FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 386

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Daniel C. Mooney
Suite 203
99 Jericho Turnpike
Jericho, NY 11753

Re: MUR 386

Dear Mr. Mooney:

This is to inform you that the Commission has closed its investigative file on MUR 386 which was opened as a result of the notarized complaint which you filed with the Commission on March 31, 1977.

After completion of an investigation conducted in this matter, and after failure of the parties to reach a conciliation agreement, the Commission filed a civil enforcement action in the United States District Court for the Eastern District of New York. See 2 U.S.C. § 437g(a)(6)(A). However, when constitutional defenses were raised by defendant National TRIM and by John W. Robbins, Director of National TRIM, as an intervenor, the district court certified constitutional questions to the United States Court of Appeals for the Second Circuit. See 2 U.S.C. § 437h.

On February 5, 1980, the United States Court of Appeals for the Second Circuit (en banc) issued its opinion in Federal Election Commission v. CLITRIM. See attached opinion. The court ruled that the CLITRIM bulletin was not "express advocacy" within the meaning of FECA and remanded the case to the district court "with directions to dismiss the complaint." Since the court decided the case on statutory construction grounds, it did not reach the constitutional questions which had been certified.

On February 20, 1980, the Commission determined not to appeal this decision of the Second Circuit to the Supreme Court. See Certification enclosed. Therefore, the Commission's file

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on this matter is now closed and will be put on the public record. If you have any further questions on this matter, please contact Miriam Aguiar (202) 523-4060, the attorney assigned to this case.

Sincerely,

Charles N. Steele
General Counsel

Enclosures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)
	)
FEDERAL ELECTION COMMISSION	)
	)
v.	)
	)
CLITRIM	)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on February 20, 1980, do hereby certify that the Commission decided by a vote of 6-0 not to appeal the decision of the United States Court of Appeals for the Second Circuit in the matter of Federal Election Commission v. Central Long Island Tax Reform Immediately Committee to the Supreme Court.

Attest:

2/21/80
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

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UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

No. 796 September Term 1979

Submitted: November 2, 1979 Decided: February 5, 1980

Docket No. 79-3014

U.S. COURT OF APPEALS
FILED
FEB 05 1980
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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FEDERAL ELECTION COMMISSION,

Plaintiff,

-against-

CENTRAL LONG ISLAND TAX REFORM IMMEDIATELY COMMITTEE, EDWARD COZZETTE and TAX REFORM IMMEDIATELY,

Defendants and Defendant-Counterclaimant,

-and-

JOHN W. ROBBINS,

Intervenor.

- - - - - - - - - - - - - - - - - - -x

Before KAUFMAN, Chief Judge, FEINBERG, MANSFIELD, MULLIGAN, OAKES, TIMBERS, VAN GRAAFEILAND, MESKILL, NEWMAN, and KEARSE, Circuit Judges.

The District Court for the Eastern District of New York, George C. Pratt, Judge, certified to this Court pursuant to the Federal Election Campaign Act, 2 U.S.C. §§431, et seq., for expedited en banc review, 2 U.S.C. §437h(a), certain constitutional questions that had been raised by way of defenses and counterclaims in a civil action by the Federal Election Commission to enforce compliance with filing and disclaimer provisions of the Act, 2 U.S.C. §§434(e), 441d. The challenged provisions are found to be inapplicable to defendants' activities, so that no case or

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controversy is presented for adjudication within the meaning of Article III of the Constitution.

Remanded to the district court with directions to dismiss the complaint.

WILLIAM C. OLDAKER, General Counsel, Federal Election Commission, Washington, DC (Charles N. Steele, Associate General Counsel, Kathleen Imig Perkins, Assistant General Counsel, Miriam Aquiar, Attorney, of counsel, Jeff Bowman, on the brief, Federal Election Commission, Washington, DC), for Plaintiff, Federal Election Commission.

JOEL M. GORA, Esq., American Civil Liberties Union, New York, NY (Charles S. Sims, Esq., American Civil Liberties Union, New York, NY, Arthur Eisenberg, Esq., New York Civil Liberties Union, New York, NY, of counsel), for Defendants Central Long Island Tax Reform Immediately Committee and Edward Cozzette.

JULIUS B. POPPINGA, Esq., Newark, NJ (Mary L. Parell, Esq., John R. Drosdick, Esq., McCarter & English, Newark, NJ, Ellis, Stringfellow, Patton & Leibovitz, New York, NY, of counsel), for Defendant Tax Reform Immediately, and Intervenor John W. Robbins.

STANLEY T. KALECZYC, Esq., National Chamber Litigation Center, Inc., Washington, DC (Judith K. Richmond, Esq., H. Richard Mayberry, Esq., Chamber of Commerce of the United States, Washington, DC, of counsel), for Amicus Curiae Chamber of Commerce of the United States.

PER CURIAM:

In this civil enforcement action in the Eastern District of New York brought by the Federal Election Commission (FEC) pursuant to the Federal Election Campaign Act (FECA), 2 U.S.C. §§431, et seq., based on alleged violations of certain of the Act's reporting, disclosure and identification requirements, 2 U.S.C. §§434(e), 441d,[1/] Judge George C. Pratt invoked the Act's extraordinary

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provision for expedited en banc review of constitutional questions, 2 U.S.C. §437h(a),[2/] by certifying to us certain constitutional issues that had been raised by way of defenses and counterclaims. Adopting the procedure used in Buckley v. Valeo, 519 F.2d 817 (D.C. Cir. 1975), affd. in part, revd. in part, 424 U.S. 1 (1976), we remanded the case to the district court for amplification of the record through findings of fact after an evidentiary hearing, to be followed by certification of the record and questions to us. Having now reviewed the entire record, we remand the case to the district court with directions to dismiss the complaint for the reason that the challenged provisions of FECA are inapplicable to defendants' activities and therefore no justiciable case or controversy is presented within the meaning of Article III of the Constitution.

On August 1, 1978, FEC, pursuant to 2 U.S.C. §§437d (a)(6)[3/] and 437g(a)(5),[4/] filed a civil complaint in the Eastern District of New York charging that the now-defunct Central Long Island Tax Reform Immediately Committee (CLITRIM), its Chairman, Edward Cozzette, and the National Tax Reform Immediately organization (National TRIM), an unincorporated association, had in October, 1976, published a pamphlet costing over $100 and "expressly advocating the election or defeat of a clearly identified candidate" without complying with the filing requirements of 2 U.S.C. §434(e) and the disclaimer requirements of 2 U.S.C. §441d. The FEC sought civil penalties and injunctive relief.[5/]

National TRIM filed an answer denying the FEC's claims and counterclaimed for a declaratory judgment pursuant to 28 U.S.C. §2201 to the effect that the FECA and regulations thereunder were unconstitutional on their face and as applied.

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CLITRIM and Cozzette, in lieu of answers, filed a motion to dismiss the complaint or for summary judgment. John W. Robbins, Director of National TRIM and a person entitled to vote in presidential elections, filed a motion for leave to intervene pursuant to Fed. R. Civ. P. 24 and 2 U.S.C. §437h(a) in order to seek the same declaratory relief sought by National TRIM.

By Memorandum Opinion and Order filed January 25, 1979, Judge Pratt, finding that questions as to the constitutionality of the FECA had been raised, (1) stayed further proceedings in the district court, and (2) certified to us the constitutional issues pursuant to 2 U.S.C. §437h(a), see note 2, supra. Robbins' motion to intervene was referred to us because the only claims asserted by him were challenges to the constitutionality of the FECA. The defendants' motion to dismiss or for summary judgment was adjourned pending our action on the constitutional questions. In response to the defendants' motion for reconsideration of the certification order, Judge Pratt, by order dated March 15, 1979, adhered to his original certification order, holding that a justiciable controversy within the meaning of Article III of the Constitution had been presented and that 2 U.S.C. §437h(a) mandated immediate certification of all constitutional questions to this Court for resolution before any further steps could be taken by the district court in the matter, even though we might then decide to remand the case for development of a factual record, as done in Buckley v. Valeo, supra.

On March 22, 1979, CLITRIM and Cozzette moved before us to remand the case to the district court on the grounds that in an enforcement proceeding under §437g, as distinguished from a suit for declaratory relief under §437h,

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constitutional and other defenses should first be decided by the district court; thus the district court had erred in not first deciding questions of statutory interpretation and jurisdiction that might render unnecessary a constitutional adjudication under §437h. FEC took the position that §437h applied, even though the constitutional issues had been raised by a counterclaim for declaratory judgment rather than by institution of a suit for declaratory relief. We agreed with the FEC.

By order dated April 23, 1979, and amended May 2, 1979, we granted leave to Robbins to intervene as a counterclaiming defendant, noted that we appeared to have jurisdiction under 2 U.S.C. §437h as the record then stood, and remanded the case to the district court to take evidence, make factual findings, and certify to us the record and the constitutional questions for resolution. We thus followed the procedure adopted by the D.C. Circuit in Buckley v. Valeo, supra, 519 F.2d at 818, and advocated by the Seventh Circuit in its recent decision in Bread Political Action Committee v. Federal Election Commission, 591 F.2d 29, 36 (7th Cir. 1979).

After extensive evidentiary hearings Judge Pratt, on August 22, 1979, certified to us a substantial record in the case, including transcripts of testimony, exhibits, and some 83 pages of procedural history, constitutional and statutory questions, and findings of fact. The district court adhered to the view that because of its certification of certain constitutional issues pursuant to 2 U.S.C. §437h(a) the action was no longer pending before it but was a circuit court case which had been remanded solely for the specific purposes set forth in our order of April 23, 1979, as amended.

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Hence it did not rule upon the defendants' motions to dismiss or for summary judgment. However, in order to avoid a further remand for rehearing, it thoughtfully provided us with its views on pertinent issues of statutory interpretation, concluding that if it had jurisdiction it would hold that the FEC enforcement action was dismissible on the ground that the Fall, 1976, CLITRIM Bulletin which was the subject of the action did not "expressly advocate" the election or defeat of a candidate within the meaning of 2 U.S.C. §§434(e) and 441d.

The facts, briefly summarized, are as follows. The John Birch Society, Inc. (Society), a Massachusetts corporation founded in 1958 by Robert Welch, publishes the TRIM (Tax Reform Immediately) Bulletin, a quarterly in which the Society is identified as the publisher. The Society, which is not affiliated with any political party, committee or candidate, primarily serves the educational interests of its followers and not any pecuniary business interest. It is supported by membership dues and voluntary contributions. National TRIM is a committee established by the Society, consisting of a network of local TRIM committees throughout the United States, advocating lower taxes and less government spending. The local TRIM committees are expected to send to TRIM a monthly report on their activities and income, as well as one-half of all dues and donations received.

Since 1975 National TRIM has researched, written and mailed to the local TRIM committees "camera-ready" copy of the quarterly TRIM Bulletin, with instructions for printing. The copy sets forth (1) positions with respect to certain economic and tax issues, (2) the voting records of all members of Congress on specific legislation concerning

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these issues, along with a characterization of votes as "For Lower Taxes and Less Government" or "For Higher Taxes and More Government," and (3) a commentary reflecting National TRIM's views as to the merits of the bills identified. No mention is made of any particular federal election, the political affiliation of any congressman, the fact that he is or is not a candidate for elective office, or the name or views of any electoral opponent of any congressman. The instructions suggest to the local TRIM committees that they use a photograph of their congressman, since this permits voters to connect him or her with his or her voting record and aids in "unseating a liberal," "unseating or changing the voting pattern of a 'moderate,'" or "strengthening a conservative" representative.

Armed with this material, numerous local TRIM committees, including CLITRIM, have published and distributed the TRIM Bulletin, tailored to set forth the voting records and characterizations of the votes of their respective local congressmen. Approximately 460,600 Fall, 1976, TRIM Bulletins were published.

In the summer of 1976 defendant Cozzette, a resident of Huntington Station, Long Island, who has been active with others in advancing views on economic and social issues, formed CLITRIM, a non-profit unincorporated association whose purpose was to inform Long Island residents of the need for lowering taxes through less government. It became affiliated with National TRIM, held meetings at which there were discussions and films shown with respect to the danger of higher taxes, and decided to distribute the TRIM Bulletin.

Using the material received from TRIM, CLITRIM prepared a Fall, 1976, TRIM Bulletin. Two of its four pages

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set forth the general views of the organization,[6/] identified the officers of the Committee, furnished information about the CLITRIM members and invited others to join. The remaining pages reported the voting record of Congressman Jerome A. Ambro, a local representative of central Long Island. These pages included a photograph of Congressman Ambro and a chart of 24 votes cast by him, 21 of which were characterized as for "Higher Taxes and More Government" and 3 as for "Lower Taxes and Less Government." CLITRIM's stand against higher taxes and "Big Government" and in favor of lower taxes and "Less Government" was made clear by slogans and commentaries. However, the leaflet did not refer to any federal election, to Congressman Ambro's political affiliation or candidacy, or to any electoral opponent of the Congressman. Some 5,000 to 10,000 copies were handed out at the local railroad station, shopping centers and a public meeting at which Congressman Ambro spoke. The cost of printing was $135. Thereafter leafleting activity ceased and CLITRIM was disbanded. However, several other local TRIM committees have been formed in various parts of the United States and have engaged in similar publicizing of congressmen's votes on economic and tax issues.

The FEC, acting upon verified complaints, has investigated the activities of some of these local committees and instituted at least one other enforcement proceeding, Civil Action No. 78-2025, in the District of New Jersey, filed August 22, 1978.

Following Judge Pratt's certification, the parties briefed for us the pertinent statutory and constitutional issues, the last reply brief being submitted in November, 1979.

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DISCUSSION

The threshold question is whether 2 U.S.C. §437h(a), see note 2, supra, obligates us to resolve the constitutional issues certified to us when the case may, upon the factual record now developed, be dismissed on the ground that the statutes whose constitutionality have been challenged by way of defenses and counterclaims do not apply to the activities against which they have been invoked.

Although the unusual en banc jurisdiction vested in us by §437h(a) is limited to "questions of "constitutionality," we do not believe it is so constricted as to preclude our first construing the statutes under constitutional attack to determine whether they apply to the defendants' conduct, as we would normally do, United States v. Harriss, 347 U.S. 612, 617-19 (1954). Cf. Hagans v. Lavine, 415 U.S. 528, 543-45 (1974). For if they do not, the constitutional counterclaims would not present a "case" or "controversy" ripe for adjudication within the meaning of Art. III, Sec. 2, of the Constitution, a constitutional prerequisite to exercise of jurisdiction by federal courts, Aetna Life Ins. Co. v. Haworth, 300 U.S. 227, 240-41 (1937), and it would be necessary to dismiss the claim. Congress is powerless to vest federal courts with jurisdiction beyond the limits fixed by the Constitution. While the jurisdictional provision of §437h was intended to provide judicial review to the extent permitted by Article III, Buckley v. Valeo, 424 U.S. 1, 11-12 (1976), it may not go beyond those limits. For this reason the District of Columbia Circuit, sitting en banc pursuant to §437h in Clark v. Valeo, 559 F.2d 642 (D.C. Cir.), affd., 431 U.S. 950 (1977), returned certified constitutional questions unanswered to the district court with directions to dismiss the action for declaratory and injunctive relief as unripe.

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Moreover, the basic principle that a federal court should "not anticipate a question of constitutional law in advance of the necessity of deciding it," Ashwander v. TVA, 297 U.S. 288, 346 (1936) (Brandeis, J., concurring), quoting from Liverpool, N.Y.&P.S.S. Co. v. Emigration Commissioners, 113 U.S. 33, 39 (1885), has been strictly followed where, as in the present case, difficult or far-reaching constitutional issues are raised. See, e.g., New York Transit Authority v. Beazer, 440 U.S. 568, 582 (1979); Ulster County Court v. Allen, ___ U.S. ___, 47 U.S.L.W. 4618, 4622 (June 4, 1979). If a court can decide a case on non-constitutional grounds, it should not stray into the field of constitutional analysis.

Applying these principles here we have no difficulty, now that we have a full record, in concluding that 2 U.S.C. §§434(e) and 441d do not apply to defendants' conduct. Nor is there any indication that the defendants threaten to engage in any conduct to which these statutes might apply. 7/

Title 2 U.S.C. §434(e) obligates any "person ... who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate" (emphasis supplied) in an amount exceeding $100 in any calendar year, to file with the FEC a statement containing the information required of contributors of more than $100 to a candidate or political committee. Similarly, 2 U.S.C. §441d requires any person who "makes an expenditure for the purpose of financing communication expressly advocating the election of a clearly identified candidate" (emphasis supplied) through media, advertising or mailing, to state whether the communication is authorized by a candidate, his political committees or agents and, if not, to give the name of the person who financed it.

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The language quoted from the statutes was incorporated by Congress in the 1976 FECA amendments, Pub. L. 94-283, title I, 90 Stat. 481, to conform the statute to the Supreme Court's holding in Buckley v. Valeo, supra, 424 U.S. at 78-80, that speech not by a candidate or political committee could be regulated only to the extent that the communications "expressly advocate the election or defeat of a clearly identified candidate."[8/] Prior to these amendments, the provision had applied to expenditures made "for the purpose of ... influencing" the election of candidates to federal office. Referring to 18 U.S.C. §608(e), which had limited the independent political expenditures that any person could make relative to a single candidate and to 2 U.S.C. §434(e), which required disclosure of such expenditures, the Court stated:

> "We agree that in order to preserve the provision against invalidation on vagueness grounds, §608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.[52]
>
> 52. This construction would restrict the application of §608(e)(1) to 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.'" 424 U.S. at 44.
>
> "To ensure that the reach of §434(e) is not impermissibly broad, we construe 'expenditure' for purposes of that section in the same way that we construed the terms of §608(e) - to reach only funds used for communications that expressly advocate[108] the election or defeat

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> of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular federal candidate.
>
> 108. See n.52, supra." 424 U.S. at 80.

The Supreme Court made note of the broad protection to be given political expression, including discussion of candidates, and added, quoting the lower court opinion:

> "Public discussion of public issues which are also campaign issues readily and often unavoidably draws in candidates and their positions, their voting records and other official conduct. Discussion of those issues, and as well more positive efforts to influence public opinion on them, tend naturally and inexorably to exert some influence on voting at elections." 424 U.S. at 42 n.50.

See also United States v. National Committee for Impeachment, 469 F.2d 1135, 1142 (2d Cir. 1972); Federal Election Commission v. AFSCME, 471 F. Supp. 315, 317 (D.D.C. 1979). Public discussion of this type was held to fall beyond the scope of the statute: "As narrowed, §434(e) ... does not reach all partisan discussion for it only requires disclosure of those expenditures that expressly advocate a particular election result." 424 U.S. at 80. This is consistent with the firmly established principle that the right to speak out at election time is one of the most zealously protected under the Constitution. Monitor Patriot Co. v. Roy, 401 U.S. 265, 271-72 (1971); Mills v. Alabama, 384 U.S. 214, 218-19 (1966).

The history of §§434(e) and 441d thus clearly establish that, contrary to the position of the FEC, the

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words "expressly advocating" mean exactly what they say. The FEC, to support its position, argues that "[t]he TRIM bulletins at issue here were not disseminated for such a limited purpose" as merely informing the public about the voting record of a government official. FEC Reply Brief at 4 (emphasis supplied). Rather, the purpose was to unseat "big spenders." Thus, the FEC would apparently have us read "expressly advocating the election or defeat" to mean for the purpose, express or implied, of encouraging election or defeat. This would, by statutory interpretation, nullify the change in the statute ordered in Buckley v. Valeo and adopted by Congress in the 1976 amendments. The position is totally meritless.

The CLITRIM Bulletin of Fall, 1976, contains nothing which could rationally be termed express advocacy. The nearest it comes to expressly calling for action of any sort is its exhortation that "[i]f your Representative consistently votes for measures that increase taxes, let him know how you feel. And thank him when he votes for lower taxes and less government." Neither this nor the voting chart calls for anyone's election or defeat. Indeed, a reader of the pamphlet could not find any indication, express or implied, of how TRIM would have him or her vote, without knowing the positions of the incumbent's opponent. There is no reference anywhere in the Bulletin to the congressman's party, to whether he is running for re-election, to the existence of an election or the act of voting in any election; nor is there anything approaching an unambiguous statement in favor of or against the election of Congressman Ambro.

We therefore conclude that 2 U.S.C. §§434(e) and

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441d do not apply to the pamphlet in question or to any of the similar activities in which the defendants, intervenor, and amici curiae have engaged or indicate that they will engage. We therefore remand the case to the district court with directions to dismiss the complaint.

