES AND ACQUIRED IMMUNE DEFICIENCY SYNDROME WHEN TRANSMITTED SEXUALLY.

(c) COURSE MATERIAL AND INSTRUCTION FOR ALL SEX EDUCATION COURSES THAT DISCUSS SEXUAL INTERCOURSE SHALL:

(1) BE AGE APPROPRIATE;

(2) TEACH HONOR AND RESPECT FOR MONOGAMOUS HETEROSEXUAL MARRIAGE;

(3) STRESS THAT PUPILS SHOULD PRACTICE MASTURBATION UNTIL THEY ARE READY FOR MARRIAGE;

(4) INCLUDE A DISCUSSION OF THE POSSIBLE EMOTIONAL AND PSYCHOLOGICAL CONSEQUENCES OF PREADOLESCENT AND ADOLESCENT SEXUAL INTERCOURSE OUTSIDE OF MARRIAGE AND THE CONSEQUENCES OF UNWANTED ADOLESCENT PREGNANCY;

(5) STRESS THAT SEXUALLY TRANSMITTED DISEASES ARE SERIOUS POSSIBLE HAZARDS OF SEXUAL INTERCOURSE. PUPILS SHALL BE PROVIDED WITH STATISTICS BASED ON THE LATEST MEDICAL INFORMATION GIVING THE FAILURE AND SUCCESS RATES OF CONDOMS IN PREVENTING ACQUIRED IMMUNE DEFICIENCY SYNDROME AND OTHER SEXUALLY TRANSMITTED DISEASES;

(6) ADVISE PUPILS OF THE LAWS PERTAINING TO THEIR FINANCIAL RESPONSIBILITY TO CHILDREN BORN IN AND OUT OF WEDLOCK;

(7) ADVISE PUPILS OF THE CIRCUMSTANCES UNDER WHICH IT IS UNLAWFUL FOR MALES TO HAVE SEXUAL RELATIONS WITH FEMALES UNDER THE AGE OF SIXTEEN TO WHOM THEY ARE NOT MARRIED PURSUANT TO SECTION 53a-71;

(8) TEACH PUPILS TO NOT MAKE UNWANTED PHYSICAL AND VERBAL SEXUAL ADVANCES AND HOW TO SAY "NO" TO UNWANTED SEXUAL ADVANCES. PUPILS SHALL BE TAUGHT THAT IT IS WRONG TO [illegible] OR TO EXPLOIT ANOTHER PERSON AND SHALL BE ENCOURAGED TO RESIST NEGATIVE PEER PRESSURE.

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The legislators on this list voted for a state income tax.

* TABORTAX VOTED FOR THE CT. STATE INCOME TAX

Kevin Knowles (Democrat) Home: 729-5463 Work: 1-800-842-1902
Represents Naugatuck

Peter Lerner (Republican) Home: 397-3944 Work: 397-1369
Represents Bethany, Hamden and Woodbridge

* **Lynn Taborsak (Democrat)** Home: 794-0204 Work: 1-800-842-1902
Represents Danbury

Bob Godfrey (Democrat) Home: 778-5127 Work: 244-5886
Represent Danbury.

We, the undersigned members of the Weston Democratic Town Committee, of the municipality of the same name in the state of Connecticut, do hereby condemn the anonymous mailing made to us on or around the 1 day of April, 1992 for the purposes of besmirching the reputation of State Representative Lynn Taborsak, a registered candidate for the Democratic nomination for Connecticut's 5th Congressional District.

While neither endorsing nor not endorsing said candidate, we the undersigned condemn this unsolicited mailing on the grounds that:

(1) It willfully disseminates highly inflammatory and deceptive materials, and

(2) Since it contained neither a disclaimer nor a return address, it appears to be in willful violation of election regulations requiring a disclaimer stating the party or parties who paid for any materials which advocate the election of defeat of a particular candidate.

We further certify that the person or persons responsible for the contents, dissemination, and costs of this mailing should be identified, made subject to investigation by the Federal Election Commission, and be liable for applicable penalties should the Federal Election Commission determine that Federal election law been violated in this instance.

ATTESTED TO, this 8th day of April, 1992, by the undersigned members of the Democratic Town Committee named above:

(James T. Stearns)

Non-member (Weston Dem)

Not on Democratic T.C.

Exhibit E

9304093463

The News-Times

Danbury, Conn. 06810, Sunday, April 9, 1995

$1.50 Sunday

Exhibit F

Anonymous letter stings Taborsak

By Helen O'Neill
The News-Times

DANBURY — It's a quirky class of election politics or a mistake attempt to smear a candidate, depending on how you look at it.

And it might be illegal.

Last week, dozens of Democrats in towns throughout the 5th District received a plain white envelope addressed to Danny handwriting, in their morning mail.

Out slipped an amendment to a state sex-education bill that suggested young people practice masturbation before marriage.

A typed, unsigned note reminded recipients that congressional candidate Lynn Taborsak, a Democratic state representative from Danbury, had proposed the amendment. The written or masturbation were underlined twice.

It's illegal to distribute political literature without identifying the sponsor or the source. Democrats who received the anonymous package said it's underhanded and morally lax.

"It made me very angry," said Eleanor Lewis, vice chairman of the Danbury Democratic Town Committee. "I call this sick mail. I'm sick of these people — if you have something to say, say it. Put your name on it. Don't send me something vestigent."

It's not clear how many people got copies, although Democrats in all the major towns in the district, including Danbury, Waterbury and Ansonia, informed Taborsak's office that the mailing under had struck.

Taborsak's camp quickly struck back. Her campaign manager, Karlyn Sturmer, traced politics for decades, took an she called sources all over the district trying to track the offender.

See Anonymous, Page A-4

Anonymous

Continued from Page A-1

"I think the reaction generally was 'What is this piece of trash?'" said Sturmer, who eventually accused have names of Danbury of trying to slowly smear Taborsak's campaign.

Neman denied any involvement.

But Sturmer said Neman, a registered Republican, had called Taborsak's coordinator in Weston looking for the names of local Democrats. The coordinator, Gwen Pfeifer, is vice secretary of the Weston Democratic Town Committee. A second message by Pfeifer tipped off Sturmer. Still practicing detective work, Sturmer called Neman under an assumed name and showered her with praise for the mailings.

"I said I was Karen Michael out of Bethel," Sturmer chuckled. "I don't know why I picked Bethel . . . I just said it. I said 'Hey, that was a great mailing you did on Lynn Taborsak. Are you doing any more? We really have to do something about people like her.' I asked her how she got the names and where she had sent it. She was so proud of her work. She called the boxes all over the place."

Sturmer vowed to sign an affidavit saying Neman admitted sending the mailings. Taborsak plans to file a complaint with the Federal Election Commission.

Neman was shocked when reached at her home on Great Plain Road.

"I don't even know what you are talking about. I haven't seen it," she said.

Neman acknowledged that she had asked town clerks in the district for the names of Democrats. But she insisted it was for a separate mailing that has not yet gone out. And she said it has nothing to do with Taborsak.

Neman said she no longer belongs to a taxpayer advocacy group called the United Taxpayers of Danbury. As she was explaining her previous involvement with the group, Neman hung up. She couldn't be reached later.

Included in the anonymous package were the names of four state legislators who voted for the state income tax. They were Taborsak, Rep. Robert Godfrey, D-Danbury, Rep. Kevin Crawford, D-Ridgefield, and reps. Peter Lerner, R-Bethany. There doesn't seem to be any particular reason, other than the income tax, why the four names were thrown together.

Rudy Gordon, chairman of the Danbury Republicans, disassociated the local party from any involvement.

"This sort of mud-slinging isn't going to benefit the community or its residents," Gordon said. "It's dirty politics."

Democrats battling Taborsak for the party nomination also condemned the mailings.

"The race shouldn't go this way," said Waterbury Probate Judge James Lawlor, who is considered Taborsak's strongest opponent. "People are in serious need of jobs and there is a great deal of pain about the economy. I hope it does not come down to the issue of masturbation."

The masturbation amendment has provided colorful political ammunition for Taborsak's opponents ever since she wrote it in 1993.

The measure, which was never intended for serious debate, successfully derailed a sex-education bill that Taborsak said was completely out of touch with reality. The amendment was never formally introduced or filed and there is no formal record of it in the House.

Taborsak shrugged off the fact it had surfaced again.

"I don't think people take anonymous, unsigned information very seriously," Taborsak said. "Obviously, it's illegal. I can't imagine the purpose behind sending it. If the purpose is to influence the outcome of the campaign, this was very poorly timed."

Taborsak was referring to the selection of delegates to the congressional convention in July. Delegates were chosen by town committees last week.

State and federal election laws lay out the distribution of political material unless it is clear who is paying for it. What isn't clear in this case is whether the mailing can be traced to outside campaign interests. It doesn't specifically advocate Taborsak's defeat.

"It may be one of those cases where someone says to someone in a law and was careful not to violate the clear prohibitions of it," suggested Ronald Gregory, a lawyer with the state Elections Commission. "It sounds like someone is walking a fine line and maybe they believe they are home free."

If they are not, and they are found to violate of election laws, they could be fined up to $1,000, according to a lawyer at the Federal Election Commission.

> "I think the reaction generally was 'What is this piece of trash?'"
>
> Karlyn Sturmer
> Lynn Taborsak's campaign manager

Danbury G

The News-Times

WEDNESDAY, APRIL 15, 1992

OPINION

Dirty politics

The '92 campaign has gotten off to a dirty start with an unsigned letter attacking state Rep. Lynn Taborsak. It was mailed to Democrats in the 5th Congressional District, which stretches from Danbury to Meriden.

Taborsak is one of a handful of Democrats seeking the party's nomination to run against the Republican incumbent, Gary Franks.

It's a violation of election laws to distribute unsigned political literature. People have a right to know who is trying to influence their vote, and consider the source when weighing information.

That no one was willing to put their name on the anti-Taborsak mailing says much about their confidence in its truthfulness.

The mailing concerned a joke that Taborsak put into writing two years ago. While the Legislature was debating a sex-education bill, Taborsak drafted an amendment that advocated young people practice masturbation until marriage. She was trying to point out how silly legislators were being, or so she said, but the joke/amendment, which never was introduced or filed, has caused her political trouble ever since.

The mailing, of course, didn't say the amendment was a joke. The person making the anonymous mailing wanted to mislead the voters.

Anything in a candidate's record is fair game for a political opponent. But the voters are owed the truth. The voters also have a right to know who in their midst is playing dirty. To this end, Taborsak is planning to file a complaint with election officials about the mailing.

There already is evidence that Sally Noonan is the one; she is a Danbury Republican who has been associated with the United Taxpayers of Danbury. There is evidence she had been in contact with area town clerks for the names of 5th District Democrats. A Taborsak campaign worker also says Noonan bragged to her about the mailing. When The News-Times tried to question her, Noonan claimed she didn't know anything about the mailing and hung up the telephone.

Barry Connell, Danbury's Republican town chairman, and Democratic officials throughout the 5th District have disassociated themselves from the mailing. They all say the 5th District fight should be clean and fair.

Now there's an idea. The state and nation have serious problems to confront. A roll in the mud is not going to clarify anything.

9 3 0 4 0 9 3 4 6 3 3

Exhibit B-1

State Representative Lynn Taborsak

CAPITOL JOURNAL JUNE, 1990

All good things come to an end! This is the final edition of the Capitol Journal. Members of the General Assembly lose their newsletter privileges on July 15th. All bad things come to an end, too! This was the WORST session of the General Assembly in modern memory. I will put it to rest with some candid highlights for my readers.

GRACE NOME'S ZITI: Early in the session, I pour over proposed bills looking for things that may affect my district. Lo and behold, I found a Transportation Committee bill that would have allowed gas stations to charge a fee for compressed air to inflate tires. In the past year, two of my constituents had complained about the lack of air at service stations and I had helped them file complaints with the Motor Vehicle Department. If you pump 10,000 gallons of gas each month, you've got to provide free air. The law, however, is complaint-driven. If you don't complain, it's not enforced. I put the bill in my "tracking file", under the general heading of "bad bills". Sometimes it's more important to track the bad bills than the good ones! Sure enough! On the next to last day of the session, Rep. Carl Schiessl, a Democrat from Windsor Locks, calls the bill as a amendment to the Uniform Commercial Driver License Act. It's adopted on a voice vote in a nearly empty chamber! Where were the people's representatives for this critical voice vote? They were in the back room eating Grace Nome's ziti!

Grace is the lobbyist for the Connecticut Food Association. She provided dinner that evening, a time-honored custom for Hartford's major lobbyists at the end of the session. Grace represents all those gas stations turned mini-markets that sell groceries for the travelling public. I know Grace is a sharp cookie. She beat me in 1987 on the employment of fifteen-year-olds. We are long time adversaries at the Capitol. I was one of about seven lawmakers in the chamber when the amendment was adopted. I don't eat lobbyist ziti. It gives me indigestion. I jumped out of my seat and stormed over to Rep. Jon Pelto who was in charge of the dinner hour voting. I asked him what the hell he was doing allowing that amendment to come up for a voice vote in an empty chamber. He hadn't read it. He apologized. It was a mistake.

When the final vote was taken on the bill as amended, ziti-filled lawmakers filed back into the chamber for the roll call vote. Thirty of them asked me why I was voting against the Uniform Commercial Driver License act. It looked harmless enough! One hundred and fifteen didn't bother to ask, and the bill was adopted, 115 to 31.

After the roll-call vote, I spoke on the floor, knowing that most of my colleagues weren't aware of the amendment they had just adopted. I said that for eleven years we had required gas stations to provide free compressed air for the public, and that as a result of a dinner hour amendment, gas stations could now charge a fee for air. They were horrified! Especially Rep. Gene Migliaro of Wolcott. It was his 1979 bill that had been killed while he ate ziti. The following day, the Senate rejected the House amendment, and free air will be free for another eleven years...unless Grace Nome serves ziti again.

9304093463 4

Exhibit #2

ABSTINENCE AND MASTURBATION: We had a bill this session to require public schools to teach human growth and development before the eighth grade. We had required schools to teach human growth back in 1989. We just left the grade in which it must be taught up to local school districts. As luck would have it, some school districts chose to teach human growth after the horse got out of the barn. As a result, there were some 9351 unintended teen pregnancies in Connecticut in 1987. That number is unacceptable for any state that cares about teens.

The bill survived votes in the Education Committee and the Committee on Appropriations. When it hit the House floor, it attracted an amendment that would have required schools to teach students to practice abstinence until marriage. Now there's something that takes absolutely no practice. It was one lawmaker's way of saying that the use of latex condoms or oral contraception was not appropriate for unmarried persons, and certainly not appropriate in any discussions of unwanted teenage pregnancies.

My job was to derail that amendment. Why? We don't tell local school districts what to teach. We have a model curriculum, but each community decides for itself what to do. Danbury had a Family Life Education Task Force that met for two solid years to develop a program. Why was it my job to derail the amendment? Do you remember those Life cereal commercials where the older kids get discriminating Mikey to test it? I'm the official Mikey of the General Assembly. Give it to Taborsak. See if she likes it.

I drafted an amendment onto the abstinence amendment. It required schools to teach masturbation too. In the game of who will blink first, I made it very clear that there would be a big fight over teaching abstinence.

I'm not against teenage abstinence. In Danbury, we teach that abstinence is the best protection against sexually transmitted diseases. I'm against having 187 lawmakers dictate the content of curriculum that we have left to local discretion. My little buddy never called his abstinence amendment. I never called mine. But the prospects of a showdown created some hilarity for the amendment clerk. She's an older Irish woman. She thought my amendment was very worthy. She gave copies of it to two of the Capitol's premiere lobbying firms. They proceeded to line up votes for me free of charge. They were very concerned though, about the outcome. The amendment required students to practice masturbation until marriage. The lobbyists thought that might make criminals out of some married folks.