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F O O T N O T E S

1. Title 2 U.S.C. §434(e) provides, in pertinent part:

> "(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution."

Title 2 U.S.C. §441d provides:

> "Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication--
>
> (1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or
>
> (2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with

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regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 433(b)(2) of this title."

2. Title 2 U.S.C. §437h(a) provides:

"The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President of the United States may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc."

3. Title 2 U.S.C. §437d(a)(6) provides:

"(a) The Commission has the power--

* * * * *

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 437g(a)(9) of this title), or appeal any civil action in the name of the Commission for the purpose of enforcing

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the provisions of this Act and chapter 95 and chapter 96 of Title 26, through its general counsel."

4. Title 2 U.S.C. §437g(a)(5) provides, in pertinent part:

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of Title 26, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved....

* * * * *

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business."

5. The demand for civil penalties was later dropped pursuant to a stipulation filed May 15, 1979.

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6. The front and back pages contained the following statement:

"PUT BIG GOVERNMENT ON A DIET!

"Your Uncle Sam is a tax glutton. He's never satisfied with little tax snacks. He wants a banquet -- and always at the expense of taxpayers and consumers. To see what his gluttony is doing to you, take a good look at your check stub the next time you get paid. You'll see that Uncle Sam and his cousins -- state and local governments -- have already gobbled up one-fourth of your earnings.

"But that's only the beginning. Uncle Sam and his cousins are still hungry. They now eat further into your income with hundreds of direct taxes, including those on real estate, automobiles, gasoline, entertainment, food, and clothing. By the time they've finished this meal, they've consumed one-third or more of your earnings.

"Yet Uncle Sam is still not satisfied. But he has a problem. If he keeps eating at the taxpayers' pockets openly, they may revolt. So he turns to hiding his excesses. After directly taxing so many of your hard-earned dollars, Uncle Sam now resorts to hidden taxes -- business regulations, business taxes, and inflation.

"Most persons would never think of these as hidden taxes, but they all eat into your cash just as if you had been taxed directly.

"Here's how these hidden taxes affect your pay: When businesses are hit with regulations or taxes, their costs increase. The businesses have no choice -- they must increase prices to pay the higher costs. When the consumer buys a product or service, the hidden taxes are already included in the price.

"Only naive or dishonest men advocate

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shifting the tax burden to businesses in order to reduce individual taxes, because when businesses are taxed, consumers will always pay.

"Inflation is a hidden tax increase which is caused by the federal government. When Congress votes to spend money that isn't there, a deficit exists. This eventually causes an increase in the money supply which pushes up demand for goods and services and causes prices to rise. What happens, in effect, is that the consumer pays higher prices as a direct result of federal deficits.

"Remember this: You will pay one way or another for every government program -- either through direct taxes that you can see, or through hidden taxes that you cannot.

"Nearly half of your earnings are now taken either by direct or hidden taxes. And economists estimate that if taxes continue to rise at present rates, you will see Uncle Sam and his cousins take 54¢ of every hard-earned dollar by 1985. This is not a wild estimate. Taxpayers in many socialist countries already pay 60 percent or more of their incomes to the government.

"The problem is obvious: Uncle Sam has become too fat, too bossy, and too wasteful to be allowed to continue in his tax gluttony. The answer: Put Big Government on a diet; TRIM away the bureaucratic blubber, and reduce the heavy load of taxation.

"Every taxpayer should become an Uncle Sam 'Tax Weightwatcher.' Keep an eye on how your Representative votes on measures which increase your total taxes -- both direct and hidden -- by using our quarterly TRIM Bulletin. If your Representative consistently votes for measures that increase taxes, let him know how you feel. And thank him when he votes for lower taxes and less

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government.

"As you study your Representative's voting record on the inside, remember that the cost per household shown for each measure is paid by you either directly, or through hidden taxes.

"Keep in mind that we only had space for twenty-five measures, so we picked what we felt were the most important and timely of the more than 1,000 votes cast since the current session of Congress began.

"Lastly, never forget that since you are paying the tax bills, you are the boss. And don't ever let your Representative forget it!"

7. Defendant National TRIM and Intervenor, John W. Robbins, seek to challenge the facial constitutionality of §§434(e) and 441d, going beyond the claim that those sections are inapplicable to the Fall, 1976, Bulletin. Standing to raise the constitutional claims is alleged on the basis of their desire to publish "documents such as the TRIM Bulletin" and the chilling effect of the statute on their ability to do so. In view of the grounds on which standing is asserted and our conclusion that the challenged portions of FECA do not apply to documents of the type they wish to publish, we find no case or controversy within the meaning of Article III of the Constitution which would call for us to pass on the facial constitutionality of those sections of the statute.

8. While the holding in Buckley did not involve §441d, which was enacted later, the requirement of express advocacy in that section was incorporated in response to Buckley at the same time as §434(e) was amended to add that requirement.

FPI—Sandstone
11-29-74—100M—621

Federal Election Commission v.
Central Long Island Tax Reform
Immediately Committee, et al.
79-3014

UNITED STATES COURT OF APPEALS
FILED
FEB 05 1980
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

KAUFMAN, Chief Judge, (with whom Judge Oakes joins), concurring:

I concur fully in the opinion of the court, including its refusal to adjudicate constitutional issues unnecessary to its holding. Nevertheless, the insensitivity to First Amendment values displayed by the Federal Election Commission (FEC) in proceeding against these defendants compels me to add a few words about what I perceive to be the disturbing legacy of the Federal Election Campaign Act (FECA), 2 U.S.C. §§ 431, et seq.

The defendants in this case undertook to spend the modest sum of $135 for the purpose of preparing and circulating to their fellow citizens a pamphlet addressed to the issue of tax reform, specifically advocating their belief in the necessity of significant reductions in current taxation levels. Further, the pamphlet assessed the legislative record of their congressman on issues implicating taxation and government spending. It is this conduct that the FEC seeks to "enjoin" because the defendants chose not to register their activity with the federal government, 2 U.S.C. §434(e), or to include in their publication specific information required by the government, id. §441d.

I confess that I find this episode somewhat perverse. It is disturbing because citizens of this nation should not be required to account to this court for engaging in debate of political issues. Indeed, since the days of the infamous Stamp Act, vigorous denunciation of "oppressive" rates of taxation has enjoyed a long and notable history. Moreover, it is incongruous to compel defendants to convince a court that they have not dared to "expressly advocate" the defeat of a candidate for public office. I had always believed that such advocacy was to be applauded in a representative democracy.

This case has served to reinforce my view that we "must remain profoundly skeptical of government claims that state action affecting expression can survive constitutional objections." Thomas v. Board of Education, No. 79-7382, slip op. at 91 (2d Cir. Oct. 15, 1979). From this perspective, I continue to believe that campaign "reform" legislation of the sort before us is of doubtful constitutionality. Indeed, before Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court had emphasized that freedom to criticize public officials and oppose or support their continuation in office constitutes the "central meaning" of the First Amendment. See New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964); Mills v. Alabama, 384 U.S. 214, 218 (1966). The First Amendment presupposes that free expression, without government regulation, is the best method of fostering an informed electorate. Moreover, "if there be any danger that the people cannot evaluate the information and arguments advanced, . . . it is a danger contemplated by the Framers." First National Bank v. Bellotti, 435 U.S. 765, 792 (1978). Thus, courts have consistently struck down not only government attempts to restrain or punish expression, but also government regulation of speech designed to make information available to the public. See, e.g., Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974); Talley v. California, 362 U.S. 60, 64 (1960).

There are sound justifications for this view. Officials can misuse even the most benign regulation of political expression to harass those who oppose them. Thus, in libel cases, the Court has recognized that, although false speech is not per se protected by the First Amendment, the potential for abuse of defamation suits by government officials necessitates that much false expression be immune from punishment. See New York Times Co. v. Sullivan, supra. Similarly, under the FECA, any office-

holder can file a complaint with the FEC alleging that the Act's requirements have not been met. See 2 U.S.C. §437g. The Commission can then seek to enjoin further violations or to impose civil penalties for the greater of $5000 or the amount of the contested expenditure. Id.

If speakers are not granted wide latitude to disseminate information without government interference, they will "steer far wider of the unlawful zone," Speiser v. Randall, 357 U.S. 513, 526 (1958), thereby depriving citizens of valuable opinions and information. This danger is especially acute when an official agency of government has been created to scrutinize the content of political expression, for such bureaucracies feed upon speech and almost ineluctably come to view unrestrained expression as a potential "evil" to be tamed, muzzled or sterilized. United States v. National Committee for Impeachment, 469 F.2d 1135, 1142 (2d Cir.1972). Accordingly, it is not completely surprising that the FEC should view the content of defendants' leaflet in a substantially different light than the members of this court.

The possible inevitability of this institutional tendency, however, renders this abuse of power no less disturbing to those who cherish the First Amendment and the unfettered political process it guarantees. Buckley v. Valeo, supra, imposed upon the FEC the weighty, if not impossible, obligation to exercise its powers in a manner harmonious with a system of free expression. Our decision today should stand as an admonition to the Commission that, at least in this case, it has failed abysmally to meet this awesome responsibility.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 386
Central Long Island TRIM)
Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on February 23, 1978, at an Executive Session of the Federal Election Commission at which a quorum was present, the Commission determined by a vote of 5-1 to take the following actions as recommended by the General Counsel in the above-captioned matter:

1. Find probable cause to believe that CLITRIM has violated Sections 434(e) and 441d of the Federal Election Campaign Act.

2. Authorize a civil action pursuant to 2 U.S.C. Section 437g(a)(5)(B).

Voting for this determination were Commissioners Harris, Springer Staebler, Thomson, and Tiernan. Commissioner Aikens voted against the determination.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

DATED: February 24, 1978

February 17, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 386 Team #2 Convery

Please have the attached General Counsel's Report on MUR 386 distributed to the Commission and placed on the compliance agenda for the commission meeting of February 23, 1978.

Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION
February 17, 1978

In the Matter of	)	
	)	
Central Long Island TRIM Committee	)	MUR 386
	)	

GENERAL COUNSEL'S REPORT

On October 19, 1977, the Commission found reasonable cause to believe that the Central Long Island TRIM (Tax Reform Immediately) Committee violated Sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended. The facts supporting those findings were set forth in our October 12, 1977, General Counsel's Report.

By letter dated October 26, 1977, Edward Cozzette, CLITRIM's Chairman, was informed of the Commission's findings. A proposed conciliation agreement was attached to that letter.

In a letter dated November 23, 1977, Arthur Eisenberg, Staff Counsel to the New York Civil Liberties Union, advised that his organization had agreed to represent Mr. Cozzette and made argument as to why CLITRIM's activities were not in violation of the Act. (A copy of his letter is attached).

After considering the matters raised by the NYCLU, we continued in our belief that violations of the FECA had occurred. In a letter dated January 27, 1978, we so advised Mr. Eisenberg.

We requested that he respond by indicating whether CLITRIM would be amenable to conciliation.

To date, we have not been contacted by NYCLU in connection with possible conciliation. 1/

RECOMMENDATION:

We recommend that the Commission find probable cause to believe that CLITRIM has violated Sections 434(e) and 441d of the Federal Election Campaign Act, and that the Commission authorize the institution of civil action pursuant to 2 U.S.C. §437g(a)(5)(B).

2/18/78
DATE

WILLIAM C. OLDAKER
GENERAL COUNSEL

1/ Joel Gora, Associate Legal Director of the American Civil Liberties Union in New York, generally discussed the matter with a staff member of the Office of General Counsel in a February 13, 1978, telephone conversation. Conciliation was not specifically discussed.

NYCLU
New York Civil Liberties Union, 84 Fifth Avenue, New York, N.Y. 10011. Telephone (212) 924-7800

November 23, 1977

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 386 (76)
MUR 386 (77)

(In Re: Central Long Island Trim Committee)

Dear Mr. Oldaker:

We have agreed to represent Mr. Edward Cozzette in connection with the above matter. We submit this letter to demonstrate that no action should be taken against the Central Long Island Trim ("Tax Reform Immediately") Committee (CLITRIM) or Mr. Cozzette who served as its Chairman. Proceeding against the Committee and Mr. Cozzette would be wholly unconstitutional and in violation of the First Amendment and would be a wholly unwarranted application of the cited provisions of the Federal Election Campaign Act. The Commission simply has no constitutional or statutory business regulating and seeking to penalize the kind of nonpartisan citizen activity in which CLITRIM and Mr. Cozzette engaged.

The Commission has charged CLITRIM with FECA violations because it spent approximately $135 to print and hand out a brochure describing the Congressional voting record of U.S. Representative Jerome A. Ambro of Long Island on economic and tax legislation of concern to CLITRIM and its supporters. The brochure was wholly nonpartisan in content and nature. It described Mr. Ambro's voting record on twenty-five "big government" issues. It urged citizens and taxpayers to keep informed about how their Representative voted on such issues and to let their Representative know how they felt about such issues. The brochure listed the district offices maintained by Representative Ambro.

The brochure did not contain the first word of partisan political advocacy. It did not even mention federal elections. Indeed, it did not even mention with what political party Representative Ambro was affiliated. In short,

the brochure contained wholly nonpartisan, issue-oriented speech, describing the voting record of a member of Congress on issues of concern to CLITRIM.

Nevertheless, the Commission claims that the brochure was "a communication expressly advocating the defeat" of Representative Ambro, thereby subjecting CLITRIM to statutory reporting and disclaimer requirements. Pursuant to those requirements, CLITRIM is charged with failing to file a report with the Commission and failing to state on the brochure that it was not authorized by any candidate. Accordingly, the Commission proposes to compel an admission that the printing and distribution of the brochure violated the Act, to levy a fine of $100, and to impose other burdens upon CLITRIM and Mr. Cozzette.

For the following reasons, these proposed actions by the Commission are improper under both the Constitution and the FECA.

First, the Constitution does not permit the government, through the FEC, to regulate, register, penalize or control the kind of nonpartisan issue-oriented speech contained in the CLITRIM brochure. That was precisely the issue presented in that portion of the United States Court of Appeals decision in Buckley v. Valeo, 519 F.2d 821, 869-78 (D.C. Cir. 1975) dealing with 2 U.S.C. Section 437a, and the Court of Appeals ruled, 8 to 0, that such speech could not be subject to government control of any kind. As you know, Section 437a imposed reporting and disclosure requirements on any group who "publishes...any material...setting forth the candidate's position on any public issue, his voting record, or other official acts." As the Court found, that section was aimed at regulating the activities of nonpartisan, issue-oriented groups that publish "box scores" of the voting records of elected officials, even though the groups' "only connection with the elective process arises from the completely non-partisan public discussion of issues of public importance." 519 F.2d at 870. The Court held that there was no valid reasons for regulating such discussion, and, conversely, that there were vital societal interests in encouraging such discussion. Accordingly, the Court found that statute facially unconstitutional, and none of the parties to that suit - including the Commission - appealed that decision. Indeed, as a result of the ruling of unconstitutionality, the Congress repealed that part of the law. Moreover, at least two other cases have applied the identical principles to hold that regulation of nonpartisan discussion of the voting records and actions of public officials, even during an election campaign, would violate the First Amendment. United States v. National Committee for

Impeachment, 469 F.2d 1135 (2nd Cir. 1972); American Civil Liberties Union v. Jennings, 366 F.Supp. 1041 (D.D.C. 1973), vacated as moot, sub. nom., Staats v. Jennings, 422 U.S. 1030 (1975).

While the validity of Section 437a did not have to be resolved by the Supreme Court in its decision in Buckley v. Valeo, 424 U.S. 1 (1976) the Court did apply the same constitutional principles in limiting the application of Section 434(e), requiring disclosure of independent expenditures, which was the predecessor of the section the Commission seeks to apply to CLITRIM. To insure that the reach of Section 434(e) was not "impermissibly broad" the Court construed it to "reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate." (emphasis added) The Court gave the following specific examples of "communications containing express words of advocacy of election or defeat,": "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject."

These decisions and principles make it clear that under the Constitution the government and the Commission may not regulate - through disclosure or otherwise - the kind of speech involved here. The Commission's threatened action against CLITRIM and Mr. Cozzette is an impermissible attempt at an end-run around these principles. The Constitution prohibits the Commission from doing that.

Second, the threatened enforcement is not only unconstitutional, it is not even authorized by the Act itself or by the two statutory sections the Commission claims were violated. As we have noted, the Supreme Court ruled that the valid area of FECA regulation had to be limited to expenditures which "expressly advocate" the election or defeat of a candidate. Following the Buckley decision, the Congress, with the Supreme Court rulings firmly and expressly in mind, amended the two sections in question to narrow and bring them into line with these principles. Thus, Section 434(e) was amended to require reporting only of those expenditures "expressly advocating the election or defeat" of a candidate. And Section 441d was similarly amended to require an authorization or disclaimer statement only in connection with communications "expressly advocating the election or defeat" of a candidate. Indeed, the Commission's very own regulations, 11 C.F.R. Part 109, restate these statutory limitations on coverage and give, as examples of covered communications, the same phrases (e.g., "vote for," "elect," "support") used by the Supreme Court. By no stretch of the imagination can the CLITRIM brochure be characterized as "expressly advocating

the election or defeat" of Representative Ambro. It did not even mention any election, his candidacy, or even his political party. It stated and criticized his record on economic and tax issues, and urged citizens to communicate with him. Accordingly, the brochure is not within the reach of the plain language or Congressional intent of Sections 434(e) and 441d.

Moreover, with respect to Section 434(e), Mr. Cozzette has authorized us to state that he donated approximately $20 toward the expenses of printing the brochure. Other individuals donated comparable or lesser amounts in order to raise the $135 printing cost. Since no one person made contributions or expenditures in excess of $100 within the meaning of Section 434(e), that section is inapplicable for that reason alone.

We have written this letter to demonstrate that the CLITRIM brochure was protected by the First Amendment, was not within the reach of the relevant statutory provisions, and was not even covered by the Commission's own regulations. For these reasons, any enforcement action by the Commission would be wholly unwarranted. On the contrary, our society should encourage what CLITRIM did, not seek to penalize it.

One final point. Laws must be interpreted and enforced in keeping with their spirit as well as their letter. In the Federal Election Campaign Act, Congress was concerned with possible corruption of the political process resulting from aggregate wealth brought to bear on campaigns, as manifest during the period of Watergate. It is hard to imagine anything further from those concerns than a handful of citizens chipping in to print up some brochures, describing the public record of a public official and handing them out to their fellow citizens. That activity embodies American tradition at its finest. Under the First Amendment, such activity is to be applauded, not punished.

We will be glad to discuss any of these matters with you at your convenience.

Sincerely yours,

Joel M. Gora
Joel M. Gora
Associate Legal Director
American Civil Liberties Union
22 East 40th Street
New York, New York 10016
(212) 725-1222

Arthur Eisenberg
Arthur Eisenberg
Staff Counsel
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(212) 924-7800

DCC 2695

AMERICAN CIVIL LIBERTIES UNION

22 East 40th Street New York, New York 10016 (212) 725-1222

'78 FEB 14 PM 1:10

February 10, 1978

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

re: MUR 386 (77)

Dear Mr. Oldaker:

I am replying to your letter of January 27 to Mr. Eisenberg, concerning the above matter.

Your letter takes the position that the brochure in question "was a communication which expressly advocated the defeat of a clearly identified Federal candidate." But there is no indication as to the grounds upon which express advocacy of election or defeat is found to exist. Both the statute and the Commission's regulations require such express advocacy as a prerequisite to regulation, yet not a word of such advocacy appears in the brochure. As you know, the brochure contains no mention of any federal election, of any person's candidacy, or even of the party affiliation of Congressman Ambro. Under the circumstances, it is difficult for us to counsel Mr. Cozzette without knowing the precise basis for the Commission's determination that the activity expressly advocated Congressman Ambro's defeat in an election.

I would hope that we could learn the grounds for the Commission's determination before the Commission reaches the "probable cause to believe" stage on this matter. If that stage has already been reached, I would appreciate your office's informing me by telephone as soon as possible.

Sincerely yours,

Joel M. Gora

Joel M. Gora
Associate Legal Director

JMG:mm

Norman Dorsen, Chairperson, Board of Directors Ramsey Clark, Chairperson, National Advisory Council
Aryeh Neier, Executive Director Alan Reitman, Associate Director Bruce J. Ennis, Legal Director
Joel Gora, Associate Legal Director Sharon A. Krager, Membership Director John H. F. Shattuck, Director, Washington D.C. Office Trudi Schutz, Public Information Director

AMERICAN CIVIL LIBERTIES UNION
22 East 40th Street New York, N.Y. 10016
Joel M. Gora, Esq.