SERIOUS STUFF: For the past two years, I have tried to take my job as your State Representative seriously. When someone called to gripe about air compressors at gas stations, I paid attention. Now, I open the newspaper and read that THE PUBLIC wants a change. THE PUBLIC is disillusioned with political parties. THE PUBLIC has lost confidence in government. THE PUBLIC doesn't trust politicians to act in the people's interest.

I can't take my job seriously if you don't. When I'm attacked on the radio and in the paper for playing games, for being irresponsible, for not representing your interests, you have to defend me! That's your part of the bargain. You're the public! If I can take you seriously, you can return the favor. Now get out there and make me proud of you. Say something good about government!

9304093435

[illegible]

[illegible]

[illegible]

HED: Masturbation issue rattles 107th District race
BY: Helen O'Neill THE NEWS-TIMES

DANBURY _ Sex, abstinence, masturbation and the Bible have found their way into the race for the 107th General Assembly seat, prompting colorful quotes from candidates and off-color snickers from political observers.

Call it meddling over masturbation. Or a sexy political issue that breathes new fire into a faltering campaign.

Opponents of Lynn Taborsak, the Democratic incumbent, have resurrected an amendment to a sex-education bill she floated in the state House of Representatives earlier this year.

They're using it to portray her as unorthodox and unstable _ a loose cannon in the Capitol who should be turned out.

''The Bible says cast your seed into the belly of a whore rather than onto the ground,'' roared Republican candidate Alex Mahas over the phone from party headquarters yesterday. He was apparently referring to the biblical figure Onan in the book of Genesis, struck down by God for practicing masturbation.

''It violates every religious principle in the Bible,'' said Mahas, who believes sex education should be reserved for the home.

Taborsak's measure, never intended for serious debate, called on young people to practice masturbation until they are ready for marriage.

Masturbation, says the carefully worded document, ''is the only protection that is 100 percent effective against unwanted teen-age pregnancy, sexually transmitted diseases'' and AIDS.

Her eye-catching amendment was tacked onto another _ drafted by Republican Reginald Jones of Orange _ that said students should be taught abstinence from premarital sex as the ''expected norm.''

Jones amendment claimed that abstinence ''is the only protection that is 100 percent effective against unwanted teenage pregnancy, sexually transmitted diseases'' and AIDS.

Both measures concerned a bill requiring public schools to teach sex education before the eighth grade. Many school systems, including Danbury's, have sex education programs; at issue was whether or not the General Assembly should tell local school districts exactly what they should teach.

Taborsak's position was that it shouldn't. So she filed an amendment making the sex-education package embarrassing to debate and difficult to defend.

''My job was to derail his amendment,'' said Taborsak, chuckling at her ability to shock and outrage.

The bill survived the Education and Appropriations Committees but was never debated. Taborsak's amendment was never formally introduced or filed and there is no official record of it in the House.

But her opponents are using it in campaign literature and advertisements to promote Mahas, a 70-year-old retired government worker running for state office for the first time.

Mahas is being supported by Robert Fand of Bethel, who is running for election as an independent in the 106th Assembly district. Fand paid for a newspaper advertisement blasting Taborsak on the masturbation issue.

''To go this far is outrageous and typifies her outrageousness in other areas,'' Fand said yesterday, after dishing out copies of Taborsak's amendment to students of a government class at Danbury High School.

The class included Taborsak's daughter, Julia, who followed Fand's suggestion to go home and tell her parents.

''We just want people to know she introduced it,'' insisted Fand, who said he didn't know that the amendment had never been formally introduced.

Fand said he agrees with some aspects of the bill, such as stressing the seriousness of sexually transmitted diseases and encouraging respect for marriage.

Taborsak said she also agreed with parts of the bill but wanted a realistic approach to sex education, something she thinks Danbury schools have achieved. She called the latest political flap ''a teapot in a teacup.''

Democratic Town Committee Chairman Lawrence Riefberg supported his party's spitfire lawmaker with a weary sigh. The masturbation issue attracted some unwanted attention for his candidate earlier this year, and he wishes it was just forgotten.

''The other main issue Mahas has spoken about is Siberian natural resources,'' huffed Riefberg, referring to the Republican candidate's comments about a treasonous agreement he says set up a new boundary between Alaska and Siberia.

''Wake up and face the music,'' he added. ''How can you argue in 1990 that you are in favor of abstinence, or you are against sex education, when we have teen-age pregnancies, AIDS, crack-addicted babies . . .''

9304093436

Exhibit I-2

The News-Times

Taborsak torpedoes Nahas, 2-1

NOVEMBER 7 1990

9304093463 7

By Dave Dunleavy
THE NEWS-TIMES

DANBURY — Democrat Lynn Taborsak won her fourth two-year term as state representative in the 109th District, defeating Republican challenger Alex Nahas, who enlivened the race by making an issue of the incumbent's stance on masturbation.

Taborsak, 47, won all five city wards, compiling an unofficial 3,429-1,583 tally over Nahas, 70. She won the lion's share of votes in the second and third wards located near her Hayestown Road home.

Taborsak persevered an unusual campaign challenge by Nahas, who centered his campaign not on the huge state budget deficit but on how Taborsak felt about sex education, particularly masturbation.

Taborsak floated a tongue-in-cheek amendment to a sex-education bill earlier this year that in effect said that young people should practice masturbation until they were ready for marriage. Taborsak said she purposely filed the amendment to defeat the proposed bill submitted by state Rep. Reginald Jones, R-Darien, which called for the legislature to dictate what school systems could teach. Taborsak's contention is that school systems should decide what should be taught.

109th Assembly District

Northeastern Danbury, eastern Danbury

> "I think I've gained the public trust. I think they're saying we trust her in extremely difficult times to represent this district."
>
> **Lynn Taborsak**
> State representative

"I knew no one wanted to discuss that issue and the bill wouldn't have a chance. The bill was never discussed," said Taborsak, who shed her plumber's garb last night for a Yves St. Laurent dress, black pumps and matching earrings. "I have a lot of tactics and sometimes I'm known for my outrageousness."

Nahas softened his aggressive stance concerning Taborsak when confronted at Republican headquarters yesterday. He praised Taborsak as a "true lady," though he still took issue with Taborsak's masturbation stance.

"Sex education is a family matter that should not be foisted upon a public school system because it becomes harder for an already overburdened system," said Nahas, a retired Defense Department employee. "Sex education is a very private affair and it's time to return to family values and family responsibilities."

Even if Taborsak facetiously submitted her amendment, Nahas said he did not find humor in it and said the act violates every religious principle. During the campaign, he referred to the biblical figure Onan in the book of Genesis who was struck down by God for practicing masturbation.

"It's about time the family got more involved (with sex education)," said Nahas.

With her fourth victory, Taborsak said she finally feels that she garnered voter confidence.

"I think I've gained the public trust. I think they're saying we trust her in extremely difficult times to represent this district," said Taborsak.

But Taborsak said she didn't take yesterday's vote lightly.

"We still ran a traditional campaign. We phone canvassed the entire district and we sent out four mailings," said Taborsak. The incumbent campaigned hard, although Nahas was placed on the ballot because Republicans had a hard time fielding a candidate.

Exhibit J

AFFIDAVIT

I, Devon Pfeifer of 7 North Avenue, Weston, CT 06883, am the Secretary of the Democratic Town Committee of Weston, Connecticut, and a delegate to the convention for nominating a Democratic candidate for the fifth congressional district.

On Thursday, March 26, 1992 I received a message on my answering machine, asking that the list of the Weston Democratic Town Committee membership complete with addresses be sent to: Sally Noonan, 100 Great Plain Road, Danbury, CT 06811.

The message stated that the information was being obtained for a fifth congressional district Democratic Town Committee membership mailing. No phone number was left.

I called information for a phone number and found that a Sarah Noonan, not Sally, was listed at 100 Great Plain Road. They gave me the telephone number 744-1033 for Sarah, which I called at 3:25 p.m. on March 26, 1992, hoping to reach Sally Noonan.

Sally Noonan answered the phone and confirmed that she had left the message requesting the Weston Democratic Town Committee membership list and addresses.

As Secretary of the Weston Democratic Town Committee I asked her why she needed the names and addresses, and I said her request would be relayed to our Chairman who would decide if we should send the list or not.

She told me she needed the list for a mailing to be sent to every Democratic Town Committee member in the fifth congressional district.

The mailing was to be by the "United Taxpayers of Danbury", of which she said she is a member and Dr. Robert Fand is chairman or president.

On or about March 26, 1992, with the permission of the Chairman of the Weston Democratic Town Committee, Richard Bochinski, I mailed the list to Ms. Sally Noonan at the address she had given me.

On or about April 2, 1992 I received an anonymous mailing about State Representative Lynn Taborsak, a candidate for the Democratic nomination for the fifth congressional district, stating Rep. Taborsak had voted for the Connecticut income tax and that she had submitted an amendment requiring the teaching of masturbation to school children.

As of today I have received no mail identified as coming from the United Taxpayers of Danbury as was indicated as forthcoming in my March 26, 1992 conversation with Ms. Sally Noonan.

I declare that the information in this Affidavit is, to the best of knowledge, true.

Devon Pfeifer

Signed and sworn to before me, this 4th day of May, 1992:

EVELYN OHMES
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1993

Subscribed and Sworn to before me, a Notary Public, in and for County of Fairfield and State of Connecticut, this 4th day of May 1992

Evelyn Ohmes
Notary Public

EVELYN OHMES NOTARY PUBLIC

9304093463 8

Exhibit K

I, Karlyn Sturmer of 22 Old Green Lane, Sandy Hook, CT, 06482, being over the age of eighteen years and being of sound mind, memory and judgment and understanding the obligations of an oath do hereby swear as follows:

1) I am the Campaign Manager for Lynn Taborsak, Democrat for Congress in the 5th Congressional District of Connecticut.

2) On March 31, 1992, I received numerous calls from members of Democratic Town Committees throughout the 5th Congressional District that they had received an anonymous letter (a copy of which is attached hereto and made a part hereof) about Lynn Taborsak.

3) On April 1, 1992 I spoke with Devon Pfeifer of Weston, CT. She is the Secretary of the Democratic Town Committee (who is also the Town Coordinator for the Taborsak for Congress Campaign). Devon Pfeifer informed me that while she had not received the letter, she had received a request for a copy of the members of the Town Committee with addresses, from Sally Noonan. Sally Noonan had told her that her address was 100 Great Plain Road, Danbury, CT 06811, phone number 744-1033 and that she was a member of the United Taxpayers of Danbury. She asked that the list be mailed to her and told Devon that she was doing a mailing to members of Democratic Town Committees in the 5th Congressional District. Sally further told Devon that she had called the Town Clerk but that Devon had not submitted the list of names and addresses to the Town Clerk so Sally was advised to call her.

4) I called Sally Noonan and identified myself as "Karen Michaels" of Bethel, CT. I told her the mailing on Lynn was "great" and asked her if she had mailed the piece all over the District. She replied that she had mailed it to a number of towns, had "just sent out to four (4) towns today" and that Shelton and Oxford "were the next to go." I asked her how she had obtained the lists and she replied that she had called Town Clerks "--It's Freedom of Information, you know", she advised me.

5) I am making this affidavit for the purpose of having a Complaint filed with the Federal Elections Commission.

Personally appeared, Karlyn Sturmer, signer and sealer of the foregoing Affidavit, who acknowledged the same to be her free act and deed, before me.

Karlyn Sturmer

Lawrence M. Riefberg
Commissioner of Superior Court

9304093463 9

Exhibit L

Names and phone numbers of members of Democratic Town Committees in the Fifth Congressional District of Connecticut, who will certify they received the anonymous mailings which are the subject of this Complaint.

Town or City	Committee Member	Home Phone
Beacon Falls, CT	John Betkoski, III	203/729-5727
Bethany, CT	Audrey Eisenstadt	203/393-3997
Brookfield, CT	Jim Gleason	203/775-9071
Cheshire, CT	Cathy Kaplan	203/272-1358
Danbury, CT	Larry Riefberg	203/748-6501
Newtown, CT	Bunny Madden	203/426-8727
New Fairfield, CT	Dan Reese	203/746-7674
Redding, CT	Janice Melcher	203/938-3139
Ridgefield, CT	Jan August	203/431-3987
Seymour, CT	Frank Loda	203/736-2608
Weston, CT	Harvey F. Bellin	203/227-7555

9304093464 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 1992

Lynn Taborsak
196 Main Street
Danbury, Connecticut 06810

RE: MUR 3533

Dear Ms. Taborsak:

This letter acknowledges receipt on June 1, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Sally Koonan, Dr. Robert Fand, and the United Taxpayers of Danbury PAC and Louise B. Hunt, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3533. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Procedures

9304093464 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 1992

United Taxpayers of
Danbury PAC
Louise B. Hunt, Treasurer
8 Homestead Avenue
Danbury, Connecticut 06810

RE: MUR 3533

Dear Ms. Hunt:

The Federal Election Commission received a complaint which indicates that United Taxpayers of Danbury PAC ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3533. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you, as treasurer, and the Committee in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9304093464 2

If you have any questions, please contact Richard Zanfardino, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

93040934643

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 1992

Dr. Robert Fand
79 1/2 North Street
Danbury, Connecticut 06810

RE: MUR 3533

Dear Dr. Fand:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3533. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

93040934644

If you have any questions, please contact Richard Zanfardino, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

9304093464 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 1992

Sally Noonan
100 Great Plain Road
Danbury, Connecticut 06811

RE: MUR 3533

Dear Ms. Noonan:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3533. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

93040934646

If you have any questions, please contact Richard Zanfardino, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan A. Bernstein
Assistant General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

93040923648

Robert Fand
794 North St.
Danbury, Ct. 06810
203-743-9167

June 11, 1992

Attention Jonathan A. Bernstein, Assistant General counsel
and Richard Zanfardino
Federal Election Commission
Washington, D.C. 20463

OGC 4818

Dear Sirs:
Regarding: MUR 3533, dated June 5, 1992

Item 1.There is no such entity nor was there such entity during the time period concerned as United Taxpayers of Danbury PAC since it was terminated on 11/16/90. Therefore the Plaintiff in this matter cites an erroneous Defendant, that is United Taxpayers of Danbury PAC and myself, Robert Fand.

Item 2. The Plaintif has made a wrong allegation, "These anonymous mailings advocating my defeat..." (cover page), in that inspection of the mailed documents cited as Exhibits A 1-7, B,C, and D, exhibit that they do NOT advocate the election or defeat of a candidate for political office on any portion of these documents.
Also, the following allegation by the Plaintiff on page 4, of the above complaint is wrong: "for the sole and explicit purpose of advocating the defeat of my candidacy", in that inspection of the mailed documents A 1-7,B,C, and D exhibit that they are NOT communication "that expressly advocates the election or defeat of a clearly identified candidate " and do NOT advocate the election or defeat of a candidate for political office, and thereby does not violated 11 CFR Section 110.11 as alleged by the Plaintiff.

Item 3. Exhibit K does NOT contain explicit evidence of "express advocacy", that is, Exhibit K presents NO evidence to prove that the mailing violated federal election laws dealing with the advocacy of the defeat or election of a candidate for political office.

Item 4. The Exhibits A 1-7, B.C. and D, are allowed under the First Amendment of the United States Constitution, "Congress shall make no law respecting... or abridging the freedom of speech,...

Item 5. Summary: There is no legal proof from the exhibits or affadavits of a violation of 11 CFR Section 110.11 and what remains is an unproven allegation by the plaintiff.

Further, be it known, that everything written above or below does NOT constitute an admission of guilt to any item in the complaint, MUR 3533, and is merely comments on the written documents sent to me by you.

Please find attached the termination report filed by the United Taxpayers of Danbury on 11/16/90.