'85 FEB 14 PM 1:10

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

AMERICAN CIVIL LIBERTIES UNION
22 East 40th Street New York, N.Y. 10016

Joel M. Gora, Esq.

1:10

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Convery MUR-386

PS Form 3811, Apr. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ..... ____¢
- ☐ Show to whom, date, and address of delivery .. ____¢
- ☐ RESTRICTED DELIVERY
  Show to whom and date delivered ..... ____¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery . $____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Arthur Eisenberg, Esquire
84 Fifth Ave.
N.Y., N.Y., 10011

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	994303	

(Always obtain signature of addressee or agent)

I have received the article described above.
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4. DATE OF DELIVERY 1/30/78

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5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO : 1977—O-234-337

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

January 27, 1978

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Arthur Eisenberg, Esquire
Staff Counsel
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011

Re: MUR 386 (77)

Dear Mr. Eisenberg:

This will acknowledge receipt of the letter, dated November 23, 1977, by which you advised that the New York Civil Liberties Union had agreed to represent Edward Cozzette in this matter, and in which you set forth argument why no further action should be taken. Although you indicated that your organization would represent Mr. Cozzette, I assume that the representation extends as well to the Central Long Island Tax Reform Immediately Committee (CLITRIM).

The cases you have cited generally support the proposition that the Government may not regulate, register, penalize, or control non-partisan, issue-oriented speech. However, the Commission believes that the facts of this case are distinguishable from those of the cited cases, and has determined that the CLITRIM Bulletin, rather than being a form of non-partisan, issue-oriented speech, was a communication which expressly advocated the defeat of a clearly identified Federal candidate. This determination provided the basis for the Commission's findings of reasonable cause to believe that violations of Sections 434(e) and 441 of the Federal Election Campaign Act had occurred.

In connection with those findings, I direct your attention to the definition of "express advocacy" as contained in Commission Regulations Section 109.1(b)(2), (11 C.F.R. §109.1(b)(2)). In addition to the portion of the definition cited in your letter, that Section also provides that "expressly advocating" means "any communi-

cation containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," and "Smith for Congress," or "vote against," "defeat," or "reject."

Regarding the specific objection you raised to the Commission's finding under 2 U.S.C. §434(e), i.e., that the Section is inapplicable since no one person made contributions or expenditures in excess of $100, I offer the following: The finding was based on evidence that CLITRIM, and not any individual, had spent approximately $135 in the preparation of the Bulletin. 11 C.F.R. §109.1 (b)(1) does not limit the definition of the word "person" to mean individuals only, but also provides that the term will include, inter alia, a partnership, committee, association, or any organization or group of persons.

In light of the above, we believe that the Commission not only was justified but was compelled to seek CLITRIM's compliance with the Federal Election Campaign Act.

The Commission is under a mandate to conclude this matter as expeditiously as possible. Therefore, we would appreciate your early responses indicating whether CLITRIM would be amenable to entering into a conciliation agreement.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at (202) 523-4057.

Sincerely yours,

William C. Oldaker
General Counsel

MCC 2414

AMERICAN CIVIL LIBERTIES UNION

22 East 40th Street New York, New York 10016 (212) 725-1222

RECEIVED
FEDERAL ELECTION COMMISSION

'78 JAN 9 PM 12:53

January 4, 1978

William C. Oldaker, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

re: MUR 386 (76)
MUR 386 (77)

(In Re: Central Long Island TRIM Committee)

Dear Mr. Oldaker:

On November 23, 1977, we sent you a letter regarding the above-referenced matter. An additional copy of that letter is enclosed. May we look forward to a response, or some other indication of where the matter stands, in the near future?

Sincerely yours,

Joel M. Gora

Joel M. Gora
Associate Legal Director

JMG:mm

Norman Dorsen, Chairperson, Board of Directors Ramsey Clark, Chairperson, National Advisory Council
Aryeh Neier, Executive Director Alan Reitman, Associate Director Bruce J. Ennis, Legal Director
Joel Gora, Associate Legal Director Sharon A. Krager, Membership Director John H. F. Shattuck, Director,
Washington D.C. Office Trudi Schutz, Public Information Director

File Copy

November 23, 1977

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 386 (76)
MUR 386 (77)

(In Re: Central Long Island Trim Committee)

Dear Mr. Oldaker:

We have agreed to represent Mr. Edward Cozzette in connection with the above matter. We submit this letter to demonstrate that no action should be taken against the Central Long Island Trim ("Tax Reform Immediately") Committee (CLITRIM) or Mr. Cozzette who served as its chairman. Proceeding against the Committee and Mr. Cozzette would be wholly unconstitutional and in violation of the First Amendment and would be a wholly unwarranted application of the cited provisions of the Federal Election Campaign Act. The Commission simply has no constitutional or statutory business regulating and seeking to penalize the kind of nonpartisan citizen activity in which CLITRIM and Mr. Cozzette engaged.

The Commission has charged CLITRIM with FECA violations because it spent approximately $135 to print and hand out a brochure describing the Congressional voting record of U.S. Representative Jerome A. Ambro of Long Island on economic and tax legislation of concern to CLITRIM and its supporters. The brochure was wholly nonpartisan in content and nature. It described Mr. Ambro's voting record on twenty-five "big government" issues. It urged citizens and taxpayers to keep informed about how their Representative voted on such issued and to let their Representative know how they felt about such issues. The brochure listed the district offices maintained by Representative Ambro.

The brochure did not contain the first word of partisan political advocacy. It did not even mention federal elections. Indeed, it did not even mention what political party Representative Ambro was affiliated. In short,

the brochure contained wholly nonpartisan, issue-oriented speech, describing the voting record of a member of Congress on issues of concern to CLITRIM.

Nevertheless, the Commission claims that the brochure was "a communication expressly advocating the defeat" of Representative Ambro, thereby subjecting CLITRIM to statutory reporting and disclaimer requirements. Pursuant to these requirements, CLITRIM is charged with failing to file a report with the Commission and failing to state on the brochure that it was not authorized by any candidate. Accordingly, the Commission proposes to compel an admission that the printing and distribution of the borchure violated the Act, to levy a fine of $100, and to impose other burdens upon CLITRIM and Mr. Cozzetto.

For the following reasons, these proposed actions by the Commission are improper under both the Constitution and the FECA.

First, the Constitution does not permit the government, through the FECA to regulate, register, penalize or control the kind of nonpartisan issue-oriented speech contained in the CLITRIM brochure. That was precisely the issue presented in that portion of the United States Court of Appeals decision in Buckley v. Valeo, 519 F.2d 821, 869-78 (D.C. Cir. 1975) dealing with 2 U.S.C. Section 437a, and the Court of Appeals ruled, 8 to 0, that such speech could not be subject to government control of any kind. As you know, Section 437a imposed reporting and disclosure requirements on any group who "publishes...any material...setting forth the candidate's position on any public issue, his voting record, or other official acts." As the Court found, that section was aimed at regulating the activities of nonpartisan, issue-oriented groups that publish "box scores" of the voting records of elected officials, even though the groups' "only connection with the elective process arises from the completely non-partisan public discussion of issues of public importance." 519 F.2d at 870. The Court held that there was no valid reasons for regulating such discussion, and, conversely, that there were vital societal interests in encouraging such discussion. Accordingly, the Court found that statute facially unconstitutional, and on one of the parties to that suit - including the Commission - appealed that decision. Indeed, as a result of the ruling of unconstitutionality, the Congress repealed that part of the law. Moreover, at least two other cases have applied the identical principles to hold that regulation of nonpartisan discussion of the voting records and actions of public officials, even during an election campaign, would violate the First Amendment. United States v. National Committee for

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These decisions and principles make it clear that under the Constitution the government and the Commission may not regulate - through disclosure or otherwise - the kind of speech involved here. The Commission's threatened action against CLITRIM and Mr. Connette is an impermissible attempt at an end-run around these principles. The Constitution prohibits the Commission from doing that.

Second, the threatened enforcement is not only unconstitutional, it is not even authorized by the Act itself or by the two statutory sections the Commission claims were violated. As we have noted, the Supreme Court ruled that the valid area of FECA regulation had to be limited to expenditures which "expressly advocate" the election or defeat of a candidate. Following the Buckley decision, the Congress, with the Supreme Court rulings firmly and expressly in mind, amended the two sections in question to narrow and bring them into line with these principles. Thus, Section 434(e) was amended to require reporting only of those expenditures "expressly advocating the election or defeat" of a candidate. And Section 441d was similarly amended to require an authorization or disclaimer statement only in connection with communications "expressly advocating the election or defeat" of a candidate. Indeed, the Commission's very own regulations, 11 C.F.R. Part 109, restate these statutory limitations on coverage and give, as examples of covered communications, the same phrases (e.g., "vote for," "elect,""support") used by the Supreme Court. By no stretch of the imagination can the CLITRIM brochure be characterized as "expressly advocating

the election or defeat" of Representative Ambor. It did not even mention any election, his candidacy, or even his political party. It stated and criticized his record on economic and tax issues, and urged citizens to communicate with him. Accordingly, the brochure is not within the reach of the plain language or Congressional intent of Sections 434(e) and 441d.

MOreover, with respect to Section 434(e), Mr. Cozzette has authorized us to state that he donated approximately $20 toward the expenses of printing the brochure. Other individuals donated comparable or lesser amounts in order to raise the $135 printing cost. Since no one person made contributions or expenditures in excess of $100 within the meaning of Section 434(e), that section is inapplicable for that reason alone.

We have written this letter to demonstrate that the CLITRIM brochure was protected by the First Amendment, was not within the reach of the relevant statutory provisions, and was not even covered by the Commission's own regulations. For these reasons, any enforcement action by the Commission would be wholly unwarranted. On the contrary, our society should encourage what CLITRIM did, not seek to penalize it.

One final point. Laws must be interpreted and enforced in keeping with their spirit as well as their letter. In the Federal Election Campaing Act, Congress was concerned with possible corruption of the political process resulting from aggregate wealth brought to bear on campaings, as manifest during the period of Watergate. It is hard to imagine anything further from those concerns than a handful of citizens chipping in to print up some brochures, describing the public record of a public official and handing them out to their fellow citizens. That activity embodies American tradition at its finest. Under the First Amendment, such activity is to be applauded, not punished.

We will be glad to discuss any of these matters with you at your convenience.

Sincerely yours,

Joel M. Gora
Associate Legal Director
American Civil Liberties Union
22 East 40th Street
New York, New York 10016
(212) 725-1222

Arthur Eisenberg
Staff Counsel
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(212) 924-7800

AMERICAN CIVIL LIBERTIES UNION

East 40th Street New York, N.Y. 10016

Joel M. Gora, Esq.

'78 JAN 9 12:53

Wm. C. Oldaker, Esq.
Gen. Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

December 13, 1977

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 386 Team #2 Convery

Please have the attached Interim Report on MUR 386 distributed to the Commission and placed on the Compliance Agedda for the Commission meeting of December 21, 1977.

Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

December 9, 1977

In the Matter of	)	
	)	MUR 386 (77)
Central Long Island Tax Reform	)	
Immediately (TRIM) Committee	)	

DEC 21 1977

INTERIM REPORT

On August 18, 1977, the Commission found reasonable cause to believe that CLITRIM had violated Section 441d of the Federal Election Campaign Act, and on October 19, 1977, found reasonable cause to believe that CLITRIM had violated Section 434(e) of the Act. Conciliation of the matter was authorized on the latter date. By letter dated October 26, 1977, the respondent was advised of the findings. A proposed conciliation agreement was enclosed.

In a letter dated November 23, 1977, Arthur Eisenberg, Staff Counsel to the New York Civil Liberties Union, informed us that his organization had agreed to represent the respondent in connection with this matter.[1] The letter also set forth argument as to why no further action should be taken against the respondent. (A copy of the letter is attached).

We now are analyzing the matters raised by the NYCLU, and will recommend a course of action to the Commission upon the completion of this process.

12/12/77
Date

William C. Oldaker
General Counsel

1. Although Mr. Eisenberg specifically stated that NYCLU had agreed to represent Mr. Edward Cozzette, who had served as Chairman of CLITRIM at the time of the alleged violations, the text of his letter clearly indicates that the representation would extend to CLITRIM as well.

NYCLU

New York Civil Liberties Union, 84 Fifth Avenue, New York, N.Y. 10011. Telephone (212) 924-7800

NCC 2127

'77 NOV 25 A 10:22

November 23, 1977

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 386 (76)
MUR 386 (77)

(In Re: Central Long Island Trim Committee)

Dear Mr. Oldaker:

We have agreed to represent Mr. Edward Cozzette in connection with the above matter. We submit this letter to demonstrate that no action should be taken against the Central Long Island Trim ("Tax Reform Immediately") Committee (CLITRIM) or Mr. Cozzette who served as its Chairman. Proceeding against the Committee and Mr. Cozzette would be wholly unconstitutional and in violation of the First Amendment and would be a wholly unwarranted application of the cited provisions of the Federal Election Campaign Act. The Commission simply has no constitutional or statutory business regulating and seeking to penalize the kind of nonpartisan citizen activity in which CLITRIM and Mr. Cozzette engaged.

The Commission has charged CLITRIM with FECA violations because it spent approximately $135 to print and hand out a brochure describing the Congressional voting record of U.S. Representative Jerome A. Ambro of Long Island on economic and tax legislation of concern to CLITRIM and its supporters. The brochure was wholly nonpartisan in content and nature. It described Mr. Ambro's voting record on twenty-five "big government" issues. It urged citizens and taxpayers to keep informed about how their Representative voted on such issues and to let their Representative know how they felt about such issues. The brochure listed the district offices maintained by Representative Ambro.

The brochure did not contain the first word of partisan political advocacy. It did not even mention federal elections. Indeed, it did not even mention with what political party Representative Ambro was affiliated. In short,

the brochure contained wholly nonpartisan, issue-oriented speech, describing the voting record of a member of Congress on issues of concern to CLITRIM.

Nevertheless, the Commission claims that the brochure was "a communication expressly advocating the defeat" of Representative Ambro, thereby subjecting CLITRIM to statutory reporting and disclaimer requirements. Pursuant to those requirements, CLITRIM is charged with failing to file a report with the Commission and failing to state on the brochure that it was not authorized by any candidate. Accordingly, the Commission proposes to compel an admission that the printing and distribution of the brochure violated the Act, to levy a fine of $100, and to impose other burdens upon CLITRIM and Mr. Cozzette.

For the following reasons, these proposed actions by the Commission are improper under both the Constitution and the FECA.

First, the Constitution does not permit the government, through the FEC, to regulate, register, penalize or control the kind of nonpartisan issue-oriented speech contained in the CLITRIM brochure. That was precisely the issue presented in that portion of the United States Court of Appeals decision in Buckley v. Valeo, 519 F.2d 821, 869-78 (D.C. Cir. 1975) dealing with 2 U.S.C. Section 437a, and the Court of Appeals ruled, 8 to 0, that such speech could not be subject to government control of any kind. As you know, Section 437a imposed reporting and disclosure requirements on any group who "publishes...any material...setting forth the candidate's position on any public issue, his voting record, or other official acts." As the Court found, that section was aimed at regulating the activities of nonpartisan, issue-oriented groups that publish "box scores" of the voting records of elected officials, even though the groups' "only connection with the elective process arises from the completely non-partisan public discussion of issues of public importance." 519 F.2d at 870. The Court held that there was no valid reasons for regulating such discussion, and, conversely, that there were vital societal interests in encouraging such discussion. Accordingly, the Court found that statute facially unconstitutional, and none of the parties to that suit - including the Commission - appealed that decision. Indeed, as a result of the ruling of unconstitutionality, the Congress repealed that part of the law. Moreover, at least two other cases have applied the identical principles to hold that regulation of nonpartisan discussion of the voting records and actions of public officials, even during an election campaign, would violate the First Amendment. United States v. National Committee for

Impeachment, 469 F.2d 1135 (2nd Cir. 1972); American Civil Liberties Union v. Jennings, 366 F.Supp. 1041 (D.D.C. 1973), vacated as moot, sub. nom., Staats v. Jennings, 422 U.S. 1030 (1975).

While the validity of Section 437a did not have to be resolved by the Supreme Court in its decision in Buckley v. Valeo, 424 U.S. 1 (1976) the Court did apply the same constitutional principles in limiting the application of Section 434(e), requiring disclosure of independent expenditures, which was the predecessor of the section the Commission seeks to apply to CLITRIM. To insure that the reach of Section 434(e) was not "impermissibly broad" the Court construed it to "reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate." (emphasis added) The Court gave the following specific examples of "communications containing express words of advocacy of election or defeat,": "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject."

These decisions and principles make it clear that under the Constitution the government and the Commission may not regulate - through disclosure or otherwise - the kind of speech involved here. The Commission's threatened action against CLITRIM and Mr. Cozzette is an impermissible attempt at an end-run around these principles. The Constitution prohibits the Commission from doing that.

Second, the threatened enforcement is not only unconstitutional, it is not even authorized by the Act itself or by the two statutory sections the Commission claims were violated. As we have noted, the Supreme Court ruled that the valid area of FECA regulation had to be limited to expenditures which "expressly advocate" the election or defeat of a candidate. Following the Buckley decision, the Congress, with the Supreme Court rulings firmly and expressly in mind, amended the two sections in question to narrow and bring them into line with these principles. Thus, Section 434(e) was amended to require reporting only of those expenditures "expressly advocating the election or defeat" of a candidate. And Section 441d was similarly amended to require an authorization or disclaimer statement only in connection with communications "expressly advocating the election or defeat" of a candidate. Indeed, the Commission's very own regulations, 11 C.F.R. Part 109, restate these statutory limitations on coverage and give, as examples of covered communications, the same phrases (e.g., "vote for," "elect," "support") used by the Supreme Court. By no stretch of the imagination can the CLITRIM brochure be characterized as "expressly advocating

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New York, New York 10011
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NYCLU

New York Civil Liberties Union, 84 Fifth Avenue, New York, N.Y. 10011. Telephone (212) 924-7800

LCC 2127

November 23, 1977

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 386 (76)
MUR 386 (77)

(In Re: Central Long Island Trim Committee)

Dear Mr. Oldaker:

We have agreed to represent Mr. Edward Cozzette in connection with the above matter. We submit this letter to demonstrate that no action should be taken against the Central Long Island Trim ("Tax Reform Immediately") Committee (CLITRIM) or Mr. Cozzette who served as its Chairman. Proceeding against the Committee and Mr. Cozzette would be wholly unconstitutional and in violation of the First Amendment and would be a wholly unwarranted application of the cited provisions of the Federal Election Campaign Act. The Commission simply has no constitutional or statutory business regulating and seeking to penalize the kind of nonpartisan citizen activity in which CLITRIM and Mr. Cozzette engaged.

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Nevertheless, the Commission claims that the brochure was "a communication expressly advocating the defeat" of Representative Ambro, thereby subjecting CLITRIM to statutory reporting and disclaimer requirements. Pursuant to those requirements, CLITRIM is charged with failing to file a report with the Commission and failing to state on the brochure that it was not authorized by any candidate. Accordingly, the Commission proposes to compel an admission that the printing and distribution of the brochure violated the Act, to levy a fine of $100, and to impose other burdens upon CLITRIM and Mr. Cozzette.

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(212) 725-1222

Arthur Eisenberg
Staff Counsel
New York Civil Liberties Union
84 Fifth Avenue
New York, New York 10011
(212) 924-7800

EXPRESS MAIL

POST OFFICE TO ADDRESSEE

FROM:
NYCLU
84 5TH AVE
NYC, NY. 10011

Customer Number, if any

TO:
William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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R. Patterson

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LAW OFFICES
DANIEL C. MOONEY
SUITE 326, 400 JERICHO TURNPIKE
JERICHO, NEW YORK 11753
TELEPHONE 822 4380

GCC#1890

FROM:

DATE: October 24, 1977

ATTENTION: David Anderson

TO: Federal Election Commission
1325 K Street N.W.
Washington, D. C. 20463

SUBJECT: MUR 386

MESSAGE Dear Mr. Anderson:

If convenient, I would appreciate a status report on the above referenced matter at this time.

Please note my new address.

DCM:S

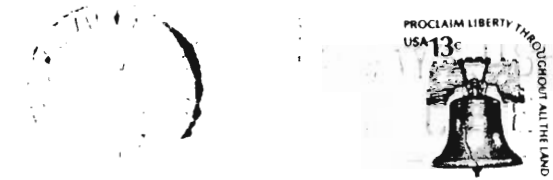
SIGNED: Daniel C Mooney

REPLY

DATE: SIGNED:

HISTACOUNT CORP., MELVILLE, N. Y. 11746 FORM NO. SK - 1

DANIEL C. MOONEY
SUITE 326
400 JERICHO TURNPIKE
JERICHO, N. Y. 11753



Federal Election Commission
1325 K Street N. W.
Washington, D. C. 20463

Attention: David Anderson

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 26, 1977

Mr. Edward Cozzette, Chairman
Central Long Island TRIM Committee
67 Vondran Street
Huntington Station, New York 11746

RE: MUR 386(76)

Dear Mr. Cozzette:

This is to inform you that on October 19, 1977, the Commission found reasonable cause to believe that the Central Long Island TRIM Committee violated Section 434(e) of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §431, et seq. By letter dated August 23, 1977, we informed you that the Commission also found reasonable cause to believe that CLITRIM violated Section 441d of the Act.

The Commission concluded that the CLITRIM booklet which contained an analysis of Representative Jerome Ambro's voting record was a communication which expressly advocated his defeat. Consequently, the publication should have contained a statement as to whether it was authorized, or was not authorized, by any candidate, his committee, or their agents. 2 U.S.C. §441d. Since the cost of that publication was greater than $100, it should have been reported to the Commission pursuant to 2 U.S.C. 434(e). The findings of reasonable cause to believe were based upon CLITRIM's failure to include the authorization statement and its failure to report the cost of the booklet to the Commission.

The Commission has the duty to correct such violations for a period of thirty days by informal methods of conference, conciliation and persuasion, and must attempt to enter into a conciliation agreement. A proposed conciliation agreement is enclosed. If we are unable to reach an agreement during the thirty day period, 2 U.S.C. §437g(a)(5)(B) provides that the Commission may, upon a finding of probable cause to believe that a violation has occurred, institute a law suit.

Should you decide to enter into this agreement, please sign the document and return it to this office. You will note that paragraph 8 of the proposed agreement provides for a civil penalty of $100. Your check in that amount, made payable to the Treasury of the United States, is due within thirty days of the agreement's effective date.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at (202)523-4057.

Sincerely,

William C. Oldaker
General Counsel

MUR 386 CONVERY

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered ..... ¢
☒ Show to whom, date, and address of delivery ..... ¢
☐ RESTRICTED DELIVERY
Show to whom and date delivered ..... ¢
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery. $____
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Edward Cozzette Chrmn.
Central L.I. TRIM Comm.

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. 438273 | INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY 10/29/77

POSTMARK OCT 29 1977

5. ADDRESS (Complete only if requested) 67 Vondran

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO : 1977—O-234-337

PS Form 3811, Apr. 1977 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Central Long Island TRIM Committee	)	MUR 386(77)
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated on the basis of a written complaint filed with the Federal Election Commission. An investigation has been conducted, and the Commission has found reasonable cause to believe that the respondent, Central Long Island TRIM (Tax Reform Immediately) Committee, violated Sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §431 et seq.

Now, therefore, the Central Long Island TRIM Committee (hereinafter, CLITRIM) and the Federal Election Commission, the respective parties herein, having entered into conciliation pursuant to 2 U.S.C. §437g(a)(5)(A), do hereby agree to the following:

1. That the Federal Election Commission has jurisdiction over respondent CLITRIM and over the subject matter of this proceeding.
2. That the respondent CLITRIM has had reasonable opportunity to demonstrate that no action should be taken in this matter.

3. That the pertinent facts in this matter are as follows:

a. CLITRIM, an unincorporated organization which maintained mailing addresses at P.O. Box 85, Old Bethpage, New York and at 67 Vondran Street, Huntington Station, New York, was part of a national TRIM organization headquartered at Belmont, Massachusetts. CLITRIM severed its ties with the national organization on May 16, 1977.

b. In or around October, 1976, CLITRIM published a localized version of the TRIM Bulletin and distributed it to members of the general public. Among other things, the Bulletin contained an analysis of the voting record of U.S. Representative Jerome A. Ambro, then a candidate for reelection from the Third District of New York.

c. This presentation of Representative Ambro's voting record constituted a communication expressly advocating the defeat of Representative Ambro.

d. Section 441d of Title 2, United States Code, requires that any such communication must carry a clear and conspicuous statement which indicates whether the communication has, or has not, been authorized by a candidate, his political committee, or their

agents. The CLITRIM booklet did not contain such a statement.

e. CLITRIM's expense in publishing the booklet amounted to $135.

f. Section 434(e) of Title 2, United States Code, requires every person who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate in an aggregate amount in excess of $100 during a calendar year, to report those expenditures to the Commission. CLITRIM has not reported the cost of its booklet to the Commission.

WHEREFORE, respondent Central Long Island TRIM Committee, through its Chairman, Edward Cozzette, agrees:

4. That respondent CLITRIM's failure to include in its October, 1976, TRIM Bulletin a statement as to whether the publication was authorized, or was not authorized, by a candidate, his committee or their agents, constituted a violation of 2 U.S.C. §441d.

5. That respondent CLITRIM's failure to file with the Commission the report required by 2 U.S.C. §434(e) constituted a violation of that section.

6. That respondent CLITRIM, through its Chairman, Edward Cozzette, will voluntarily testify before any Commission proceeding, or before any other proceeding, in which the matters at issue herein are relevant.

7. That respondent CLITRIM will, now and in the future, comply in all respects with the Federal Election Campaign Act, 2 U.S.C. §431 et seq.

8. That respondent CLITRIM will pay to the Treasury of the United States a civil penalty in the amount of One Hundred Dollars ($100).

The Federal Election Commission and the Central Long Island TRIM Committee enter into this conciliation agreement under the following GENERAL CONDITIONS:

9. The Commission on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

10. It is mutually agreed that this agreement shall become effective as of the moment that all parties hereto have executed same and the Commission has approved the entire agreement.

11. It is agreed that respondent Edward Cozzette shall have thirty days from the effective date of this agreement to implement and comply with all requirements contained herein.

For Central Long Island TRIM Committee:

_____
Edward Cozzette
Chairman

_____
Date

For the Federal Election Commission:

_____
William C. Oldaker
General Counsel

_____
Date

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 386 (76)
Central Long Island Tax Reform	)	
Immediately (TRIM) Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 19, 1977, the Commission determined by a vote of 6-0 to find Reasonable Cause to Believe that CLITRIM has violated 2 U.S.C. Section 434 (e) and to enter into conciliation efforts in this matter.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Date
Form

V.C

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 14, 1977

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 386 (77)

Please have the attached report on MUR 386 (77) distributed to the Commission and placed on the Compliance Agenda for the Commission meeting of October 19, 1977.

Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Central Long Island Tax Reform Immediately (TRIM) Committee	)	MUR 386(76)
	)	
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On March 31, 1977, complainant, Daniel C. Mooney, submitted a notarized statement and a copy of a booklet distributed by the Central Long Island TRIM Committee (CLITRIM) to the Commission. The complaint alleged that CLITRIM violated the Act since the booklet did not "state who paid for the same nor contain any notice of filing."

On May 12, 1977, the Commission found Reason to Believe the CLITRIM had violated 2 U.S.C. §§433, 434, 441b and 441d. The Chairman of CLITRIM, Edward Cozzette, was notified by letter and was requested to answer a series of attached questions. The extent and nature of our contacts with Mr. Cozzette between that time and July 23, 1977, have been described in the August 18, 1977 report of the General Counsel to the Commission.

On that date, the Commission found Reasonable Cause to Believe a violation of 2 U.S.C. §441d had occurred and in order to complete the investigation with regard to the other possible statutory violations, ordered respondent to answer the questions he had, up to that time, refused to answer.

We received responses from Mr. Cozzette, dated September 14, 1977 and from Charles O. Mann, the Administrative Assistant to the National

TRIM organization, dated September 2, 1977.[1/] (Copies attached hereto.)

II. EVIDENCE

The CLITRIM bulletin was also described in our August 18, 1977 report to the Commission. Based on that description, the Commission determined that the bulletin was designed to advocate the defeat of Congressman Jerome A. Ambro. Thus, there was Reasonable Cause to Believe that CLITRIM violated 2 U.S.C. §441d, since the bulletin did not contain a notice of authorization or non-authorization.

In his letter, Mr. Mann indicated that National TRIM is a non-profit educational organization, originally launched as an Ad Hoc Committee of the John Birch Society. In addition to sponsoring speakers and other political activities, TRIM publishes the bulletin on a quarterly basis and distributes them to its local committees. The local committees are all run by volunteer workers. Mr. Mann also stated the CLITRIM, although officially disbanded on May 16, 1977, was not an incorporated organization, and was not affiliated with any political party, political committee, candidate, corporation or labor organization.

In his latest reply, Mr. Cozzette adopted the answers provided by Mr. Mann and stated that CLITRIM incurred printing costs of $135.00 for the bulletin. All the research and writing was done by the National TRIM, which provided CLITRIM with a "camera ready" copy. The distribution of the bulletin was handled by volunteer workers.

1/ Mr. Cozzette, in one of his previous responses to our attempts to obtain answers, stated that we should contact Mr. Mann, the attorney for the National TRIM movement. We sent a copy of the order to answer questions to Mr. Mann. There is no indication in Mr. Mann's response that he represents Cozzette or that he is an attorney. Mr. Mann also stated that he was not representing National TRIM in this matter.

III. DISCUSSION

Inasmuch as CLITRIM is not affiliated with any political party, political committee, candidate, corporation, or labor organization, the $135 spent by CLITRIM for printing its bulletin which advocated the defeat of Congressman Ambro constituted an independent expenditure. See 2 U.S.C. §431(p). Such an expenditure must be reported to the Commission pursuant to 2 U.S.C. §434(e). CLITRIM has not reported the expenditure. Since CLITRIM is not incorporated, there is no reason to believe there is a violation of 2 U.S.C. §441b.

RECOMMENDATION:

Find Reasonable Cause to Believe that CLITRIM has violated 2 U.S.C. §434(e). Send attached letter and enter into conciliation.

DATED: 10/12/77

WILLIAM C. OLDAKER
GENERAL COUNSEL

Attachments a/s

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

Mr. Edward Cozzette, Chairman
Central Long Island TRIM Committee
67 Vondran Street
Huntington Station, New York 11746

RE: MUR 386(76)

Dear Mr. Cozzette:

This is to inform you that on October , 1977, the Commission found reasonable cause to believe that the Central Long Island TRIM Committee violated Section 434(e) of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §431, et seq. By letter dated August 23, 1977, we informed you that the Commission also found reasonable cause to believe that CLITRIM violated Section 441d of the Act.

The Commission concluded that the CLITRIM booklet which contained an analysis of Representative Jerome Ambro's voting record was a communication which expressly advocated his defeat. Consequently, the publication should have contained a statement as to whether it was authorized, or was not authorized, by any candidate, his committee, or their agents. 2 U.S.C. §441d. Since the cost of that publication was greater than $100, it should have been reported to the Commission pursuant to 2 U.S.C. 434(e). The findings of reasonable cause to believe were based upon CLITRIM's failure to include the authorization statement and its failure to report the cost of the booklet to the Commission.

The Commission has the duty to correct such violations for a period of thirty days by informal methods of conference, conciliation and persuasion, and must attempt to enter into a conciliation agreement. A proposed conciliation agreement is enclosed. If we are unable to reach an agreement during the thirty day period, 2 U.S.C. §437g(a)(5)(B) provides that the Commission may, upon a finding of probable cause to believe that a violation has occurred, institute a law suit.

Should you decide to enter into this agreement, please sign the document and return it to this office. You will note that paragraph 8 of the proposed agreement provides for a civil penalty of $100. Your check in that amount, made payable to the Treasury of the United States, is due within thirty days of the agreement's effective date.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at (202)523-4057.

Sincerely,

William C. Oldaker
General Counsel

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Central Long Island TRIM Committee	)	MUR 386(77)
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated on the basis of a written complaint filed with the Federal Election Commission. An investigation has been conducted, and the Commission has found reasonable cause to believe that the respondent, Central Long Island TRIM (Tax Reform Immediately) Committee, violated Sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §431 et seq.

Now, therefore, the Central Long Island TRIM Committee (hereinafter, CLITRIM) and the Federal Election Commission, the respective parties herein, having entered into conciliation pursuant to 2 U.S.C. §437g(a)(5)(A), do hereby agree to the following:

1. That the Federal Election Commission has jurisdiction over respondent CLITRIM and over the subject matter of this proceeding.
2. That the respondent CLITRIM has had reasonable opportunity to demonstrate that no action should be taken in this matter.

3. That the pertinent facts in this matter are as follows:

a. CLITRIM, an unincorporated organization which maintained mailing addresses at P.O. Box 85, Old Bethpage, New York and at 67 Vondran Street, Huntington Station, New York, was part of a national TRIM organization headquartered at Belmont, Massachusetts. CLITRIM severed its ties with the national organization on May 16, 1977.

b. In or around October, 1976, CLITRIM published a localized version of the TRIM Bulletin and distributed it to members of the general public. Among other things, the Bulletin contained an analysis of the voting record of U.S. Representative Jerome A. Ambro, then a candidate for re-election from the Third District of New York.

c. This presentation of Representative Ambro's voting record constituted a communication expressly advocating the defeat of Representative Ambro.

d. Section 441d of Title 2, United States Code, requires that any such communication must carry a clear and conspicuous statement which indicates whether the communication has, or has not, been authorized by a candidate, his political committee, or their

agents. The CLITRIM booklet did not contain such a statement.

e. CLITRIM's expense in publishing the booklet amounted to $135.

f. Section 434(e) of Title 2, United States Code, requires every person who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate in an aggregate amount in excess of $100 during a calendar year, to report those expenditures to the Commission. CLITRIM has not reported the cost of its booklet to the Commission.

WHEREFORE, respondent Central Long Island TRIM Committee, through its Chairman, Edward Cozzette, agrees:

4. That respondent CLITRIM's failure to include in its October, 1976, TRIM Bulletin a statement as to whether the publication was authorized, or was not authorized, by a candidate, his committee or their agents, constituted a violation of 2 U.S.C. §441d.

5. That respondent CLITRIM's failure to file with the Commission the report required by 2 U.S.C. §434(e) constituted a violation of that section.

6. That respondent CLITRIM, through its Chairman, Edward Cozzette, will voluntarily testify before any Commission proceeding, or before any other proceeding, in which the matters at issue herein are relevant.

7. That respondent CLITRIM will, now and in the future, comply in all respects with the Federal Election Campaign Act, 2 U.S.C. §431 et seq.

8. That respondent CLITRIM will pay to the Treasury of the United States a civil penalty in the amount of One Hundred Dollars ($100).

The Federal Election Commission and the Central Long Island TRIM Committee enter into this conciliation agreement under the following GENERAL CONDITIONS:

9. The Commission on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

10. It is mutually agreed that this agreement shall become effective as of the moment that all parties hereto have executed same and the Commission has approved the entire agreement.

11. It is agreed that respondent Edward Cozzette shall have thirty days from the effective date of this agreement to implement and comply with all requirements contained herein.

For Central Long Island TRIM Committee:

_____
Edward Cozzette
Chairman

_____
Date

For the Federal Election Commission:

_____
William C. Oldaker
General Counsel

_____
Date

Gcc # 1511

EDWARD COZZETTE
67 VONDRAN STREET
HUNTINGTON STATION, N. Y. 11746

516 - 673 - 9457

'77 SEP 19 AM 10:08

September 14, 1977

Fed. Elec. Comm.
Washington, D.C.

Attn: Mr. Charles N. Steele 772763

Gentlemen:

How quickly the glove comes off the mailed fist. Since I consider this situation a blatent frontal attack on my rights under the first and fifth amendments, the following information is provided under protest and only because you have all the might even if I have all the right.

The answers to your questions; 1,2,3,4, and 5 were accurately answered by Mr. Charles O. Mann in his letter of Sept. 2, 1977 (copy enclosed). If my memory serves me, the answer to question 6 should have been October rather than September of 1976.

7. I can only attest to printing costs of $135.00. All the researching and writing was done by the staff at the national headquarters, and we were provided with the "camera-ready" copy. Distribution was handled by volunteers in their spare time and did not involve any expenditure of funds.

#8. a. Yes, it was distibuted to all five members.
b. I do not recall anyone requesting a copy.
c. It was distributed at random at the Huntington R.R. Station and at other locations unknown to me because I never inquired of my fellow workers where they had distributed them. I personally mailed one to Mr. Ambro.

#9. No.

Questions 10, and 11; were accuratly answered by Mr. Mann in his letter reffered to above.

Please inform me as to the outcome of this "investigation".

JAMES F. SMITH
Notary Public, State of New York
No. 9-0225
Qualified in Suffolk County
Commission Expires March 30, 1978

September 2, 1977

Mr. Charles N. Steele
Associate General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Dear Mr. Steele:

Your letter of August 23 was received here at Belmont on August 26. Being away from my office on business at the time, I was not able to get to your letter until now.

It seems quite evident from the questionnaire (or copy thereof) which you forwarded that there is indeed little understanding as to the nature, purposes, and program of TRIM (Tax Reform IMmediately), on the part of the Federal Election Commission. Therefore, let me present the following which we believe will be helpful under the circumstances.

First of all, TRIM is a non-profit, educational organization. It is nationwide and was launched several years ago as an Ad Hoc Committee of The John Birch Society. Its purpose is to inform the American people as to the need for lowering taxes through less government. We enclose with this letter a more in-depth presentation of TRIM.

TRIM's headquarters is at 395 Concord Avenue, Belmont, Massachusetts 02178. But its organizational base is spread throughout the country in a network of local committees.

As a part of its continuing educational program, TRIM publishes a Bulletin on a quarterly basis -- year in and year out. Of course our committees participate in other activities besides distributing the TRIM Bulletins. For instance, they sponsor speakers, distribute literature, write letters and show films and filmstrips. These and all activities are, once again, for the purpose of informing the public.

We expect each and every committee to follow the policies and procedures as presented by TRIM headquarters. And we do all we can to see that they do. Please keep in mind that our local committees are run completely by volunteers.

As to CLITRIM, or The Central Long Island TRIM Committee, this group did not live up to our requirements or expectations. Accordingly, Mr. Cozzette, its Chairman, severed all ties with us and the committee was officially disbanded on May 16, 1977.

EDWARD COZZETTE
67 VONDRAN STREET
HUNTINGTON STATION, N. Y. 11746

ALWAYS USE ZIP CODE

Spirit of 76

Federal Election Commission

1325 K Street N.W.

Washington

D.C. 20463

Attention: Herr Steele

EDWARD COZZETTE
67 VONDRAN STREET
HUNTINGTON STATION, N. Y. 11746

ALWAYS USE ZIP CODE

Special 4th

Federal Election Commission

1325 K Street N.W.

Washington

D.C. 20463

Attention: Herr Steele

Though it is not my intention to represent CLITRIM in this matter, it seems appropriate for us to respond to the questionnaire which you sent to us and primarily for the purpose of further clarifying a number of things about TRIM. Some of the questions having to do with CLITRIM we cannot answer simply because the information was never made available to us.

1. CLITRIM was not an incorporated membership organization.

2. CLITRIM was not, nor is TRIM nationally, affiliated (established, financed, maintained or controlled) with any political party, political committee, candidate, corporation or labor organization.

3. Answered by #2 above.

4. TRIM, 395 Concord Avenue, Belmont, Massachusetts 02178.

5. The purpose of publishing, distributing or making available TRIM Bulletins is to inform the American people.

6. Although we cannot with absolute accuracy pin down the date the CLITRIM Bulletin was printed, we would guess sometime in September, 1976.

7. We do not know what the costs were to CLITRIM.

8. We do not know to whom the CLITRIM Bulletin was distributed.

9. We do not know.

10. Answered by #9.

11. The Central Long Island TRIM Committee was dissolved on May 16, 1977.

It would seem, based on the questions asked, that the major concern of the Federal Election Commission in this instance has to do with the distribution of the TRIM Bulletin by CLITRIM. Earlier in this letter we indicated that we expect all of our Committees to adhere to the policies and procedures of TRIM as set forth nationally. One such policy which has remained constant since TRIM was founded has to do with the permanency of purpose and activity of every committee over long periods of time and regardless of whether or not the year happens to be a political one. On occasion, individuals have requested permission to establish a committee on a temporary basis. We have steadfastly refused to grant this permission because TRIM's value is in its long-range educational purpose. To establish a committee only to sponsor a speaker or distribute a TRIM Bulletin is decidedly against the policies and the best interests of TRIM.

Now let us, before closing out what has already turned into a very lengthy letter (for which we apologize), cover one other aspect of this situation which we believe deserves comment. Quite possibly the crux of the problem to which the Federal Election Commission has addressed itself is in regard to the publishing of a Congressman's voting record.