Sincerely,

Robert Fand

Robert Fand

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 15 PM 3:21

OFFICE OF THE SECRETARY OF STATE

STATEMENT OF RECEIPTS AND EXPENDITURES
SUMMARY PAGE

NAME OF COMMITTEE: UNITED TAXPAYERS OF DANBURY

NAME OF TREASURER: ANTHONY A. TOMANO

ADDRESS OF TREASURER: 9 MAPLE ROW, BETHEL, CT 06801

☐ CHECK IF ADDRESS DIFFERENT THAN PREVIOUSLY REPORTED

2. NAME OF CANDIDATE: N/A

OFFICE SOUGHT: /

DISTRICT NO. OF OFFICE: /

3. TYPE OF REPORT (check all applicable boxes)

PRIMARY Date | ELECTION Date | REFERENDUM Date

(a)
- ☐ 2nd Thursday in month of January 19____
- ☐ 2nd Thursday in month of April 19____
- ☐ 2nd Thursday in month of July 19____
- ☐ 2nd Thursday in month of October 19____
- ☐ 7th day Preceding Primary on _____
- ☐ within 30 days following primary on _____
- ☐ 7th day preceding Election or Referendum on _____
- ☐ within 40 days following Election or Ref. on _____
- ☐ Supplemental

(b) State Central Committee Only
- ☐ January 30th 19____
- ☐ April 10th 19____
- ☐ July 10th 19____
- ☐ 12th day preceding Election on _____

(c)
- ☐ Amendment to previous report filed _____
- ☒ Termination report _____

	COLUMN A THIS PERIOD	COLUMN B CUMULATIVE
4. Filing due date. TERMINATION REPORT Period Covered: 10/24/90 through 11/16/90		
5. Balance on hand January 1, 1990 for Ongoing and Party Committees		
Balance on hand from the day the Committee was formed for all other committees		5,917
6. Balance on hand at the beginning of Reporting Period	1,945	
7a. Contributions received from Individuals	260	285
7b. Contributions Received from Other Committees	0	0
7c. Other Receipts	0	0
7d. Total Receipts (add lines 7a, 7b and 7c for total receipts)	260	285
8. Subtotal (add lines 6 and 7d for Column A, and add lines 5 and 7d for Column B	2,205	5,717
9. Total Expenditures	2,205	5,717
10. Balance on hand at close of Reporting Period (subtract line 9 from line 8)	0	0
11. Debts owed by the Committee, expenses incurred but not paid to date		—
12. Loans outstanding (total, interest and principal)		—

I do hereby swear, under penalty of false statement, that I make this statement in accordance with the requirements of Chapter 150 of Connecticut General Statutes, and that this is a complete itemized statement which contains all of the information required by Chapter 150, for period shown above.

Anthony A. Tomano — Signature of Treasurer

11/16/90 — Date

9304349

June 11, 1992

Jonathan A. Bernstein

Assistant General Counsel

Federal Election Commission

999 E Street NW

Washington, D.C. 20463

Tel: (202) 219-3690

Richard M. Hunt

Chairman United Taxpayers

8 Homestead Ave.

Danbury, CT 06810

Tel: (203) 743-2818

Dear Mr. Bernstein:

Today my wife received a letter from you addressed as "United Taxpayers of Danbury PAC Louise B. Hunt, Treasurer 8 Homestead Ave, Danbury, CT 06810". RE: MUR 3533.

Your letter (dated June 5, 1992) states that the Federal Election Commission received a complaint; and states that Louise B. Hunt is Treasurer of United Taxpayers of Danbury PAC, which is not true.

The Complaint enclosed by your office was dated May 20, 1992, and signed by Lynn H. Taborsak. We consider her accusations libelous and an attempt to discredit United Taxpayers, myself, and my wife.

My wife, Louise B. Hunt, and I, Richard M. Hunt, have always been opposed to political action committees (PAC's). She has never been treasurer of United Taxpayers of Danbury PAC. She is the treasurer of the United Taxpayers a candidate's committee running me for State Senator, State Representative, and Registrar of Voters of Danbury, CT.

[illegible] the [illegible] Secretary of the State of [illegible], [illegible]

Mr. G. S. Williams, Executive [illegible]lor, 30 Trinity St., Hartford, CT

06106, Tel: (203) 566-3106.

Neither my wife nor I have ever written an anonymous letter to Lynn Toborsak, nor to anyone else.

Sincerely,

Richard M. Hunt

Richard M. Hunt

cc: File

RMH: lbh

Subscribed and sworn to before me, by Richard M. Hunt, personally appeared, today June 12, 1992.

Nancy L. Ardella

Notary Public

commission expires 3/31/94

9304093451

June 23, 1992

Jonathan A. Bernstein
Assistant General Counsel
Federal Elections Commission
Washingto, DC. 20463

Dear Sirs;

RE: MUR 3533

I am replying to a letter of complaint that was sent to me by your office in regards to Lynn Taborsak on June 15th. I am at present a resident of South Carolina and no longer reside in the State of Connecticut.

I would like to state that I was not involved in any mailing of an anonymous letter as stated by the complainant. I was asked, as a parting favor from Dr. Robert Fand before I moved out of state to call the towns in the 5th Congressional District of Connecticut for the lists of the Republican and Democratic Town Committees. He told me he was really busy and couldn't call himself. He told me he was sending out a mailing. He was not specific as to what was going to be mailed. I agreed to make the calls.

I had all the information sent to his office address with the exception of the one from the Weston group. I had to personally talk to Devon Pfiefer in order to get it. In our conversation she asked me what did I need it for. I told her it was for a mailing. She wanted to know what the organizations name was. I assumed it was for the Taxpayers group and told her so. I am not or have been an active participant of the United Taxpayers of Danbury since My resignation from the group in 1989 and recorded in the Secretary of States' office. I never said I was a member myself as she states. Exhibit J

A few days later I received a call from a person identifying herself as Karen Michaels of Bethel. She told me the mailing was great and wanted to congratulate me on it. Then she proceeded to ask me if she could get more copies. I assumed it was available and told her it might be possible. I to that point still did not know what the mailing was until she specifically mentioned Lynn Taborsak. She said it would be good to get rid of people like her. I neither agreed or disagreed. I had no idea where this woman got my name. She wanted to know how I got the names for the mailing and I did tell her I called for them. I was told by Dr. Fand that four towns had gone out so far and that other towns would be sent in the next few days and relayed this information to her. She never asked me if I did participated in the mailing or if I was a member of the Taxpayers group. Exhibit K

I then received a phone call from the Danbury News Times

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 23 AM 11:04

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asking for specifics on the anonymous mailing about Lynn Taborsak to which I replied that I knew nothing of this mailing or haven't seen it. I did acknowledge that I made calls to the various towns for both the Republican and Democratic Town lists. I told the reporter I thought it was for a different mailing and to my knowledge not related to Lynn Taborsak. I also stated at that time that I wasn't a member of the United Taxpayers of Danbury at this time, but had been a few years previously. I didn't like where the conversation was leading and chose not to speak to her further. Karen Sturner and Devon Pfiefer must have prompted the News-Times to call me. As a result the article appeared in the next days paper. Other Artlicles were inflamatory against me and acusing me to be the perpertrater of the mailing. Exhibit F & G

I had received other harassing phone calls asking me questions I know nothing about. When asked where they got my name they told me Devon Pfiefer.

I proceeded to call Dr. Fand and asked him specifically what it was that was mailed. He told me not to worry that what was sent was information only and that Lynn was looking for publicity.

I want to state that I had no part in the mailing or had knowledge of what was mailed until after the fact. Calling for the list did not advocate her defeat. I, therefore should not be named as a respondent to this complaint and should be exonerated.

I have supported Lynn Taborsak in her previous elections by placing her signs on my property and still continue to support her for she has been both friend and neighbor to me. She has stood up for the common people like me and looked out for our interest. I am sorry to think that she might think me capable of doing something like this to her. I would not knowingly do anything to hurt her. I've always maintained an open and honest relationship with my friends. I wish her the very best in the upcoming elections.