If this by chance is the case, we certainly believe that concern is unjustified. The measures and the votes which TRIM publishes are from the Congressional Record (authorized by Article I, Section 5, Clause 3 of the Constitution) and are cross referenced with the Congressional Quarterly. This practice has long been followed by individuals, by publications and by other organizations. What we are talking about are the public records established by public servants. And if there comes a time when this information is suppressed, then we have reached a truly sad state of affairs.

To say that this development would be a dangerous precedent is a profound understatement. And speaking for TRIM nationally, we would feel compelled to oppose it in every way that we could.

We trust the information we have provided will be helpful.

Sincerely,

C. O. Mann

Charles O. Mann
Administrative Assistant

COM:jg

Enclosure: Why TRIM?

cc: Mr. Edward Cozzette

330 7495 MUR 386 Prince Gcc # 1513

Standard Form 1080
GAO 4000
1080-107

VOUCHER ~~FOR~~ TRANSFERS BETWEEN APPROPRIATIONS AND/OR FUNDS

VOUCHER NO.

SCHEDULE NO.

BILL NO.

PAID BY

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United States Marshal
225 Cadman Plaza, East
Brooklyn, New York 11201

'77 SEP 19 AM 10:12

Department, establishment, bureau, or office billed

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attn: Leland Prince

ORDER NO	DATE OF DELIVERY	ARTICLES OR SERVICES	QUANTITY	UNIT PRICE COST	UNIT PRICE PER	AMOUNT DOLLARS AND CENTS
		For service of an Order, Case number MUR 387 (77). Federal Election Commission vs. Central Long Island Trim Committee Served Edward Cozzette 67 Vondron Street Huntington Station, N.Y. 11746				
		FEE				3.00
		12¢ per mile round trip				9.60
					TOTAL,	12.60

Remittance in payment hereof should be sent to— United States Marshal, EDNY
225 Cadman Plaza, East
Brooklyn, New York 11201

ACCOUNTING CLASSIFICATION—*Billing Office*

M1570322

CERTIFICATE OF OFFICE BILLED

I certify that the above articles were received and accepted or the services performed as stated and should be charged to the appropriation(s) and or fund(s) as indicated below; or that the advance payment requested is approved and should be paid as indicated.

~~XXXXXXXXXXXXXXXXXX~~
(Date)

(Authorized administrative or certifying officer)

(Title)

ACCOUNTING CLASSIFICATION—*Office Billed*

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U.S. GOVERNMENT PRINTING OFFICE 1966 OF 255-145—(1601)

Name

U.S. MARSHALS SERVICE

INSTRUCTION AND PROCESS RECORD | Form. Please type or print legibly. Do not detach any copies.

PLAINTIFF: Federal Election Commission

CASE NUMBER: MUR 386 (77)

DEFENDANT: Central Long Island TRIM Committee

TYPE OF WRIT: Order

SERVE — NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN: Edward Cozzette

AT — ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code): 67 ~~Van Dran~~ VONDRON Street, Huntington Station, New York 11746

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW.

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Atten: Leland Prince

Show number of this writ and total number of writs submitted, e.g., 1 of 1, 1 of 3, etc.: NO. 1 OF TOTAL 1

CHECK IF APPLICABLE: [ ] One copy for U.S. Attorney or designee and two copies for Attorney General of the U.S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS

779759

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR: X Charles N. Steele | TELEPHONE NUMBER | DATE

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM 285 for first writ only if more than one writ submitted. | DEPOSIT CODE | DIST. OF ORIGIN: 4 | DISTRICT TO SERVE: 53 | LOCATION OF SUB-OFFICE OF DIST. TO SERVE

I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown. | SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK: [illegible] | DATE: 8/29/77

[✓] I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

[ ] I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above): (MS) ELIZABETH COZZETTE - MOTHER

[✓] A person of suitable age and discretion then abiding in the defendant's usual place of abode.

ADDRESS (Complete only if different than shown above.)

FEE (If applicable): $ 3.00 | MILEAGE: $ 9.60

DATE(S) OF ENDEAVOR (Use Remarks if necessary) | DATE OF SERVICE: 9/7/77 | TIME: 10:15 AM [✓] PM | SIGNATURE OF U.S. MARSHAL OR DEPUTY: [illegible] USM

REMARKS

USM-285 Ed. 7-1-70 — 1. CLERK OF THE COURT

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Joel M. Gora, Esq.

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Wm. C. Oldaker, Esq.
Gen. Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463

Jerry Desiro — Elizabeth Cozzette

U.S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last No. 5 copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF: Federal Election Commission

COURT NUMBER: MUR 386 (77)

DEFENDANT: Central Long Island TRIM Committee

TYPE OF WRIT: Order

SERVE — NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

Edward Cozzette

AT — ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)

67 ~~Van Dran~~ VONDRON Street, Huntington Station, New York 11746

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Atten: Leland Prince

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.: NO. 1 OF TOTAL 1

CHECK IF APPLICABLE: ☐ One copy for U.S. Attorney or designee and two copies for Attorney General of the U.S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR: X [signature] | TELEPHONE NUMBER | DATE

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit, if applicable, and sign USM-285 for first writ only if more than one writ submitted. | DEPOSIT CODE | DISTRICT ORIGIN | DISTRICT TO SERVE | LOCATION OF SERVICE OR OFFICE OF DISTRICT TO SERVE

Acknowledge receipt for the total number of writs indicated and for the deposit, if applicable, shown. | SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK | DATE: 8/24/77

☑ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above): (MS) ELIZABETH COZZETTE - MOTHER

☑ A person of suitable age and discretion then abiding in the defendant's usual place of abode

ADDRESS (Complete only if different than shown above)

FEE (If applicable): $ 3.00 | MILEAGE: $ 9.64

DATE(S) OF ENDEAVOR (Use Remarks if necessary) | DATE OF SERVICE: 9/7/77 | TIME: 10:05 AM/PM | SIGNATURE OF U.S. MARSHAL OR DEPUTY: [signature] DUSM

REMARKS

USM-285 (Rev. 7-12-70) — 1 - CLERK OF THE COURT

U.S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF	COURT NUMBER
DEFENDANT	TYPE OF WRIT

SERVE NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

AT ADDRESS (*Street or RFD, Apartment No., City, State and ZIP Code*)

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc. NO ___ OF ___ TOTAL

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☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR	TELEPHONE NUMBER	DATE

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I acknowledge receipt for the total number of writs indicated and for the deposit (*if applicable*) shown.	SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK			DATE

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☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (*If not shown above*)	☐ A person of suitable age and discretion then abiding in the defendant's usual place of abode	
ADDRESS (*Complete only if different than shown above*)	FEE (*If applicable*) $	MILEAGE $

DATE(S) OF ENDEAVOR (*Use Remarks if necessary*)	DATE OF SERVICE	TIME AM PM	SIGNATURE OF U. S. MARSHAL OR DEPUTY

REMARKS

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PLAINTIFF	COURT NUMBER
DEFENDANT	TYPE OF WRIT

SERVE NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

ADDRESS (*Street or RFD, Apartment No., City, State and ZIP Code*)

AT

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc. NO. ___ OF ___ TOTAL

CHECK IF APPLICABLE

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

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☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (*If not shown above*)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode

ADDRESS (*Complete only if different than shown above*)

DATE(S) OF ENDEAVOR (*Use Remarks if necessary*)	DATE OF SERVICE	TIME AM PM	SIGNATURE OF U.S. MARSHAL OR DEPUTY	FEE (*If applicable*)	MILEAGE
				$	$

REMARKS

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 386 (77)
	)	
Central Long Island TRIM	)	
Committee	)	
	)	
	)	

ORDER

Mr. Edward Cozzette
Central Long Island Trim Committee
67 Van Dran Street
Huntington Station, New York 11746

Pursuant to the authority set forth in Section 437d(a) (1) of Title 2, United States Code, and in furtherance of its investigation in the above - styled matter, the Federal Election Commission hereby orders you to submit written answers to the attached questions. The answers must be submitted under oath within fifteen (15) days of your receipt of this Order.

Whereas, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C. on the 23rd day of August, 1977.

Thomas E. Harris
Chairman

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Huntington

RECEIVED
U.S. MARSHAL
1977 AUG 29 PM 4:51
E.D.N.Y.

MUR 386 SOC. 1360

TRIM Tax Reform IMmediately

NATIONAL HEADQUARTERS
395 Concord Avenue, Belmont, Massachusetts 02178 — Telephone (617) 489-0600
WEST COAST REGIONAL OFFICE
2627 Mission Street, San Marino, California 91108 — Telephone (213) 799-0876

September 2, 1977

Mr. Charles N. Steele
Associate General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Dear Mr. Steele:

Your letter of August 23 was received here at Belmont on August 26. Being away from my office on business at the time, I was not able to get to your letter until now.

It seems quite evident from the questionnaire (or copy thereof) which you forwarded that there is indeed little understanding as to the nature, purposes, and program of TRIM (Tax Reform IMmediately), on the part of the Federal Election Commission. Therefore, let me present the following which we believe will be helpful under the circumstances.

First of all, TRIM is a non-profit, educational organization. It is nationwide and was launched several years ago as an Ad Hoc Committee of The John Birch Society. Its purpose is to inform the American people as to the need for lowering taxes through less government. We enclose with this letter a more in-depth presentation of TRIM.

TRIM's headquarters is at 395 Concord Avenue, Belmont, Massachusetts 02178. But its organizational base is spread throughout the country in a network of local committees.

As a part of its continuing educational program, TRIM publishes a Bulletin on a quarterly basis -- year in and year out. Of course our committees participate in other activities besides distributing the TRIM Bulletins. For instance, they sponsor speakers, distribute literature, write letters and show films and filmstrips. These and all activities are, once again, for the purpose of informing the public.

We expect each and every committee to follow the policies and procedures as presented by TRIM headquarters. And we do all we can to see that they do. Please keep in mind that our local committees are run completely by volunteers.

As to CLITRIM, or The Central Long Island TRIM Committee, this group did not live up to our requirements or expectations. Accordingly, Mr. Cozzette, its Chairman, severed all ties with us and the committee was officially disbanded on May 16, 1977.

Though it is not my intention to represent CLITRIM in this matter, it seems appropriate for us to respond to the questionnaire which you sent to us and primarily for the purpose of further clarifying a number of things about TRIM. Some of the questions having to do with CLITRIM we cannot answer simply because the information was never made available to us.

1. CLITRIM was not an incorporated membership organization.

2. CLITRIM was not, nor is TRIM nationally, affiliated (established, financed, maintained or controlled) with any political party, political committee, candidate, corporation or labor organization.

3. Answered by #2 above.

4. TRIM, 395 Concord Avenue, Belmont, Massachusetts 02178.

5. The purpose of publishing, distributing or making available TRIM Bulletins is to inform the American people.

6. Although we cannot with absolute accuracy pin down the date the CLITRIM Bulletin was printed, we would guess sometime in September, 1976.

7. We do not know what the costs were to CLITRIM.

8. We do not know to whom the CLITRIM Bulletin was distributed.

9. We do not know.

10. Answered by #9.

11. The Central Long Island TRIM Committee was dissolved on May 16, 1977.

It would seem, based on the questions asked, that the major concern of the Federal Election Commission in this instance has to do with the distribution of the TRIM Bulletin by CLITRIM. Earlier in this letter we indicated that we expect all of our Committees to adhere to the policies and procedures of TRIM as set forth nationally. One such policy which has remained constant since TRIM was founded has to do with the permanency of purpose and activity of every committee over long periods of time and regardless of whether or not the year happens to be a political one. On occasion, individuals have requested permission to establish a committee on a temporary basis. We have steadfastly refused to grant this permission because TRIM's value is in its long-range educational purpose. To establish a committee only to sponsor a speaker or distribute a TRIM Bulletin is decidedly against the policies and the best interests of TRIM.

Now let us, before closing out what has already turned into a very lengthy letter (for which we apologize), cover one other aspect of this situation which we believe deserves comment. Quite possibly the crux of the problem to which the Federal Election Commission has addressed itself is in regard to the publishing of a Congressman's voting record.

If this by chance is the case, we certainly believe that concern is unjustified. The measures and the votes which TRIM publishes are from the Congressional Record (authorized by Article I, Section 5, Clause 3 of the Constitution) and are cross referenced with the Congressional Quarterly. This practice has long been followed by individuals, by publications and by other organizations. What we are talking about are the public records established by public servants. And if there comes a time when this information is suppressed, then we have reached a truly sad state of affairs.

To say that this development would be a dangerous precedent is a profound understatement. And speaking for TRIM nationally, we would feel compelled to oppose it in every way that we could.

We trust the information we have provided will be helpful.

Sincerely,

C. O. Mann

Charles O. Mann
Administrative Assistant

COM:jg

Enclosure: Why TRIM?

cc: Mr. Edward Cozzette

U. S. DEPARTMENT OF JUSTICE
RETURN IN FIVE DAYS TO
OFFICE OF
UNITED STATES MARSHAL
EASTERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE BUILDING
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BROOKLYN, NEW YORK 11201

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DEPARTMENT OF JUSTICE
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U.S.MAIL

SEP 13 AM

Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Attn: Leland Prince

44

A Preliminary Statement
for a major new national program

TAX REFORM IMMEDIATELY

WHY TRIM?

©1974 by The John Birch Society

Before we can answer the above question we have to tell what it means. And that explanation requires several steps. But we believe that the ground covered in this series of steps is of vital importance to the future of our country. So we ask for your attention, as a patriotic American, and your patience, while we traverse that ground as directly and firmly as we can.

1. The word TRIM, as a verb, means "to cut down to proper size." Or, for a ship, it means "to adjust the total load being carried to the best advantage for the ship's safety or progress" – which is especially desirable for the ship of state. As an adjective, the word TRIM means "neat, orderly, with a slim compactness that is efficient and attractive." And as an acronym, with additional force and individuality given it by a slight deviation from the norm, our coined word, TRIM, incorporates all of the thoughts just mentioned, plus several related concepts, into one specific exhortation and objective. For we use this combination of four letters to mean: Tax Reform IMmediately.

2. Having brought out the essence of the name, we take our next explanatory step by describing how we use it. Which is to identify, and convey the purpose of, local and regional ad hoc committees, that we hope and expect to establish in every large city, and many sizable towns, throughout the United States. The Hartford TRIM Committee, or the Atlanta TRIM Committee, or the Tri-Cities TRIM Committee, or The Metropolitan Seattle TRIM Committee, or The Orange County TRIM Committee, are all (at present) merely fictitious names to illustrate the *kind* of nomenclature, and of geographical reach, which we expect to see becoming widely followed in the future.

3. The organization, form, management, and direction of these committees will be started by the field staff, and voluntary leadership in the field, of The John Birch Society. We have had long experience in the establish-

gious authority, who are willing to destroy their own religions in order to achieve higher standing among the *Insiders*; of the secret heads of the most secret anti-religious organizations, who have inherited their present positions within the Inner Circle from the work done to destroy all religion by their spiritual predecessors; and of all the other megalomaniacs now trying to destroy our civilization; that their overweening purpose is to gain places for themselves among the most powerful gods on earth, usually called Commissars, in this coming "new world order."

11. But in the meantime life still goes on, and some semblance of a civilization still continues. And, as William Cullen Bryant put it, "a mighty hand from an exhaustless urn pours forth the never-ending flood of years." So most of these members of the Great Conspiracy have to be satisfied with the rewards they can reap, and the positions of apparent honor which they can achieve, at the cost of betraying their country, their religion, and their civilization for the sake of visibly advancing the plans of the Conspiracy. The conversion of the United States of America into a one-hundred percent socialist dictatorship is the most important and most difficult obstacle to final victory which this two-hundred-years-old Conspiracy still has to overcome. And confiscatory taxation is one of the most vital methods, as laid out by Karl Marx himself in his codification of the strategy of the Conspiracy, for reaching that satanic goal.

12. So let us return to plain language, and practical thoughts for the present, in the face of that imminent danger. Something must be done before all American commerce and industry are completely suffocated – by the infinitely evil and fantastically ambitious *Insiders* who are striving to bring about that fatal metamorphosis. Let us tackle that particular wing of their strategy which is the Marxian style of taxation. And without insisting that every supporter of our cause understand all of the underlying ramifications and effects of ruinous taxation, let's muster so widespread and powerful a resistance to this diabolic scheme as to reverse the trend altogether. All it will take is a sufficiently determined, and firmly directed, wide-open crusade for that purpose. We already have the framework on which that crusade can be built, and the mood of the American people is certainly with us right now in that crucial undertaking.

For information on how you can help work for *Lower Taxes Through Less Government*, and for the address of the TRIM Committee nearest you, contact the group distributing this pamphlet, or write directly to:

THE JOHN BIRCH SOCIETY

Belmont, Massachusetts 02178 San Marino, California 91108

TRIM Tax Reform IMmediately
B[illegible]nt, Massachusetts 02178

BOSTON, MA 021
PM
3 SEP
1977

'76 SEP 6 AM 0:45

Mr. Charles N. Steele
Associate General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D.C. 20463

L[illegible]er Taxes
Through Less Government

MUR 386 Prince

PS Form 3811, Mar. 1976

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Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

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- ☐ RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

US Marshal
225 Cadman Plaza E.
Brooklyn, NY 11201

3. ARTICLE DESCRIPTION:

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	443919	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

R. J. Sullivan - SDWM

4. DATE OF DELIVERY 8/26/77

AUG 26 1977

POSTMARK

REGISTERED OFFICE AUG 26 1977 CLERK'S INITIALS

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

☆ GOP 1976-O-203-456

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 23, 1977

U.S. Marshal
225 Cadman Plaza East
Brooklyn, New York 11201

Re: MUR 386 (77)

Dear Sir:

We are requesting your office to serve the enclosed order and questions issued by the Federal Election Commission on August 18 to Edward Cozzette, 67 Van Dran Street, Huntington, Station, New York 11746.

Under 2 U.S.C. &437d(a) (1), the Commission is empowered to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe. Ordinarily, these orders are forwarded by certified mail to the individual from whom the answers are required. In this instance, Mr. Cozzette has stated to us in writing that he will refuse to accept any further communications from our office. We have verified that as recently as July, 1977, Mr. Cozzette lived at the address which is listed.

In connection with this investigation, you should also be aware of 2 U.S.C. &437g(a) (3) (B) which prohibits any person from making public the fact of "any notification or investigation" by the Commission until the person complained against agrees in writing to make public the investigation. Since this is a relatively new statute, I thought it would be helpful to call your attention to this provision.

Please send your return on service to Mr. Leland Prince c/o Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. If you have any questions, please contact Mr. Prince (202)523-4026. Thank you for your cooperation in this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Charles N. Steele
Associate General Counsel

Enclosure

U.S. GOVERNMENT PRINTING OFFICE 1973—498-365

U.S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

PLAINTIFF: Federal Election Commission

COURT NUMBER: MUR 386 (77)

DEFENDANT: Central Long Island TRIM Committee

TYPE OF WRIT: Order

SERVE AT

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN: Edward Cozzette

ADDRESS (*Street or RFD, Apartment No., City, State and ZIP Code*): 67 Van Dran Street, Huntington Station, New York 11746

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Atten: Leland Prince

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.: NO 1 OF TOTAL 1

CHECK IF APPLICABLE

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR: X [signature]

TELEPHONE NUMBER:

DATE:

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of one site (*or applicable code*) and sign USM-285 for first writ only if more than one writ submitted.

DEPOSIT CODE | DISTRICT ORIGIN | DISTRICT TO SERVE | LOCATION OF SUB OFFICE OF DIST. TO SERVE

I acknowledge receipt for the total number of writs indicated and for the deposit (*if applicable*) shown.

SIGNATURE OF AUTHORIZED USM'S DEPUTY OR CLERK | DATE

☐ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (*If not shown above*)

☐ A person of suitable age and discretion then abiding in the defendant's usual place of abode.

ADDRESS (*Complete only if different than shown above*)

FEE (*If applicable*): $

MILEAGE: $

DATE(S) OF ENDEAVOR (*Use Remarks if necessary*) | DATE OF SERVICE | TIME AM PM | SIGNATURE OF U.S. MARSHAL OR DEPUTY

REMARKS

USM-285 (5-77)

1. CLERK OF THE COURT

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 23, 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
67 Van Dran Street
Huntington Station, N.Y. 11746

Dear Mr. Cozzette:

On August 18, 1977, the Commission determined that there is reasonable cause to believe that CLITRIM has committed a violation of §441d of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission has a duty to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. §437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. §437g(a)(5)(B).