Sarah A. Noonan — 6 - 12
Sarah A. Noonan — Date
1020 Dunklin Bridge Road
Fountain Inn, Sc. 29644

Pelham M Sivier 9-10-96 — 6 - 12
Notary Public — Date

9304093465 3

RECEIVED
F.E.C.
SECRETARIAT
93 FEB 19 PM 4:09

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR: 3533
DATE COMPLAINT RECEIVED
BY OGC: June 1, 1992
DATE OF NOTIFICATION
TO RESPONDENTS: June 5, 1992
STAFF MEMBERS: Jonathan Bernstein

COMPLAINANT: Lynn Taborsak

RESPONDENTS: Dr. Robert Fand, Sally Noonan, United Taxpayers of Danbury PAC and Louise B. Hunt, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441d

INTERNAL REPORTS CHECKED: Contributor Index

FEDERAL AGENCIES CHECKED: None

9 3 0 4 0 9 3 4 6 5 4

I. GENERATION OF MATTER

This matter was generated by a complaint from Lynn Taborsak, a candidate for the Democratic Congressional nomination for the Fifth Congressional District of Connecticut. The complaint centers around an anonymous mailing to Democratic Party officials in towns in the congressional district in late March of 1992, and alleges that the mailing lacked a disclaimer in violation of the Act. This Office received responses to the complaint from Dr. Robert Fand, Sally Noonan, and Richard Hunt on behalf of his wife, Louise B. Hunt, treasurer of United Taxpayers. This Office also has had telephonic discussions with these respondents.

II. FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441d provides that whenever any person makes an

expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, without the authorization of a candidate, such communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

The mailing at issue (Attachment 1, pages 1-2) contains two pages of a copy of a bill assertedly introduced in the Connecticut General Assembly by State Rep. Taborsak. A typewritten superscript on the first page reads: "PLEASE READ THIS AMENDMENT SUBMITTED BY REP. TABORSAK REQUIRING THE TEACHING OF MASTURBATION TO SCHOOL CHILDREN. THIS IS A COPY OF PERTININENT [sic] PARTS OF THE PROPOSED BILL. SEE SECTION (C) 3 ON THE REVERSE." Page 2 of the bill is omitted, because the second page is numbered page 3, and part of the text on this page is underlined by hand for emphasis (Attachment 1, page 2). The mailing also included a separate slip of paper (Attachment 1, page 3) listing the names and telephone numbers of four state legislators, including Ms. Taborsak, with this printed title at the top: "The legislators on this list voted for a state income tax." Ms. Taborsak's name is underscored and in the left margin by her name is a hand drawn asterisk. Immediately beneath the title, in type which appears to have been added, is an explanation of the asterisk: " * TABORTAX VOTED FOR THE CT. STATE INCOME TAX". The complaint also included copies of several of the envelopes the above documents came in. The envelopes are hand addressed and are postmarked on March 31 or April 1, 1992 in Stamford, Connecticut. The mailing nowhere

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identifies the party(ies) responsible for it.

The complaint alleges that individuals associated with a registered state committee called United Taxpayers of Danbury mailed these materials to members of Democratic Town Committees throughout the Fifth Congressional District. Delegates selected from these members were to participate in the Fifth District nominating convention to take place 2-1/2 months later, on July 20, 1992. (Connecticut's district conventions are considered separate elections under the Act. Advisory Opinion 1976-58).[1/] Ms. Taborsak challenges the mailing as highly inflammatory as well as deceptive.[2/] Targeted to the group of persons including the

---

1/ An article attached to the complaint which appeared at the time of the mailing quotes Ms. Taborsak and suggests the delegates had been selected shortly before the mailing:

> "I don't think people take anonymous, unsigned information very seriously," Taborsak said. "Obviously, it's illegal. I can't imagine the purpose behind sending it. If the intent is to influence the outcome of the campaign, this was very poor timing."
>
> Taborsak was referring to the selection of delegates to the congressional convention in July. Delegates were chosen by town committees last week.

(Exhibit F to the complaint). Apparently, under Connecticut party rules, delegates to the district nominating conventions for U.S. House of Representatives are usually selected through endorsement by each town committee, are not legally bound to any particular candidate, but may be pledged to particular candidates as a practical matter. Ms. Taborsak's quoted statement may suggest that delegates were already committed to her candidacy when the mailings were received. On the other hand, her quoted reaction appears mainly to be a contemporaneous attempt to deflect attention from the mailings, for her complaint protesting the effect on her candidacy came several weeks later, and according to public reports her opponent received the party endorsement at the July district convention.

2/ In her complaint, Ms. Taborsak claims that the "masturbation" bill she put forward was never intended as a serious amendment, but rather as a ploy to derail another proposal then pending. She asserts that it was "widely known in 1990" that her draft bill was not a serious proposal, hence her charge in the complaint that the

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delegates who would vote on her candidacy at the upcoming convention, Ms. Taborsak maintains, the mailing was sent to advocate her defeat. As a result, the complaint asserts, the sender(s) violated the the Act's disclaimer requirement because the mailing omitted all identification of the sender(s).

Specifically, the complaint includes two affidavits charging that Sally Noonan on behalf of the United Taxpayers of Danbury (UT-D) procured lists of members from the different town committees and took credit for the mailings in a conversation with one affiant. Dr. Robert Fand is identified as head of UT-D and Ms. Taborsak alleges that Dr. Fand used the same legislative bill and lodged a similar attack on her during her 1990 State Assembly race. The complaint asserts that several hundred pieces were mailed, for a total cost of more than $100.

Robert Fand contends in his response (Attachment 2) that the communication contains no express advocacy of the election or defeat of a candidate and therefore violates no provision of the Act. Fand also explains that UT-D actually terminated in 1990 and provides a copy of the state termination report (Attachment 2, page 2). In telephone conversations initiated by Dr. Fand, he was evasive, resisting all inquiries about the source of the mailings, and continually insisting only that the mailings did not contain express advocacy. This Office also notified Louise Hunt as treasurer of UT-D, and her spouse Richard Hunt spoke with staff of this office by telephone and thereafter submitted a sworn two page

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(Footnote 2 continued from previous page)
mailing is "intentionally misleading and deceptive."

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letter (Attachment 3). According to Mr. Hunt, his wife had no connection at all with United Taxpayers of Danbury which had terminated in 1990. Louise Hunt was the current treasurer, however, of "United Taxpayers," another state committee Mr. Hunt started in 1991. In trying to explain the similarity in the two entities' names Mr. Hunt said that he had been invited to chair UT-D but declined. He also described having contacts with Dr. Fand, although he denied he or his wife had any knowledge of the mailings in this matter.

Ms. Noonan responded to the complaint (Attachment 4). She explains that she did in fact call to procure names and addresses as alleged in the complaint, and did so on behalf of Dr. Fand. She assumed the mailing was sponsored by UT-D and told one of the affiants so. She attempts to distance herself from the mailing, arguing that she did not send out the mailing, that she had most of the name and address lists sent directly to Dr. Fand's address rather than hers, and that she learned of the mailing's contents only after the fact. According to Noonan, after the initial publicity about the mailing, she phoned Dr. Fand to inquire about it and he reassured her, explaining "that what was sent was information only." In a follow-up telephone call, Ms. Noonan stated that she had not paid for the lists and thought no payment was required for the public information.

Notwithstanding Dr. Fand's evasiveness, it appears that he was responsible for the mailings, along with Ms. Noonan and possibly others. If the mailing expressly advocated the election or defeat of a federal candidate, the Act would require a

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disclaimer under section 441d.[3/]

"Express advocacy" was first defined by the Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject'." Buckley v. Valeo, 424 U.S. 1, 44, n. 52 (1976). In FEC v. Massachusetts Citizens for Life, 479 U.S. 238 (1986), the Court noted that express advocacy can be "less direct" than the examples listed in Buckley, so long as the "essential nature" of the massage goes "beyond issue discussion to express electoral advocacy." Id. at 249. Further, the United States Court of Appeals for the Ninth Circuit has determined that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir.), cert. denied, 484 U.S. 850 (1987). The Ninth Circuit rejected a narrower reliance on "magic words" because such a construction

> would preserve the First Amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act. "Independent" campaign spenders working on behalf of candidates could remain just beyond the reach of the Act by avoiding certain key words while conveying a message that is unmistakably directed to the election or defeat of a named candidate.

3/ Because of the apparently small expenditure amount at issue (see discussion infra), this Office makes no recommendation regarding 2 U.S.C. § 434(c) (independent expenditure reporting for amounts exceeding $250 per year).