You will be contacted shortly in an effort to settle this matter by conciliation. If you have any questions, please feel free to contact Mr. Leland Prince, (telephone no. 202/523-4026), the staff member assigned to this case.

At that same time, the Commission has issued an order requiring you to answer the attached questions. You will recall that these questions were previously sent to you by our letter dated May 19, 1977, and that we wrote to you on July 14th requesting answers to these questions. Failure to answer will subject you to a civil suit to compel testimony. We have sent a copy of the order and questions to be answered to your attorney, Mr. Buck Mann.

Sincerely yours,

Enclosure

William C. Oldaker
General Counsel

Charles N. Steele
Associate General Counsel

(1) Is CLTRIM an incorporated membership organization?

(2) Is CLITRIM affiliated (established, financed, maintained, or controlled) with any:

(a) political party (as defined in 2 U.S.C. §431(m))?
(b) political committee (as defined in 2 U.S.C. §431(d))?
(c) candidate (as defined in 2 U.S.C. §431(b))?
(d) corporation or labor organization?

(3) If the answer to any part of question (2) is yes, state the name and address of each candidate, corporation, labor organization, political committee, and political party with which CLITRIM is affiliated.

(4) Is CLITRIM affiliated (established, financed, maintained, or controlled) or associated with or a part of a national TRIM organization? If the answer is yes, state the name and address of this national TRIM organization and its purpose.

(5) What was CLITRIM's purpose in publishing, distributing or making available the CLITRIM booklet?

(6) What was the approximate date of publication of the CLITRIM booklet?

(7) What was the total cost of researching, writing, printing, and distributing the CLITRIM booklet?

(8) State to whom the CLITRIM booklet was distributed. In particular, was it distributed:

(a) to members of CLITRIM?
(b) to any individual who requested a copy?
(c) systematically among the voters of the 3rd Congressional District of New York?

(9) To your knowledge, did CLITRIM or any of its officers or members provide copies of the CLITRIM booklet to:

(a) any candidate who was running against Representative Ambro?
(b) any committee or individual affiliated with or supporting such a candidate?

(10) If the answer to any part of question (9) is yes, state the name and address of the candidate, committee, or individual.

(11) It is our understanding that CLITRIM is no longer an active organization. Please confirm the current status of the organization and if it is dissolved, state the date of dissolution.

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 386 (77)
	)	
Central Long Island TRIM	)	
Committee	)	
	)	
	)	

ORDER

Mr. Edward Cozzette
Central Long Island Trim Committee
67 Van Dran Street
Huntington Station, New York 11746

Pursuant to the authority set forth in Section 437d(a) (1) of Title 2, United States Code, and in furtherance of its investigation in the above - styled matter, the Federal Election Commission hereby orders you to submit written answers to the attached questions. The answers must be submitted under oath within fifteen (15) days of your receipt of this Order.

Whereas, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C. on the 23rd day of August, 1977.

Thomas E. Harris
Thomas E. Harris
Chairman

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Huntington

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 23, 1977

Mr. Buck Mann
395 Concord Avenue
Belmont, Mass. 02178

RE: MUR 386 (77)

Dear Mr. Mann:

This is in regard to an investigation of the Central Long Island TRIM Committee (CLITRIM) which is currently being conducted by the Federal Election Commission. The Commission is seeking to determine whether a bulletin distributed by CLITRIM violates the Federal Election Campaign Act of 1971, as amended.

As shown in the enclosed correspondence, Edward Cozzette, Chairman of the respondent committee, indicated you were the attorney for the national TRIM movement and suggested that we contact you for further information. Accordingly, we would appreciate receiving a statement from you which shows whether you intend to represent CLITRIM in this matter.

We have also enclosed copies of the questions and the Commission's order to answer them, which we have sent to Mr. Cozzette.

Please feel free to call or write Leland Prince, (telephone # 202-523-4026) the staff member assigned to this case if you have any questions.

Sincerely yours,

William C. Oldaker
General Counsel

Charles N. Steele
Associate General Counsel

Enclosures

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 386 (77)
Central Long Island Trim Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on August 18, 1977, the Commission determined by a vote of 6-0 to find Reasonable Cause to Believe a violation of 2 U.S.C. section 441d has occurred in the above-captioned matter and to order the respondent to answer the questions attached to the General Counsel's report dated August 10, 1977.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

August 11, 1977

MEMORANDUM TO: Marjorie Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 386

Please have the attached General Counsel's Report on MUR 386 distributed to the Commission and placed on the Compliance Agenda for the Commission meeting of August 18, 1977.

Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

August 10, 1977

In the Matter of	)	
	)	
Central Long Island Trim Committee	)	MUR 386 (77)
	)	
	)	
	)	

GENERAL COUNSEL'S REPORT

I. SUMMARY OF ALLEGATIONS

Complainant Daniel C. Mooney submitted an affidavit to the Commission on March 31, 1977 alleging that the Central Long Island TRIM Committee (CLITRIM) committed violations of the federal election laws in connection with the 1976 election. He enclosed a copy of CLITRIM's fall, 1976 bulletin as evidence of his allegations which are as follows:

The bulletin advocated the defeat of Congressman Jerome Ambro and had been distributed in Congressman Ambro's district just prior to the 1976 election; it did not contain a notice of authorization or non-authorization, nor contain any notice that the publisher had filed as a political committee.

Complainant's allegations presents possible violations of 2 U.S.C. §§433, 434(c), 441b and 441d.

II. EVIDENCE

The Central Long Island TRIM bulletin was headlined "Put Big Government on a Diet!" The text following the headline described increasing government expenditures and advised taxpayers to let their representative know how they feel when he voted for measures to increase taxes. It suggested to readers that they "...thank (their representative) when he votes for lower taxes and less government and that they study their representative's voting record." The bulletin then presented Congressman Ambro's voting

record on 25 measures in chart form, categorizing his vote as for or against higher taxes and more government. The chart indicated very graphically that the Congressman had voted 21 times for higher taxes and more government.

Based on the statement by the complainant and the text of the bulletin, we conclude that the bulletin was distributed to the general public in Congressman Ambro's district. The extent of this distribution is not known. It was published by a local affiliate of the national TRIM Committee and featured only the record of Congressman Ambro. The bulletin contained a cut-out section for people to write in for more information and/or with donations to help print and distribute more bulletins. The cut-out also invited readers to join TRIM. The only listed address was that of the local TRIM affiliate.

The control exercised over CLITRIM by national organizations is not clear. The cut-out described above stated that TRIM is "a nationwide network of committees launched by the John Birch Society." In a June 30, 1977 letter to us, respondent's chairman stated that TRIM is one of the John Birch Society's "several ad hoc committees." In a July 23rd letter, respondent's chairman stated that "the content of all TRIM bulletins is compiled by national headquarters and issued by approximately 200 TRIM committees nationwide."

The bulletin did not contain a notice of authorization or non-authorization and an examination of the files in public records revealed that CLITRIM had not reported receipts and expenditures and had not registered as a political committee.

On March 12, 1977, the Commission found that there was reason to believe that CLITRIM had violated 2 U.S.C. §§433, 434 (c), 441b and 441d. The Chairman of CLITRIM, Edward Cozzette, whose name appears in the bulletin, was notified by letter and was requested to answer a series of attached questions.

On June 21st, during a phone conversation with Mr. Cozzette, we were told by him that this TRIM Committee had been disbanded but that the address we had for it was his home address. On June 30th, Mr. Cozzette responded by letter. He stated that "... 'education' is the total strategy..." of TRIM and that he found nothing in the bulletin "...that could be construed to support or oppose any candidate." On July 14th, we sent another letter to Mr. Cozzette again requesting that he answer the questions. On July 23rd, he wrote back stating he would not provide us with any information. He said we should contact the attorney for the national TRIM movement, whose name and address he provided, if we "...feel we must continue (our) efforts... ." He also said he would not accept any further communication from us.

III. ANALYSIS

In our earlier recommendation that the Commission find reason to believe that violations had occurred, we noted that the Commission's final decision on this matter would depend in significant part on the context of the production and distribution of the bulletin. This would be based on the results of the investigation we then proposed. Since respondent has indicated he will not supply us with any more information, our current analysis and recommendations will be divided into what can now be proven and what information still needs be obtained in order to make a complete finding.

The distribution to the general public of a publication which both presents the voting record of a candidate in a manner which can be interpreted so as to advocate the defeat of that candidate and solicits contributions, has been construed to be an expenditure as defined under 2 U.S.C. §431(f). (see OC 1976-43). The TRIM bulletin does both. First, more than presenting an objective survey of Congressman Ambro's voting record, the bulletin analyzes his position

on "important issues" as instances where he voted for "higher taxes and more government." The bulletin, therefore, would meet the standard of an expenditure "in connection with an election." United States v. Lewis Food Co., 366 F. 2d 710, 712 (1966). However, such an expenditure becomes subject to the reporting requirements of 2 U.S.C. §§433, 434, only if the amount expended was in excess of $1,000. Only then would CLITRIM be considered as a political committee, subject to the reporting requirements. Our questions to respondent were designed, in part, to elicit this information. Second, since the cut-out in the bulletin contains a solicitation of funds, this would preclude CLITRIM from using its own voluntary funds to publish the bulletin.

A communication which advocates the defeat of a clearly identified candidate is required under 2 U.S.C. §441d to contain a notice of authorization or non-authorization. The TRIM bulletin in question did not contain such a notice and respondent's conclusory statement to the Commission that the bulletin did not support or oppose any candidate does not constitute sufficient compliance with this section. Respondent, therefore, has violated §441d.

Under 2 U.S.C. §441b, a corporation may not finance communications from general corporate funds to the general public in connection with a federal election. (See Lewis Food, cited supra., and ORs 682 and 790). While it is clear that the bulletin was distributed to the general public, there is no evidence at this time to lead us to determine whether CLITRIM was an incorporated organization and, if so, whether it financed the bulletin from general corporate funds. Our questions to the respondent were designed to elicit information on this issue, and only after we obtain

such information can we make a recommendation on the §441b question.

IV. RECOMMENDATION

Based on the fact that the bulletin did not contain a notice of authorization or non-authorization, we recommend a finding of reasonable cause to believe a violation of §441d has occurred.

Respondent's refusal to answer the questions presented to him in the reason to believe letter and his expressed intention not to accept any more communications from this office impedes a determination with regard to §433, 434 and 441b violations. We therefore recommend that the Commission exercise its power pursuant to 2 U.S.C. §437d(a) (1) and order respondent to answer the attached questions so that we may determine whether there have been such other violations.

Send attached letters.

William C. Oldaker
General Counsel

DATE: 8/11/77

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

Mr. Buck Mann
395 Concord Avenue
Belmont, Mass. 02178

RE: MUR 386 (77)

Dear Mr. Mann:

This is in regard to an investigation of the Central Long Island TRIM Committee (CLITRIM) which is currently being conducted by the Federal Election Commission. The Commission is seeking to determine whether a bulletin distributed by CLITRIM violates the Federal Election Campaign Act of 1971, as amended.

As shown in the enclosed correspondence, Edward Cozzette, Chairman of the respondent committee, indicated you were the attorney for the national TRIM movement and suggested that we contact you for further information. Accordingly, we would appreciate receiving a statement from you which shows whether you intend to represent CLITRIM in this matter.

We have also enclosed copies of the questions and the Commission's order to answer them, which we have sent to Mr. Cozzette.

Please feel free to call or write Leland Prince, (telephone # 202-523-4026) the staff member assigned to this case if you have any questions.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosures

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
67 Van Dran Street
Huntington Station, N.Y. 11746

Dear Mr. Cozzette:

On August , 1977, the Commission determined that there is reasonable cause to believe that CLITRIM has committed a violation of §441d of the Federal Election Campaign Act of 1971, as amended ("the Act").

The Commission has a duty to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. §437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. §437g(a)(5)(B).

You will be contacted shortly in an effort to settle this matter by conciliation. If you have any questions, please feel free to contact Mr. Leland Prince, (telephone no. 202/523-4026), the staff member assigned to this case.

At that same time, the Commission has issued an order requiring you to answer the attached questions. You will recall that these questions were previously sent to you by our letter dated May 19, 1977, and that we wrote to you on July 14th requesting answers to these questions. Failure to answer will subject you to a civil suit to compel testimony. We have sent a copy of the order and questions to be answered to your attorney, Mr. Buck Mann.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

U.S. Marshal
225 Cadman Plaza East
Brooklyn, New York 11201

Re: MUR 386 (77)

Dear Sir:

We are requesting your office to serve the enclosed order and questions issued by the Federal Election Commission on _____ to Edward Cozzette, 67 Van Dran Street, Huntington, Station, New York 11746.

Under 2 U.S.C. &437d(a) (1), the Commission is empowered to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe. Ordinarily, these orders are forwarded by certified mail to the individual from whom the answers are required. In this instance, Mr. Cozzette has stated to us in writing that he will refuse to accept any further communications from our office. We have verified that as recently as July, 1977, Mr. Cozzette lived at the address which is listed.

In connection with this investigation, you should also be aware of 2 U.S.C. &437g(a) (3) (B) which prohibits any person from making public the fact of "any notification or investigation" by the Commission until the person complained against agrees in writing to make public the investigation. Since this is a relatively new statute, I thought it would be helpful to call your attention to this provision.

Please send your return on service to Mr. Leland Prince c/o Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. If you have any questions, please contact Mr. Prince (202)523-4026. Thank you for your cooperation in this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

(1) Is CLTRIM an incorporated membership organization?

(2) Is CLITRIM affiliated (established, financed, maintained, or controlled) with any:

(a) political party (as defined in 2 U.S.C. §431(m))?
(b) political committee (as defined in 2 U.S.C. §431(d))?
(c) candidate (as defined in 2 U.S.C. §431(b))?
(d) corporation or labor organization?

(3) If the answer to any part of question (2) is yes, state the name and address of each candidate, corporation, labor organization, political committee, and political party with which CLITRIM is affiliated.

(4) Is CLITRIM affiliated (established, financed, maintained, or controlled) or associated with or a part of a national TRIM organization? If the answer is yes, state the name and address of this national TRIM organization and its purpose.

(5) What was CLITRIM's purpose in publishing, distributing or making available the CLITRIM booklet?

(6) What was the approximate date of publication of the CLITRIM booklet?

(7) What was the total cost of researching, writing, printing, and distributing the CLITRIM booklet?

(8) State to whom the CLITRIM booklet was distributed. In particular, was it distributed:

(a) to members of CLITRIM?
(b) to any individual who requested a copy?
(c) systematically among the voters of the 3rd Congressional District of New York?

(9) To your knowledge, did CLITRIM or any of its officers or members provide copies of the CLITRIM booklet to:

(a) any candidate who was running against Representative Ambro?
(b) any committee or individual affiliated with or supporting such a candidate?

(10) If the answer to any part of question (9) is yes, state the name and address of the candidate, committee, or individual.

(11) It is our understanding that CLITRIM is no longer an active organization. Please confirm the current status of the organization and if it is dissovled, state the date of dissolution.

UNITED STATES OF AMERICA

FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 386 (77)
	)	
Central Long Island TRIM	)	
Committee	)	
	)	
	)	

ORDER

Mr. Edward Cozzette
Central Long Island Trim Committee
67 Van Dran Street
Huntington Station, New York 11746

Pursuant to the authority set forth in Section 437d(a) (1) of Title 2, United States Code, and in furtherance of its investigation in the above - styled matter, the Federal Election Commission hereby orders you to submit written answers to the attached questions. The answers must be submitted under oath within fifteen (15) days of your receipt of this Order.

Whereas, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C. on the day of August, 1977.

Thomas E. Harris
Chairman

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Huntington

July 21, 1977

MEMORANDUM TO: Marjorie Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 386

Please have the attached Interim Status Report distributed to the Commission and placed on the Compliance Agenda for the Commission meeting of July 28, 1977.

Thank you.

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: THE COMMISSION

FROM: WILLIAM C. OLDAKER Bill

SUBJECT: MUR 386

DATE: July 20, 1977

INTERIM STATUS REPORT

Daniel C. Mooney, the complainant, submitted, an affidavit on March 31, 1977, alleging that a booklet distributed by the Long Island TRIM Committee violated the Act in the following ways: 1) the booklet advocated the defeat of Representative Ambro (3rd Congressional Distr. N.Y.) without having a notice of authorization or nonauthorization, in violation of §441d; 2) respondent, as a corporation, may have violated §441b by financing the booklet's publication, since it presented Ambros' voting record in a way which could be construed as seeking to influence his defeat; and 3) respondent had not registered or reported as a political committee in violation of §§433 and 434.

On May 12, 1977, the Commission adopted the General Counsel's Report which recommended reason to believe a violation had occurred. On May 19th respondent was sent the Reason to Believe letter containing questions pertinent to this case. When no response was received from respondent, several efforts were made to contact him, including the sending of the Reason to Believe letter to a different address. On June 30th we received a response from respondent, but it was inadequate. On July 14th we wrote him requesting answers to the questions originally posed. We are presently waiting for his response.

MUR 386 Scal/Prince

PS Form 3811, Mar. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☐ Show to whom and date delivered..... 15¢
- ☒ Show to whom, date, & address of delivery.. 35¢
- ☐ RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

Edward Cozzette Chrmn
Central Long Island Trim Comm
Huntington Station, NY

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	945607	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Eliz. Cozzette

4. DATE OF DELIVERY

POSTMARK

HUNTINGTON STATION, N.Y. 11746 JUL 27 1977

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GOP: 1976—O-203-456

Vandam St
Hunt. Sta.
NY 11788

PM
1977

Federal Elec. Comm.
1325 K Street N.W.
Washington
D.C. 20463

Spirit of 76

matter I request that you
contact the attorney for the
national TRIM movement. He is:

Mr. Buck Mann
[illegible] Concord Ave
Belmont, Mass. 02178

The content of all TRIM bulletins
is compiled by national headquarters
and is used by approximately 200
TRIM committee nationwide. I
think all is quite adequate to
[illegible]
all the other [illegible]
I will accept no further
[illegible]

[illegible]

MUR 1886 July 23, 1987

Dear Mr Dell,

ACC 984

The information provided was all you should require to end the investigation, as the intention of the TRW bulletin was to provide the voters of the 3rd District with fact of Mr Dornan's voting record. There was no intention to impugn someone's character. As the information was not known to the voters, my opponent's staff had to provide it, as I have [illegible]

If you need, please contact me at your earliest convenience.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

July 14, 1977

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
Chairman
Central Long Island Trim
Committee
67 Van Dran Street
Huntington Station, New York 11746

RE: MUR 386 (77)

Dear Mr. Cozzette:

This is to acknowledge receipt of your letter dated June 30, 1977, and to advise you that the information you provided us is insufficient as a basis for closing the matter, as you have requested.

Once the Commission receives a complaint such as this one, its responsibility to proceed further or close the matter must be based on factual information. Since your letter does not provide us with the specific information we need, we still require the answers to the factual questions we posed in our letter to you of May 19, 1977. We would appreciate your submission of these answers in affidavit form within five (5) days of your receipt of this letter.

Of course, if you have any additional questions please feel free to call me at (202)523-4162.

Sincerely yours,

Lester Scall
Assistant General Counsel

EDWARD COZZETTE
67 VONDRAN STREET
HUNTINGTON STATION, N. Y. 11746

RECEIVED
FEDERAL ELECTION
COMMISSION

HICKSVILLE, NY 118
PM
JUL
1977

'77 JUL 7 AM 10:25

Federal Elections Commission

1325 K Street

Washington, D.C. 20463

C

Attn. Lester N. Scall

Mu 386 LCC 835 NRN

EDWARD COZZETTE
67 VONDRAN STREET
HUNTINGTON STATION, N. Y. 11746

516 - 673 - 9457

RECEIVED FEDERAL ELECTION COMMISSION
'77 JUL 7 AM 10:26

June 30, 1977

Federal Elections Commission
1325 K Street N.W.
Washington, D.C.

Dear Mr. Scall,

I would like to preface my reply to your communications by stating that for almost 20 years the John Birch Society and its several ad hoc committees (including TRIM) have repeatedly stated that "education" is the total strategy. Educating and informing the electorate has been the sum total of all our efforts. No candidate has ever been endorsed or opposed at any time

Accordingly, I have reveiwed the Fall TRIM bulletin in question (as I did prior to publication) and find that it contains nothing that could be construed to support or oppose any candidate. The text is nothing more than a restatement of conservative economics which can be found in the writings of; Bastiat, Von Mises, or Henry Hazlitt among others.

The chart showing Mr. Ambro's voting record was taken from the congressional record and he did, in fact, vote for the measures that would tend to increase the cost and size of government 22 out of 25 times. There are, of course, many people who approve of this trend and are working constantly to encourage it. On the other hand, there are others who oppose it.

In view of the above it is obvious that CLITRIM is not in violation of the federal election law and I see no point in either of us expending any further effort on this foolish complaint.

Sincerely,

Edward Cozzette

Edward Cozzette

23 JUN 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
Chairman
Central Long Island TRIM Committee
67 Von Dran Street
Huntington Station, New York 11746

Re: MUR 386 (76)

Dear Mr. Cozzette:

With reference to your telephone call to the Commission on June 21, 1977, I am enclosing the complaint in the captioned matter.

Our failure to enclose it in the letter of June 17, 1977, was an oversight and we apologize.

As I told you when we spoke, the matter has been reassigned to me. If you have any questions, you may reach me by phone at (202)523-4162.

Sincerely yours,

Lester N. Scall
Assistant General Counsel

Enclosure

LScall:dks:6/22/77

GC 386

PS Form 3811, Mar. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☐ Show to whom and date delivered..... 15¢
- ☒ Show to whom, date, & address of delivery.. 35¢
- ☐ RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

Mr. Edward Cozzette
Central Long Island
TRIM Committee

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	943448	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Edward Cozzette

4. DATE OF DELIVERY 6-24-77

POSTMARK

5. ADDRESS (Complete only if requested)
67 Vernon St
Huntington Sta NY

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GOP: 1976—O-203-456

MEMORANDUM TO: THE FILE

FROM: LES SCALL

SUBJECT: MUR 386 (TRIM COMMITTEE LONGISLAND FILE)
Telephone call from Respondent's Chairman

On June 21, 1977, we received a call from Edward Cozzette, Chairman ~~for~~ of the Respondent's Committee ((516)573-2808).

Cozzette called to say that the complaint referred to in our 6/17/77 letter to him had not been enclosed. I said we would send him a copy. (A copy of the Act was enclosed).

He said he would begin answering as soon as possible the questions propounded to him. The Committee has been disbanded but the address we have for it is his home address.

He said this kind of thing was "frightening" and that he did not want to have to face a fine and/or jail sentence for something like this.

I explained that the law was new and complicated but applies to all. I said that there are a number of steps to go before anything like a fine or jail sentence would be an issue.

438445

MUR 386

Respondent: LONG ISLAND TRIM COMMITTEE
Complainant: MOONEY
Code: 2 USC §§ 433, 434 (c), 441b, 441d
Action: 48 hr to Charlie 4/26; distributed to Com on a no objection basis 5/10/77; letters to Mooney and TRIM (to Cozzette) on 5/19/77 (10 day response); received by Mooney on 5/23/77; draft letter to postmaster, submitted to Charlie for review 6/9/77; material to TRIM returned on 6/13/77; learned new address of Ed Cozzette on 6/14/77;

8004318463 2

MUR 380

Edward Cozzette	Arthur Schutal
516-555-1212	Old Bethpage, Long Island

Phone numbers - addresses - anything

~~Respondent~~ Complainant: Daniel C. Mooney
516-997-9050

30041184683

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June 17, 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
Chairman
Central Long Island TRIM Committee
67 Von Dran Street
Huntington Station, New York 11746

Re: MUR 386 (77)

Dear Mr. Cozzette:

This is to notify you that the Federal Election Commission has received a complaint, which we have numbered MUR 386, in which it is alleged that the Central Long Island TRIM Committee ("CLITRIM") has violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. Please refer to the number in all future correspondence.

The Commission has reviewed a copy of the CLITRIM booklet in question (a copy of which is enclosed) and has found reason to believe that the chart rating Representative Ambro's votes on certain issues may constitute an expenditure expressly advocating the defeat of a clearly identified candidate, in violation of 2 U.S.C. §§433, 434(e), 441b and 441d. (For your information we have enclosed a copy of the Act). Accordingly, we request that you submit an affidavit (a signed, sworn, and notarized statement), pursuant to 2 U.S.C. §437g(a)(4), which fully answers the following questions:

(1) Is CLITRIM an incorporated membership organization?
(2) Is CLITRIM affiliated (established, financed, maintained, or controlled) with any:
- (a) political party (as defined in 2 U.S.C. (431(m))?
- (b) political committee (as defined in 2 U.S.C. §431(d))?
- (c) candidate (as defined in 2 U.S.C. §431(b))?
- (d) corporation or labor organization?

(3) If the answer to any part of question (2) is yes, state the name and address of each candidate, corporation,

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
Chairman
Central Long Island TRIM Committee
P.O. Box 85
Old Bethpage, New York 11804

Re: MUR 386

Dear Mr. Cozzette:

This is to notify you that the Federal Election Commission has received a complaint, which we have numbered MUR 386, in which it is alleged that the Central Long Island TRIM Committee ("CLITRIM") has violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. Please refer to the number in all future correspondence.

The Commission has reviewed a copy of the CLITRIM booklet in question (a copy of which is enclosed) and has found reason to believe that the chart rating Representative Ambro's votes on certain issues may constitute an expenditure expressly advocating the defeat of a clearly identified candidate, in violation of 2 U.S.C. §§433, 434(e), 441b and 441d. (For your information we have enclosed a copy of the Act). Accordingly, we request that you submit an affidavit (a signed, sworn, and notarized statement), pursuant to 2 U.S.C. §437g(a)(4), which fully answers the following questions:

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(2) Is CLITRIM affiliated (established, financed, maintained, or controlled) with any:
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- (b) political committee (as defined in 2 U.S.C. §431(d))?
- (c) candidate (as defined in 2 U.S.C. §431(b))?
- (d) corporation or labor organization?

(3) If the answer to any part of question (2) is yes, state the name and address of each candidate, corporation, labor organization, political committee, and political party with which CLITRIM is affiliated.

(4) Is CLITRIM affiliated (established, financed, maintained, or controlled) or associated with or a part of a national TRIM organization? If the answer is yes, state the name and address of this national TRIM organization and its purpose.

(5) What is the purpose of CLITRIM?

(6) What was CLITRIM's purpose in publishing, distributing, or making available the CLITRIM booklet?

(7) Please state the number of issues of the CLITRIM booklets that have been published to date, and the date publication commenced. It would further facilitate the conduct of this investigation if you would include copies of each issue of the CLITRIM booklet which was published in 1976 and 1977.

(8) What was the approximate date of publication of the CLITRIM booklet?

(9) What was the total cost of researching, writing, printing, and distributing the CLITRIM booklet?

(10) State to whom the CLITRIM booklet was distributed. In particular, was it distributed:

(a) to members of CLITRIM?

(b) to any individual who requested a copy?

(c) systematically among the voters of the 3rd Congressional District of New York?

(d) randomly among the voters of the 3rd Congressional District of New York?

(11) To your knowledge, did CLITRIM or any of its officers or members provide copies of the CLITRIM booklet to:

(a) any candidate who was running against Representative Ambro?

(b) Any committee or individual affiliated with or supporting such a candidate?

(12) If the answer to any part of question (11) is yes, state the name and address of the candidate, committee, or individual.

Please submit your response within ten days after the receipt of this letter, along with any other factual or legal materials you deem relevant to our inquiry. Where possible, please supply sworn statements by individuals having personal knowledge of the facts alleged.

This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you notify the Commission, in writing, that you wish the investigation to be made public. The unauthorized disclosure of this matter is subject to the fine provided in 2 U.S.C. §437g(c).

That attorney assigned to this case is David L. Anderson (telephone no. 202-523-4163). Please contact him if you have any questions.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosures

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Daniel C. Mooney, Esquire
Suite 203
99 Jericho Turnpike
Jericho, New York 11753

Re: MUR 386

Dear Mr. Mooney:

This letter acknowledges receipt of your complaint dated March 31, 1977, alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Central Long Island TRIM Committee. We have numbered your complaint as MUR 386. Please refer to this number in all future correspondence.

A copy of your complaint has been forwarded to the respondent. If you have any further evidence which you wish to make available to the Commission, please submit it within five days of the receipt of this letter. For your information we have enclosed a brief description of the Commission's preliminary procedures for the handling of complaints.

Please note that 2 U.S.C. §437g(a)(3) enjoins any person from making public the fact of "any notification or investigation" by the Commission unless the respondent agrees in writing to make the investigation public. The unauthorized disclosure of this matter is subject to the fine provided in 2 U.S.C. §437g(c).

The attorney assigned to this case is David L. Anderson, (telephone no. 202-523-4163). Please contact him if you have any questions.

Sincerely yours,

Enclosure

William C. Oldaker
General Counsel

DANIEL C. MOONEY
ATTORNEY & COUNSELLOR AT LAW

SUITE 203 · 99 JERICHO TURNPIKE · JERICHO, N. Y. 11753
516 997-9050

March 31, 1977

Federal Election Commission
1325 K Street Northwest
Washington, D. C. 20463

Re: Third Congressional District
New York
November 1976 Election

Gentlemen:

I am enclosing herewith a piece of political literature which was distributed in the Third Congressional District prior to the 1976 Congressional Election.

Since the same purports to advocate the defeat of one of the candidates, I would appreciate your checking to see if the Long Island Trim Committee has filed with your office regarding their political activities.

In the event there is any violation of the election law, I have enclosed an Affidavit and formally request that you investigate this matter and if a wrong doing has occurred that the same is corrected.

Thank you for your cooperation in this matter.

Very truly yours,

Daniel C. Mooney

DCM/jb
Enclosure

MCC # 154

77

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

DANIEL C. MOONEY, being duly sworn, deposes and says:

I am a resident of 89 Pershing Avenue, Locust Valley, New York, which is in the Third Congressional District.

I am making this Affidavit for the Federal Election Committee to process a Complaint against the Long Island Trim Committee, which, upon information and belief, engaged in political action on behalf of/or against a candidate for election to the United States Congress in the November 1976 Election.

Since the literature does not state who paid for the same nor contain any notice of filing there may be a violation of Federal Election Laws.

THEREFORE, I formally request you to investigate this matter and to advise me of the outcome of your investigation.

Sworn to before me this

day of April, 1977.

DANIEL C. MOONEY

Notary Public

JOANNE BRENN
NOTARY PUBLIC, State of New York
No. [illegible]
Qualified in [illegible] County
Term Expires March 30, 1977

labor organization, political committee, and political party with which CLITRIM is affiliated.

(4) Is CLITRIM affiliated (established, financed, maintained, or controlled) or associated with or a part of a national TRIM organization? If the answer is yes, state the name and address of this national TRIM organization and its purpose.

(5) What was CLITRIM's purpose in publishing, distributing, or making available the CLITRIM booklet?

(6) What was the approximate date of publication of the CLITRIM booklet?

(7) What was the total cost of researching, writing, printing, and distributing the CLITRIM booklet?

(8) State to whom the CLITRIM booklet was distributed. In particular, was it distributed:

(a) to members of CLITRIM?
(b) to any individual who requested a copy?
(c) systematically among the voters of the 3rd Congressional District of New York?

(9) To your knowledge, did CLITRIM or any of its officers or members provide copies of the CLITRIM booklet to:

(a) any candidate who was running against Representative Ambro?
(b) any committee or individual affiliated with or supporting such a candidate?

(10) If the answer to any part of question (9) is yes, state the name and address of the candidate, committee, or individual.

(11) It is my understanding that CLITRIM is no longer an active organization. Please confirm the current status of the organization and if it has dissolved, state the date of dissolution.

Please submit your response within ten days after the receipt of this letter, along with any other factual or legal materials you deem relevant to our inquiry. Where possible, please supply sworn statements by individuals having personal knowledge of the facts alleged.

This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you notify the Commission, in writing, that you wish the investigation to be made public. The unauthorized disclosure of this matter is subject to the fine provided in 2 U.S.C. §437g(c).

That attorney assigned to this case is David L. Anderson (telephone no. 202-523-4163). Please contact him if you have any questions.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosures

GC MUR 386 (77)

PS Form 3811, Mar. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☐ Show to whom and date delivered..... 15¢
- ☐ Show to whom, date, & address of delivery.. 35¢
- ☐ RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

Mr Edward Cozzette

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	943385	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Elizabeth Cozzette

4. DATE OF DELIVERY

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GOP : 1976—O—203-456

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

6/10/77

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Anthony Murello
Postmaster
U.S. Post Office
Hicksville, New York 11801

Re: MUR 386

Dear Mr. Murello:

On May 19, 1977, the Commission sent a letter (certified no. 438445) to Mr. Edward Cozzette, Chairman, Central Long Island TRIM Committee, P.O. Box 85, Old Bethpage, New York 11804.

To date the Commission has neither received the return receipt nor any indication that delivery of the letter has been effected. Accordingly, we request that you review your records to determine whether the letter has been delivered to the addressee's post office box and whether the addressee has accepted delivery.

We would appreciate receiving a response on this matter within ten days of the receipt of this letter.

The attorney assigned to this case is David L. Anderson (telephone 202/523-4175). Please address all correspondence to him and contact him if you have any questions.

Thank you for your cooperation.

Sincerely yours,

William C. Oldaker
General Counsel

PS Form 3811, Mar. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

EC

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- [x] Show to whom and date delivered..... 15¢
- [ ] Show to whom, date, & address of delivery.. 35¢
- [ ] RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

Daniel Mooney

MOK 386 Completed

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	438448	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY 12/3/75 POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

☆ GOP: 1976—O-203-456

FILE COPY

19 MAY 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Daniel C. Mooney, Esquire
Suite 203
99 Jericho Turnpike
Jericho, New York 11753

Re: MUR 386

Dear Mr. Mooney:

This letter acknowledges receipt of your complaint dated March 31, 1977, alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("The Act"), by the Central Long Island TRIM Committee. We have numbered your complaint as MUR 386. Please refer to this number in all future correspondence.

A copy of your complaint has been forwarded to the respondent. If you have any further evidence which you wish to make available to the Commission, please submit it within five days of the receipt of this letter. For your information we have enclosed a brief description of the Commission's preliminary procedures for the handling of complaints.

Please note that 2 U.S.C. §437g(a)(3) enjoins any person from making public the fact of "any notification" or investigation by the Commission unless the respondent agrees in writing to make the investigation public. The unauthorized disclosure of this matter is subject to the fine provided in 2 U.S.C. §437g(c).

The attorney assigned to this case is David L. Anderson, (telephone no. 202-523-4163). Please contact him if you have any questions.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

DAnderson:dks:4/22/77

5/18/77

19 MAY 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Edward Cozzette
Chairman
Central Long Island TRIM Committee
P.O. Box 85
Old Bethpage, New York 11804

Re: MUR 386

Dear Mr. Cozzette:

This is to notify you that the Federal Election Commission has received a complaint, which we have numbered MUR 386, in which it is alleged that the Central Long Island TRIM Committee ("CLITRIM") has violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. Please refer to the number in all future correspondence.

The Commission has reviewed a copy of the CLITRIM booklet in question (a copy of which is enclosed) and has found reason to believe that the chart rating Representative Ambro's votes on certain issues may constitute an expenditure expressly advocating the defeat of a clearly identified candidate, in violation of 2 U.S.C. §§433, 434(e), 441b and 441d. (For your information we have enclosed a copy of the Act). Accordingly, we request that you submit an affidavit (a signed, sworn, and notarized statement), pursuant to 2 U.S.C. §437g(a)(3), which fully answers the following questions:

(1) Is CLITRIM an incorporated membership organization?
(2) Is CLITRIM affiliated (established, financed, maintained, or controlled) with any:
(a) political party (as defined in 2 U.S.C. §431(m))?
(b) political committee (as defined in 2 U.S.C. §431(d))?
(c) candidate (as defined in 2 U.S.C. §431(b))?
(d) corporation or labor organization?
(3) If the answer to any part of question (2) is yes, state the name and address of each candidate, corporation, labor organization, political committee, and political party with which CLITRIM is affiliated.

(4) Is CLITRIM affiliated (established, financed, maintained, or controlled) or associated with or a part of a national TRIM organization? If the answer is yes, state the name and address of this national TRIM organization and its purpose.

(5) What is the purpose of CLITRIM?

(6) What was CLITRIM's purpose in publishing, distributing, or making available the CLITRIM booklet?

(7) Please state the number of issues of the CLITRIM booklets that have been published to date, and the date publication commenced. It would further facilitate the conduct of this investigation if you would include copies of each issue of the CLITRIM booklet which was published in 1976 and 1977.

(8) What was the approximate date of publication of the CLITRIM booklet?

(9) What was the total cost of researching, writing, printing, and distributing the CLITRIM booklet?

(10) State to whom the CLITRIM booklet was distributed, in particular, was it distributed:

(a) to members of CLITRIM?

(b) to any individual who requested a copy?

(c) systematically among the voters of the 3rd Congressional District of New York?

(d) randomly among the voters of the 3rd Congressional District of New York?

(11) To your knowledge, did CLITRIM or any of its officers or members provide copies of the CLITRIM booklet to:

(a) any candidate wo was running against Representative Ambro?

(b) Any committee or individual affiliated with or supporting such a candidate?

(12) If the answer to any part of question (11) is yes, state the name and address of the candidate, committee, or individual.

Please submit your response within ten days after the receipt of this letter, along with any other factual or legal materials you deem relevant to our inquiry, Where possible, please supply sworn statements by individuals having personal knowledge of the facts alleged.

This matter will remain confidential in accordance with 2 U.S.C. 437g(a)(3) unless you notify the Commission, in writing, that you wish the investigation to be made public. The unauthorized disclosure of this matter is subject to the fine provided in 2 U.S.C. 437g(c).

That attorney assigned to this case is David L. Anderson (telephone no. 202-523-4163). Please contact him if you have any questions.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosures

DAnderson:DKS:4/22/77

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 386 (77)
Edward Cozzette, Chairman,	)	
Central Long Island TRIM	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on May 12, 1977, the Commission adopted the recommendation of the General Counsel that it finds Reason to Believe that a violation of the Federal Election Campaign Act, as amended, had been committed in the above-captioned matter.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

MUR386

FILE COPY

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

May 12, 1977

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS

SUBJECT: MUR 386 (77) and a Letter from General Counsel to Benjamin R. Civiletti, Esq.

The above-mentioned documents were transmitted to the Commissioners on May 11, 1977 at 9:00.

As of 12:00 noon, May 12, 1977, no objections have been received regarding MUR 386 (77) or the Letter from General Counsel to Benjamin R. Cililetti, Esq.

May 10, 1977

MEMORANDUM TO: MARJORIE EMMONS

FROM: CHARLES N. STEELE

SUBJECT: MMUR 386 (77)

Please distribute the attached to the Commission on a 24 hour no-objection basis.

Attachments

DAnderson:dks:5/10/77
cc: Kurt Burkhart
DAnderson

DATE AND TIME OF TRANSMITTAL: _____

NO. 386 (77)

REC'D: 4/5/77

FEDERAL ELECTION COMMISSION
Washington, D. C.

Complainant's Name: Daniel C. Mooney (notarized)

Respondent's Name: Edward Cozzette, Chairman, Central Long Island TRIM

Relevant Statute: 2 U.S.C. §§433, 434(e), 441b, 441d

Internal Reports Checked: Registration statements

Federal Agencies Checked: None

SUMMARY OF ALLEGATION

Central Long Island TRIM (CLITRIM) distributed a booklet in the Fall of 1976 on behalf of/or against a candidate for election to the United States Congress in the November 1976 election. Complainant alleges that "since the literature does not state who paid for the same nor contain any notice of filing there may be a violation of Federal Election Laws". (See Attachments #1 and #2.)

PRELIMINARY LEGAL ANALYSIS

(1) The four page CLITRIM booklet argues that the average taxpayer is being victimized by both direct and indirect taxes imposed by the Federal government. (See Attachment #3.) The booklet advises every taxpayer to

> [k]eep an eye on how your Representative votes on measures which increase your total taxes - both direct and hidden - by using our quarterly TRIM Bulletin. If your Representative

cont'd

RECOMMENDATION

Find reason to believe, send attached letters.

Date of Next Commission Review: _____

Preliminary Legal Analysis (cont.)

> consistently votes for measures that increase taxes, let him know how you feel. And thank him when he votes for lower taxes and less government.
> Supra., at 4

The booklet also devotes its two inside pages to a rating of the instances when Representatives Jerome A. Ambro (then the Democratic nominee from the 3rd Congressional District of New York) voted for "higher taxes and more government". Each of the eight listed issues is phrased in a manner which leaves a clearly negative impression with regard to Representative Ambro when he voted contrary to the position advocated by CLITRIM.