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Id. at 863. The Furgatch court also explained that "words take part of their meaning and effect from the environment in which they are spoken," so that context must play at least an "ancillary" role, "peripheral to the words themselves." Id.

> A consideration of the context in which speech is uttered may clarify ideas that are not perfectly articulated, or supply necessary premises that are unexpressed but widely understood by readers or viewers. We should not ignore external factors that contribute to a complete understanding of speech, especially when they are factors that the audience must consider in evaluating the words before it.

Id. at 864. The Commission applied this test in Advisory Opinion 1992-23, finding that ads satirizing the voting record of an incumbent member of Congress who was a candidate and run in close proximity to the date of the election were express advocacy for purposes of the Act based on their content and timing.

It seems that Dr. Fand crafted the mailing carefully to avoid explicit electioneering statements: it contains no reference to an election and the only overt exhortation it contains is to "PLEASE READ THIS AMENDMENT...." In other respects though, the design of the mailing is more clear. Dr. Fand clearly identifies Ms. Taborsak, and provides damaging information, including the sarcastic naming of candidate Taborsak as "Tabortax." Although the mailing refers to two issues, references to masturbation by school pupils in a draft State Assembly bill and support of the recently enacted state income tax, these two disparate issues are used to target Ms. Taborsak. Indeed, according to the complainant, Dr. Fand used the same draft legislative bill to attack her during a previous state election

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race, and the slogan type use of "Tabortax" in connection with the tax issue makes clear the negative attack intended.

The import of part of this mailing might well have been ambiguous to a general audience. Crucially, though, it appears that Dr. Fand deliberately targeted the mailing to a quite specific audience: party officials including delegates to the district nominating convention to take place three months later. Thus, the recipients of this mailing, who as district delegates were to choose between Ms. Taborsak and her opponent at the upcoming convention, could only construe the anonymous communication as an attempt to sway their electoral choice. In this matter, the context provided by the deliberate targeting of the mailing "suppl[ies] necessary premises that are unexpressed but widely understood by" these particular readers. FEC v. Furgatch, 807 F.2d at 864. Thus, upon consideration of the context and content of the mailing, this Office concludes it is "susceptible of no other reasonable interpretation but as an exhortation to vote ... against" congressional candidate Lynn Taborsak. Id.

This Office therefore concludes that the mailing in this matter constitutes unambiguously election related advocacy that would require a disclaimer under section 441d. At this stage, it appears most likely that the mailing was financed personally by Dr. Fand. Therefore, this Office recommends the Commission find reason to believe Dr. Robert Fand violated 2 U.S.C. § 441d. Although the complaint named UT-D as possibly responsible, it appears that committee no longer exists. Further, Richard Hunt

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states that he and his spouse, who is treasurer of the separate committee United Taxpayers, had no connection to the mailing. Although questions remain about the connection between this committee and Dr. Fand, there is no evidence that any funds of United Taxpayers was expended for the mailing. Similarly, it appears that Sally Noonan also bore no costs for the mailing. This Office therefore also recommends that the Commission find no reason to believe United Taxpayers and Louise B. Hunt, as treasurer, or Sally Noonan violated 2 U.S.C. § 441d.

The mailing in this matter appears to have been modest in scope and of minimal expense.[4] Although Dr. Fand makes artful legal arguments which suggest a knowledge of treading close to the line, it also appears that his prior experience was limited to state election campaigns, and that this early 1992 activity was his first foray into federal campaign activity.[5] Furthermore, the mailing was condemned by Ms. Taborsak's primary opponent and by officials of the opposing political party, as well as in the

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4/ The complaint alleges that the mailing was sent to Democratic Town Committee members in eleven towns in the Fifth Congressional District. At this pre-investigative stage, this Office does not know how many such members there are in each town. Fourteen members of the Weston Democratic Town Committee signed a letter protesting the mailing (see Exhibit E to the complaint); if this number of members is representative of the other town committees, the total number of pieces would have come to approximately 150. The complaint asserts without additional explanation that "several hundred" were mailed, but even if as many as 300 pieces were involved, it appears that there was no cost associated with the lists that Sally Noonan procured for Dr. Fand (see supra, p. 5), and the complaint's own estimate of photocopying and postage costs yields a total cost of $105.

5/ According to the contributor index, Dr. Fand made no federal campaign contributions prior to the 1992 election cycle. In 1992, he made two such contributions, totaling $500.

press. Finally, notwithstanding Dr. Fand's attempt to hide the source of the mailings, the public record upon closing of this matter will make clear his responsibility. For all these reasons, this Office does not believe the disclaimer violation in this case need be pursued beyond the reason to believe stage. Instead, this Office will send a strong admonishment to Dr. Fand informing him that any further like activity on his part will be met with a severe sanction. Accordingly, the Office of the General Counsel recommends that the Commission take no further action against Dr. Fand and close the file in this matter.

93040934663

III. RECOMMENDATIONS

1. Find reason to believe Dr. Robert Fand violated 2 U.S.C. § 441d but take no further action.

2. Find no reason to believe the United Taxpayers and Louise B. Hunt, as treasurer, violated 2 U.S.C. § 441d.

3. Find no reason to believe Sally Noonan violated 2 U.S.C. § 441d.

4. Approve the appropriate letters.

5. Close the file.

Lawrence M. Noble
General Counsel

Date 2/19/93

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments
1. Copy of the mailing
2. Response of Robert Fand
3. Response of United Taxpayers
4. Response of Sally Noonan

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DONNA ROACH
COMMISSION SECRETARY

DATE: FEBRUARY 25, 1993

SUBJECT: MUR 3533 - FIRST GENERAL COUNSEL'S REPORT
DATED FEBRUARY 19, 1993.

The above-captioned document was circulated to the Commission on MONDAY, FEB. 22, 1993 at 11:00 A.M.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	XXX
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	XXX
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, MARCH 2, 1993.

Please notify us who will represent your Division before the Commission on this matter.

93040934664

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3533
Dr. Robert Fand; Sally Noonan;	)	
United Taxpayers of Danbury PAC and	)	
Louise B. Hunt, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 9, 1993, do hereby certify that the Commission took the following actions in MUR 3533:

1. Failed in a vote of 3-3 to pass a motion to find reason to believe Dr. Robert Fand violated 2 U.S.C. § 441d but take no further action.

   Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott, and Potter dissented.

2. Decided by a vote of 6-0 to

   a) Find no reason to believe the United Taxpayers and Louise B. Hunt, as treasurer, violated 2 U.S.C. § 441d.

   b) Find no reason to believe Sally Noonan violated 2 U.S.C. § 441d.

(continued)

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c) Close the file.

d) Direct the Office of General Counsel to send appropriate letters pursuant to the above-noted actions.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

3-9-93
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 22, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lynn Taborsak
196 Main Street
Danbury, Connecticut 06810

RE: MUR 3533

Dear Ms. Taborsak:

The Federal Election Commission has reviewed the allegations contained in your complaint dated May 20, 1992. On March 9, 1993, the Commission considered your complaint and found no reason to believe the United Taxpayers and Louise B. Hunt, as treasurer and Sally Noonan violated 2 U.S.C. § 441d. On the same date, the Commission was equally divided on whether to find reason to believe Dr. Robert Fand violated the Federal Election Campaign Act of 1971, as amended.