(2) Since the booklet does not merely record Representative Ambros' voting record but also interprets the record through the negative phrasing of the listed issues, this rating could reasonably be read as seeking to influence the defeat of Representative Ambro because of his opposition to the positions advocated by CLITRIM. See MUR 310 which involves a similar matter, and O/R #790. It should be noted that in O/R #682 and #544 it was concluded that the publication of voting records of a Federal officeholder, which can be reasonably read to show support or opposition to the officeholder were "in connection with a Federal election" and thus are precluded under 2 U.S.C. §441b from being financed from general corporate funds. See also U.S. v Lewis Food Company, 366 F.2d 710, 712 (9th Cir., 1966)

(3) The booklet fails to contain any authorization notice, and a review of the Commission's registration statements reveals that CLITRIM has not registered or reported as a political committee. Thus, if the booklet is found to have been produced or distributed for the purpose of influencing or in connection with an election, then CLITRIM may be in violation of 2 U.S.C. §§433, 434, and 441d.

If corporate funds were used in the preparation or distribution of the booklet, the CLITRIM also may have violated 2 U.S.C. §441b.

(4). Since the Commission's final decision on this matter will depend in significant part on the context of the production and distribution of the booklet, an investigation appears warranted. It should be noted that the questions prepared to the respondent in this matter are very similar to those developed in MUR 310 (76).

ATTACHMENT #1

DANIEL C. MOONEY
ATTORNEY & COUNSELLOR AT LAW

SUITE 203 · 99 JERICHO TURNPIKE · JERICHO, N. Y. 11753
516 997-9050

March 31, 1977

Federal Election Commission
1325 K Street Northwest
Washington, D. C. 20463

Re: Third Congressional District
New York
November 1976 Election

Gentlemen:

I am enclosing herewith a piece of political literature which was distributed in the Third Congressional District prior to the 1976 Congressional Election.

Since the same purports to advocate the defeat of one of the candidates, I would appreciate your checking to see if the Long Island Trim Committee has filed with your office regarding their political activities.

In the event there is any violation of the election law, I have enclosed an Affidavit and formally request that you investigate this matter and if a wrong doing has occurred that the same is corrected.

Thank you for your cooperation in this matter.

Very truly yours,

Daniel C. Mooney

DCM/jb
Enclosure

ACCT 151

ATTACHMENT #2

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

DANIEL C. MOONEY, being duly sworn, deposes and says:

I am a resident of 89 Pershing Avenue, Locust Valley, New York, which is in the Third Congressional District.

I am making this Affidavit for the Federal Election Committee to process a Complaint against the Long Island Trim Committee, which, upon information and belief, engaged in political action on behalf of/or against a candidate for election to the United States Congress in the November 1976 Election.

Since the literature does not state who paid for the same nor contain any notice of filing there may be a violation of Federal Election Laws.

THEREFORE, I formally request you to investigate this matter and to advise me of the outcome of your investigation.

Sworn to before me this

day of April, 1977.

DANIEL C. MOONEY

Notary Public

JOANNE BRENN
NOTARY PUBLIC, State of New York
No. [illegible]
Qualified in Nassau County
Term Expires March 30, 1977

ATTACHMENT #3

FALL '76 ISSUE

4-94

TRIM BULLETIN

TRIM (Tax Reform Immediately) is a nationwide movement to Lower Taxes Through Less Government

Central Long Island TRIM Committee
P.O. Box 85 • Old Bethpage, L.I., New York 11804
Chairman-Edward Cozzette—Sec.-Treas.-Arthur Schukal
Program Chairman-Alfred Weyhreter—Mem. Chairman-John O'Neill
Publicity Chairman-William Garvey

Sponsors:
Mr. & Mrs. Joseph Brachocki . . . . . Mr. William Schoenster
Mr. & Mrs. Anthony Bianco . . . . . Mr. Edward Shatell, Sr.
Mr. & Mrs. Benjamin Pennino . . . . . Mr. Joseph Figari
Mr. Richard Weyhreter

Put Big Government on a diet!

Your Uncle Sam is a tax glutton. He's never satisfied with little tax snacks. He wants a banquet — and always at the expense of taxpayers and consumers. To see what his gluttony is doing to you, take a good look at your check stub the next time you get paid. You'll see that Uncle Sam and his cousins — state and local governments — have already gobbled up one-fourth of your earnings.

But that's only the beginning. Uncle Sam and his cousins are still hungry. They now eat further into your income with hundreds of direct taxes, including those on real estate, automobiles, gasoline, entertainment, food, and clothing. By the time they've finished this meal, they've consumed one-third or more of your earnings.

Yet Uncle Sam is still not satisfied. But he has a problem. If he keeps eating at the taxpayers' pockets openly, they may revolt. So he turns to *hiding* his excesses. After directly taxing so many of your hard-earned dollars, Uncle Sam now resorts to *hidden* taxes — business regulations, business taxes, and inflation.

Most persons would never think of these as hidden taxes, but they all eat into your cash just as if you had been taxed directly.

Here's how these hidden taxes affect your pay: When businesses are hit with regulations or taxes, their costs increase. The businesses have no choice — they must increase prices to pay the higher costs. When the consumer buys a product or service, the *hidden taxes are already included in the price.*

Only naïve or dishonest men advocate shifting the tax burden to businesses in order

(Continued on back page)

See inside for your Representative's positions on 25 key measures . . .

FALL '76 ISSUE

4-94

TRIM BULLETIN

Published by TRIM (Tax Reform IMmediately), a nationwide movement to

Lower Taxes Through Less Government

Central Long Island TRIM Committee
P.O. Box 85 • Old Bethpage, L.I., New York 11804

Chairman-Edward Cozzette—Sec.-Treas.-Arthur Schukal
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Mr. & Mrs. Joseph Brachocki . . . . . Mr. William Schoenster
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Mr. & Mrs. Benjamin Pennino . . . . . Mr. Joseph Figari
Mr. Richard Weyhreter

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Most persons would never think of these as hidden taxes, but they all eat into your cash [illegible] and been taxed directly.

[illegible] these hidden taxes affect your pay: When businesses are hit with regulations or taxes [illegible] costs increase. The businesses have no choice — they must increase prices to pay [illegible] costs. When the consumer buys a product or service, the *hidden taxes are* [illegible] *in the price.*

[illegible] dishonest men advocate shifting the tax burden to businesses in order

(Continued on back page)

See inside for your Representative's positions on 25 key measures . . .

Put Big Government on a diet! *(Continued from page one)*

to reduce individual taxes, because when businesses are taxed, consumers will always pay.

Inflation is a *hidden* tax increase which is caused by the federal government. When Congress votes to spend money that isn't there, a deficit exists. This eventually causes an increase in the money supply which pushes up demand for goods and services and causes prices to rise. What happens, in effect, is that the consumer pays higher prices as a direct result of federal deficits.

Remember this: *You* will pay one way or another for every government program — either through direct taxes that you can see, or through hidden taxes that you cannot.

Nearly half of your earnings are now taken either by direct or hidden taxes. And economists estimate that if taxes continue to rise at present rates, you will see Uncle Sam and his cousins take 54¢ of every hard-earned dollar by 1985. This is not a wild estimate. Taxpayers in many socialist countries already pay 60 percent or more of their incomes to the government.

The problem is obvious: Uncle Sam has become too fat, too bossy, and too wasteful to be allowed to continue in his tax gluttony. The answer: Put Big Government on a diet; TRIM away the bureaucratic blubber, and reduce the heavy load of taxation.

Every taxpayer should become an Uncle Sam "Tax Weightwatcher." Keep an eye on how your Representative votes on measures which increase your total taxes — both direct and hidden — by using our quarterly *TRIM Bulletin*. If your Representative consistently votes for measures that increase taxes, let him know how you feel. And thank him when he votes for lower taxes and less government.

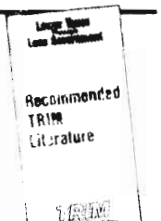
As you study your Representative's voting record on the inside, remember that the cost per household shown for each measure is paid by you either directly, or through hidden taxes.

Keep in mind that we only had space for twenty-five measures, so we picked what we felt were the most important and timely of the more than 1,000 votes cast since the current session of Congress began.

Lastly, never forget that since *you* are paying the tax bills, *you* are the boss. And don't ever let your Representative forget it!

It's time for lower taxes.

Because many "hidden taxes" are never seen by consumers, some people find it hard to believe that governments at all levels are now consuming over 40% of an average person's earnings. TRIM, a nationwide network of committees launched by The John Birch Society, is working to bring about "lower taxes through less government." If you want more information, clip the coupon and mail to the TRIM committee listed at the top of page one.



— FREE —
Just send a stamped, self-addressed envelope

- ☐ Please let me know how I can help distribute your TRIM Bulletin.
- ☐ I'm fed up with high taxes and inflation. Please tell me how I can join your TRIM Committee.
- ☐ I've enclosed a donation to help print and distribute more TRIM Bulletins.
- ☐ Send a free copy of "Recommended TRIM Literature." I've enclosed a stamped, self-addressed envelope.

Name

Address Phone

City State Zip

Daniel C. Mooney
Suite 203
99 Jericho Turnpike
Jericho, New York 11753

Federal Elections Commission
1325 K Street
Washington, D. C. 20563

3 0 0 1 0 3 1 7 1 2

Congressman Jerome A. Ambro
3rd Congressional District, New York
—District Offices—
20 Crossways Park North
Woodbury, New York 11797
—New Yorker Building—
755 New York Avenue Fourth Floor
Huntington, New York 11743

HOW DOES YOUR REPRESENTATIVE VOTE?

Date, Bill Number, and Measure	Average Cost per Household	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTED FOR HIGHER TAXES AND MORE GOVERNMENT

Government Regulation

The American public is learning, to its dismay, that government regulatory agencies are a sprawling, heavy-handed, and very costly bureaucracy. These mushrooming agencies, uncontrolled and unresponsive, are responsible for rising prices and higher taxes. The major regulatory agencies employ more than 105,000 persons and spend over $3.8 billion a year. But the *real* cost of these regulatory agencies is much higher — estimated to be more than $130 billion per year, or $2,000 per year in hidden taxes for every family in America. The Environmental Protection Agency (EPA) employs over 10,000 people, while the Federal Energy Administration (FEA), created "temporarily" to handle the oil embargo, has 3,500 people on the payroll, including 110 press agents doing what the *Wall Street Journal* calls "self promotion."

Responding to the nationwide dissatisfaction with the Occupational Safety and Health Administration (OSHA), the House voted to add an amendment to an HEW-Labor bill that would exempt businesses with ten or less employees from OSHA fines.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
5/4/76 H.R. 12704 EPA Research and Development	TOTAL COST* UNKNOWN		X
6/1/76 H.R. 12169 Federal Energy Administration funds	TOTAL COST* UNKNOWN		X
6/24/76 Amendment to H.R. 14232 To protect small businesses from OSHA	TOTAL SAVING** UNKNOWN	DID NOT VOTE	

Government Jobs

The federal government actually causes unemployment when it hires unemployed workers for "public service" jobs. The reason is simple: To finance the hiring of the unemployed, the government must increase either direct or hidden taxes. These increased taxes cut into business profits, forcing layoffs. This results in more unemployment, and the problem worsens when the government continues to hire the unemployed. And we should ask: Is a "public service" job *productive*? Do we need more government buildings? Will consumers benefit by all of this "work" being done at their expense? If we take a hard look at these questions, we will discover that *these jobs will not create more consumer goods.*

"Public service" jobs are not productive. Only private businesses can put people to work producing the things that consumers want most. Food, homes, clothing, automobiles, and gasoline are produced by private businesses — not by the government. The quicker we reduce the heavy burden of excessive government spending, the quicker we will solve the unemployment problem by letting businesses hire the jobless. Only then will real, productive jobs be created — jobs which will give us consumer goods in return for our money.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
5/10/76 H.R. 11453 Public Service Jobs	$82		X
5/13/76 H.R. 12972 Public Works Jobs	$34		X
5/25/76 H.R. 10138 Young Adult Conservation Corps	$179		X
6/23/76 S. 3201 State & Local Public Works Jobs	$27		X

Welfare

Federal welfare programs are unmanagable, inefficient, and incapable of helping those with genuine needs. We must ask some questions: Is the federal government solving, or creating the welfare problem? How can welfare be strictly controlled? Should our long-range goal be to turn welfare programs over entirely to private charities, where they can be kept under control? Is our nation's productivity — our whole standard of living — suffering as a result of runaway welfare?

Some politicians are promoting the idea of turning *all* welfare programs over to the federal government. But this would give taxpayers *less* control of welfare than they now have. Welfare tends to encourage people *not* to work. Because of this fact, our present system of runaway welfare undermines productivity. And when productivity is discouraged, the economy is adversely affected. This then causes more people to seek welfare aid, and the whole welfare system perpetuates itself.

The most startling example of runaway welfare is the food stamp program. In ten years, costs have jumped by a whopping 11,000 percent, and now top $5 billion annually. When the food stamp program was initiated, only one in 439 persons could qualify; today one in six are eligible. One point should be easy to see: The federal government will never exercise sufficient control over welfare programs. In fact, we are rapidly approaching a point where a new majority of welfare recipients could demand — and get — practically any concession it wanted from politicians hungry for votes. And when that point comes, fellow taxpayers, watch out!

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
6/25/75 H.R. 8069 HEW Appropriations, 1975	$617		X
5/12/76 H.R. 12851 Aid to Higher Education	$47		X
5/26/76 H.R. 12945 Federally-subsidized Housing	$73		X
6/16/76 H.R. 14237 Food Stamps Appropriations	$66		X
6/22/76 H.R. 14233 HUD, VA, Space & Science Appropriation	$590		X
7/20/76 H.R. 10210 Unemployment Compensation	$82		X

Revenue Sharing

Revenue sharing? The federal government has no money of its own to share. In fact, the federal government had a deficit of $44 billion in 1975, nearly $70 billion in 1976 and will have another deficit of $50 billion or more in 1977. Which means the federal government must increase direct or hidden taxes to get the money which politicians intend to "share" with local governments. Rep. Poage says this: "The people have to pay for it all. All we are doing is shifting taxation from the local agency to Washington and then sending some of the money back again.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
6/10/76 H.R. 13367 Revenue Sharing Extension	$343		X

Foreign Aid

The U.S. government has no obligation to administer a worldwide welfare system known as foreign aid. Since the end of World War II the United States has provided economic and military aid totaling $182 billion. Yet this incredible sum does not reveal the entire cost of the program. One congressional committee estimates that an additional expense of $125 billion in interest has been incurred to borrow the money we have given away. This makes the actual cost of the entire foreign aid program in excess of $300 billion (that's over $1,200 per household).

Any way you look at it, the foreign aid program is nothing less than a failure. On balance, it has not raised the standard of living or provided freedom for the world's poor by the slightest degree.

For one example, more than $8 billion tax dollars have been poured into India, which is now under a cruel dictatorship where individual freedom is nonexistent. Certainly the American worker can claim no benefits from foreign aid. In fact he is hurt when the federal government sends his tax dollars overseas to strengthen the economies of other nations, thereby financing his competition in the marketplace.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
3/3/76 H.R. 11963 Foreign Military Aid	$48		X
3/4/76 H.R. 12203 Foreign Military & Economic Aid	$69		X
6/22/76 H.R. 13680 Foreign Military Aid	$95		X
6/29/76 H.R. 14260 Foreign Military & Economic Aid	$66		X

Defense

Over the years, U.S. foreign policy has promoted aid and trade with Communist governments. This suicidal policy has helped strengthen our avowed enemies. TRIM feels that a sane foreign policy would oppose aid and trade with Communist governments, thereby lessening their power, and would allow us to eventually lower defense spending. But under present circumstances TRIM is forced to support current huge defense expenditures in order to maintain our military superiority.

National defense is a necessary and Constitutional function of our government. Yet whenever Congress finds it politically expedient to look for budget cuts, the Defense Department always gets shortchanged, while spending for federal welfare programs continues to skyrocket.

Yes, our long range goal must include a trimming of the defense budget, but only if we can maintain the security of the United States. And we can do both. But in order to accomplish these goals, we must have a change in U.S. foreign policy. We must tell our leaders to stop giving moral, technical, and financial help to the Communists. This only strengthens them and forces us to spend billions more on defense.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
4/9/76 H.R. 12438 Weapons and Military Research	$457		X
6/16/76 H.R. 12384 Military Construction Projects	$45		X
6/16/76 H.R. 14235 Military Construction & Family Housing	$47		X
6/17/76 H.R. 14262 Defense Department Appropriations	$1448		X

Congressional Pay Raise

A majority of Representatives did something about inflation; they voted *themselves* an AUTOMATIC, annual, cost of living pay raise! This vote was part of a sneaky, under-the-table maneuver which rushed the pay raise through Congress in order to avoid public exposure. But voters got upset. So the House voted, just two months before the election, [illegible] pay raise for *this year only*. It was election-year politics as usual, but don't be fooled. The vote recorded here is the key vote on this measure.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
7/30/75 H.R. 2559 Pay raise procedural vote with 2/3 majority req.	TOTAL COST*** UNKNOWN	X	

Federal Debt Increase

On June 14, 1976 the House of Representatives increased the federal debt "limit" another $75 billion to a staggering $700 billion. The House had voted a $32 billion increase just last February. For what? To allow the federal government to pay the fiscal obligations incurred by irresponsible politicians who have practiced "the-sky's-the-limit" government spending. Government deficit spending is the direct cause of inflation. But we can do something about it. All it will take is to have enough aroused taxpayers to convince a majority of the 435 Members of the House of Representatives to vote "no" on wasteful, unnecessary, and unconstitutional programs. Let your Representative know how you feel about inflation-causing deficits.

Date, Bill Number, and Measure	Average Cost per Household	Lower Taxes and Less Government	Higher Taxes and More Government
2/25/76 H.R. 11893 Federal Debt Limit Increase	$440	X	
6/14/76 H.R. 14114 Federal Debt Limit Increase	$1003	X	

*Includes higher prices consumers pay due to regulations. **Proposal to regulate fewer businesses would lower prices, but exact amount unknown. ***Cost dependent on future inflation rate.

Put Big Government on a diet! (Continued from page one)

to reduce individual taxes, because when businesses are taxed, consumers will always pay.

Inflation is a *hidden* tax increase which is caused by the federal government. When Congress votes to spend money that isn't there, a deficit exists. This eventually causes an increase in the money supply which pushes up demand for goods and services and causes prices to rise. What happens, in effect, is that the consumer pays higher prices as a direct result of federal deficits.

Remember this: *You* will pay one way or another for every government program — either through direct taxes that you can see, or through hidden taxes that you cannot.

Nearly half of your earnings are now taken either by direct or hidden taxes. And economists estimate that if taxes continue to rise at present rates, you will see Uncle Sam and his cousins take 54¢ of every hard-earned dollar by 1985. This is not a wild estimate. Taxpayers in many socialist countries already pay 60 percent or more of their incomes to the government.

The problem is obvious: Uncle Sam has become too fat, too bossy, and too wasteful to be allowed to continue in his tax gluttony. The answer: Put Big Government on a diet; TRIM away the bureaucratic blubber, and reduce the heavy load of taxation.

Every taxpayer should become an Uncle Sam "Tax Weightwatcher." Keep an eye on how your Representative votes on measures which increase your total taxes — both direct and hidden — by using our quarterly *TRIM Bulletin*. If your Representative consistently votes for measures that increase taxes, let him know how you feel. And thank him when he votes for lower taxes and less government.

As you study your Representative's voting record on the inside, remember that the cost per household shown for each measure is paid by you either directly, or through hidden taxes.

Keep in mind that we only had space for twenty-five measures, so we picked what we felt were the most important and timely of the more than 1,000 votes cast since the current session of Congress began.

Lastly, never forget that since *you* are paying the tax bills, *you* are the boss. And don't ever let your Representative forget it!

It's time for lower taxes.

Because many "hidden taxes" are never seen by consumers, some people find it hard to believe that governments at all levels are now confiscating over 40% of an average person's earnings. TRIM, a nationwide network of committees launched by The John Birch Society, is working to bring about "lower taxes through less government." If you want more information, clip this coupon and mail to the TRIM committee listed at the top of page one.

Lower Taxes Less Government

Recommended TRIM Literature

— FREE —
Just send a stamped, self-addressed envelope

- [ ] Please let me know how I can help distribute your TRIM Bulletin.
- [ ] I'm fed up with high taxes and inflation. Please tell me how I can join your TRIM Committee.
- [ ] I've enclosed a donation to help print and distribute more TRIM Bulletins.
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Put Big Government on a diet! (Continued from page one)

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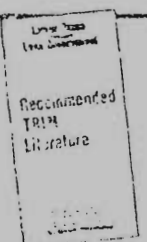

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