Accordingly, on March 9, 1993, the Commission closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Jonathan Bernstein, Assistant General Counsel at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report
Certification of Commission Vote

93040934667

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

March 22, 1993

Dr. Robert Fand
79 1/2 North Street
Danbury, Connecticut 06810

RE: MUR 3533
Dr. Robert Fand

Dear Dr. Fand:

On June 5, 1992, the Federal Election Commission notified you of a complaint alleging that you had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 9, 1993, the Commission considered the complaint but was equally divided on whether to find reason to believe you violated 2 U.S.C. § 441d. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please direct them to Jonathan Bernstein, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report
Certification of Commission Vote

9304093468

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 22, 1993

United Taxpayers
Louise B. Kunt, Treasurer
8 Homestead Avenue
Danbury, Connecticut 06810

RE: MUR 3533
United Taxpayers and
Louise B. Hunt, as treasurer

Dear Mrs. Hunt:

On June 5, 1992, the Federal Election Commission notified the United Taxpayers of Danbury PAC and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 9, 1993, the Commission found, on the basis of the information in the complaint, that there is no reason to believe the United Taxpayers and Louise B.Hunt, as treasurer violated 2 U.S.C. § 441d. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
GC Report

9304093469

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 22, 1993

Sally Noonan
1020 Dunklin Bridge Road
Fountain Inn, SC 29644

RE: MUR 3533
Sally Noonan

Dear Ms. Noonan:

On June 5, 1992, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On March 9, 1993, the Commission found, on the basis of the information in the complaint, that there is no reason to believe you violated 2 U.S.C. § 441d. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
GC Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3533

DATE FILMED 3/26/93 CAMERA NO. 3

CAMERAMAN E.E.B.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

✓ Microfilm

_____ Public Rcds

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THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3533.

5/19/93

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CLOSED

MAY 18, 1993

Lynn Taborsak
196 Main St.
Danbury, CT 06810

RE: MUR 3533

Dear Ms. Taborsak:

By letter dated March 22, 1993, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Dr. Robert Fand, Sally Noonan, and United Taxpayers of Danbury PAC and Louise Hunt, treasurer. Enclosed with that letter was the First General Counsel's Report submitted to the Commission by this Office, and the Certification of the Commission's vote in the matter.

Enclosed please find a Statement of Reasons from Commissioners Aikens, Elliot, and Potter explaining their vote. This document will be placed on the public record as part of the file of MUR 3533.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Richard M. Zanfardino
Staff Member

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

In the Matter of	)	
	)	
Dr. Robert Fand	)	MUR 3533
	)	

STATEMENT OF REASONS
Commissioners Aikens, Elliott & Potter

On March 9, 1993, the Commission considered the General Counsel's recommendation in this matter to find reason to believe that Dr. Robert Fand violated 2 U.S.C. § 441d of the Federal Election Campaign Act of 1971, as amended ("the Act"), but take no further action. This recommendation was based on the lack of a disclaimer on an anonymous mailing, allegedly sent in late March of 1992 to Democratic party officials in towns in Connecticut's Fifth Congressional District. Disclaimers are currently required on materials which "expressly advocate" the election or defeat of a clearly identified federal candidate. We did not think the subject mailing met the applicable definitions of "expressly advocating the election or defeat" of a federal candidate, and therefore voted against the Office of General Counsel's recommendation to find a violation of the Act for failure to display a disclaimer.

Buckley v. Valeo, 424 U.S. 1 (1976) ("Buckley") made it very clear that in order to uphold the Act's constitutionality the Act could only be read to grant the Commission regulatory authority over "funds used for communications that expressly advocate the election or defeat of a clearly identified candidate." Id. at 80. The Court indicated this was necessary to avoid reaching constitutionally protected issue advocacy. Thus, the Court enumerated terms that indicated express advocacy, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," and "reject." See Id. at 44. In FEC v. Massachusetts for Life, Inc., 479 U.S. 238 (1986) ("MCFL") the Court found express advocacy in a published newsletter urging readers to "vote pro-life" and denoting with a "y" or an "n" listed candidates which respectively supported or opposed the MCFL position, while also featuring 13 photographs of candidates who favored MCFL views.

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The Ninth Circuit Court of Appeals took yet another course in establishing a standard for express advocacy when it ruled in FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987) ("Furgatch") that express advocacy did not require key phrases such as outlined by the Court in Buckley, but rather should be determined through a three-pronged test. That test required an express advocacy communication to be (1) "unmistakable and unambiguous, suggestive of only one plausible meaning"; (2) a clear plea for action; and (3) "clear what action is advocated." Furgatch at 864. While the Furgatch court indicated that context might play at least an "ancillary" role in determining express advocacy, the court also cautioned that "context cannot supply a meaning that is incompatible with, or simply unrelated to, the clear import of the words." Id. at 863 - 864. This "context" consideration played a key role in the Commission's determination in Advisory Opinion 1992-23 in which advertisements using a candidate's name, that were run in close proximity to an election, and sometimes contained specific reference to the date of the election, constituted express advocacy.

None of the cases above provide a standard by which we could find express advocacy in the present set of circumstances. According to the submitted complaint here, the mailing consisted of two pages taken from proposed statutory language assertedly introduced in the Connecticut General Assembly by State Representative Taborsak. These pages bore the typewritten superscript reading: "PLEASE READ THIS AMENDMENT SUBMITTED BY REP. TABORSAK REQUIRING THE TEACHING OF MASTURBATION TO SCHOOL CHILDREN. THIS IS A COPY OF PERTININENT [sic] PARTS OF THE PROPOSED BILL. SEE SECTION (C) 3 ON THE REVERSE." From the bill's pagination it appears that part of the bill's text is omitted. Certain parts of the text are underlined, apparently for emphasis. Another insert in the mailing lists the names and telephone numbers of four state legislators, including Ms. Taborsak's name which is also denoted by an asterisk and underscored. That insert has the following title: "The legislators on this list voted for a state income tax." The asterisk is apparently explained by the following typewritten comment: "*TABORTAX VOTED FOR THE CT. STATE INCOME TAX".

That is all the mailing said. On its face the mailing in this matter lacks any of the Buckley enumerated "express advocacy terms" or "magic words," and thus is impossible to label as containing express advocacy under that case's standard. Even in MCFL the communication at issue contained the exhortation "VOTE PRO-LIFE." Unlike the communication in MCFL, there is no comparison to an opposing candidate, and no

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reference to any particular election date, or office. Furthermore, there is no positive or preferential portrayal of candidates' who oppose Lynn Taborsak's position, as was the case in the MCFL communication. Regardless of any candidate connection to a specific issue, the Court in Buckley made it clear that, all else being equal, even when candidates are intimately tied to public issues, issue advocacy must be protected. See Buckley at 43. See also FEC v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45, 52-53 (1980) ("CLITRIM") (bulletin characterizing officeholders as either being "for" or "against" government spending did not constitute "express advocacy" under the FECA). Finally, the communication at hand fails to satisfy any of the three Furgatch prongs for finding express advocacy, even if context is considered. Most glaringly, there is no "clear plea for action," or indeed any mention of any action.

The facts in this matter are very different from those encountered in AO 1992-23. Those communications occurred within the month of the candidate's primary election and involved the non-legislative personal conduct of an incumbent congressman, rather than addressing substantive issues. The conduct of the incumbent was by its very nature specific to a clearly identified candidate and also a hotly contested campaign issue. Yet, in AO 1992-23 the timing was more central to the Commission's decision, as was the fact that some of the advertisements referenced the actual primary election date by the designation "Doomsday 5-26-92." As Commission-approved Advisory Opinion 1992-23 pointed out, "the content and timing of these advertisements lead us to determine that they expressly advocate the election or defeat of a Federal candidate." No such conclusion could be inevitably reached based on the content and timing involved in the communication in MUR 3533.

Under controlling United States Supreme Court precedent, we are prohibited from regulating speech that does not "expressly advocate the election or defeat of a clearly identified candidate." The Court indicated that this narrow standard was required to protect robust free speech and constitutionally protected issue advocacy from chilling government regulation. We do not dispute that the communications at issue would be considered by an average reader to be "critical" of State Representative Taborsak's alleged legislative initiatives and votes, but that is not the legal standard which must be met here. The speech here may have been intended to influence a federal election (as our colleagues believe), or may not have been (the record contains little definitive information), but that is not the relevant legal standard either, after Buckley. We can only judge the communication at hand by the tests created by the Courts in the cases noted above, and as we have explained, the communication does not meet that standard for

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"expressly advocating the election or defeat" of a federal candidate. This may not be the practical outcome that some would like, but we believe it is the only one allowed us by the law, as interpreted by the Courts.

Joan D. Aikens
Commissioner

Lee Ann Elliott
Commissioner

Trevor Potter
Vice Chairman

May 11, 1992

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