



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4121

DATE FILMED 1-8-57 CAMERA NO. 4

CAMERAMAN JmH

9604372605

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

ILLINOIS REPUBLICAN PARTY,)
and HAROLD B. SMITH,)
COMPLAINANTS,)
vs.)
LIPINSKI FOR CONGRESS,)
a Political Committee, and)
WILLIAM LIPINSKI, Candidate)
RESPONDENTS)

Case No:

MUR 4121

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 2 2 03 PM '94

COMPLAINT

To: The Federal Election Commission
999 E. Street -Northwest
Washington, D.C. 20463

NOW COMES THE COMPLAINANTS, the Illinois Republican Party and Harold B. Smith, complaining of the Respondent, Lipinski for Congress, a political committee, William Lipinski, a candidate, and in support thereof alleges and states as follows:

1. On information and belief, the Respondent committee and its candidate have disseminated numerous public campaign literature and advertisements as more fully set out in Exhibits A through F, attached and made part of this complaint by attachment.

2. That upon information and belief, Respondent, "Lipinski for Congress", a political committee, and its candidate, Congressman William Lipinski, have failed to attach or place the appropriate disclaimer on numerous public advertisements of the candidate and/or his committee, as more fully set forth on Exhibits A through F, in violation of the Federal Election Campaign Act, Title 2, United States Code, Section 441 d.

9604372606

WHEREFORE, Complainants, respectfully request that the Federal Election Commission open a matter on review and after investigation enter a finding that a violation of the Federal Campaign Act has occurred by Respondents. Further, that the Commission enter the appropriate sanctions that it may deem necessary including the imposition of civil penalties against Respondents.

11/1/94
Date of Filing

Harold B. Smith
Harold B. Smith, Chairman
Illinois Republican Party

Patrick J. O'Shea
Patrick J. O'Shea
General Counsel
Illinois Republican Party

VERIFICATION

I, the undersigned have this day, under oath before a Notary Public, sworn to and affirmed the matters contained in this Complaint based upon my personal knowledge, information and belief.

Harold B. Smith
Harold B. Smith

Patrick J. O'Shea
Patrick J. O'Shea

State of Illinois) SS. I, the undersigned, a Notary Public in the aforesaid State, DO HEREBY CERTIFY, that Patrick J. O'Shea and Harold B. Smith, are persons personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

Sworn to and affirmed before me this 1st day
of November, 1994.

Temple Hall McKinnis
Notary Public



9604372607

OCT 13, 1994

By James Dudlicek

Jim Nalepa, the Republican challenging U.S. Rep. William Lipinski, D-Chicago, in the 3rd Congressional District, discussed the formation of his "Lipinski Truth Squad" in a telephone press conference last Thursday afternoon.

The "truth squad" is intended to counter statements made by Lipinski which Nalepa contends are inaccurate, Nalepa explained. The effort will "combat the pre-election rhetoric," he added.

Among the issues, Nalepa pointed to two Lipinski campaign mailings that he says failed to contain disclaimers indicating their funding source.

Lipinski spokesman George Edwards said Monday that state law no longer requires such disclaimers.

"You can look at the literature and figure out (who prepared it)," Edwards said. Nalepa, in a statement released Wednesday last week, countered claims Lipinski makes in his campaign literature.

"You won't find his name associated with scandals," one of Lipinski's campaign mailings states about the record of the incumbent Democrat. Nalepa took issue with this, however, citing the 1989 petition fraud conviction of a dozen Lipinski operatives.

But, the Lipinski camp noted that the congressman was not implicated

in the scandal. "There was never an accusation leveled against Congressman Lipinski," Edwards said. Edwards downplayed Nalepa's "truth squad," saying both candidates will analyze each other's literature as a natural part of campaigning.

Nalepa, in last Thursday's conference, also rebutted Lipinski's claims that Nalepa, as a South Barrington village trustee, favored higher taxes and bigger government. Nalepa said he held up his "no new taxes" platform. He stressed that the only additional bureaucracy he supported was a 50 percent increase in the police department to ensure 24-hour protection for village residents.

Nalepa added that he helped the town raise revenue by encouraging business growth to enlarge the tax base rather than increasing property taxes. Nalepa helped forge a "smart partnership between government and business," he said.

But, Edwards cited South Barrington village records indicating that Nalepa voted for a 10 percent increase on all budget line items in July 1990, and for a tax levy increase in November of the same year.

While Lipinski credits himself with bringing back millions from Washington for the RTA, PACE and METRA, Nalepa charges that the same bills also included "out of state pork

projects," including a \$15 million parking garage in New Jersey.

"My major role in going to Washington is not to bring pork back to the district. It's to protect life and liberty and help people keep more of their money in their pockets," Nalepa said.

Nalepa also criticized Lipinski for voting for \$50,000 in pay raises for himself and his colleagues while in Congress.

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Here's what they say about Bill Lipinski . . .

"Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator. He's represented his district well as evidenced by his leadership in opposing the expanded McCook Reservoir."

Chicago Sun-Times 10/16/94

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"No one is more involved in local matters - no one is more protective of homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski is 'persistent and sometimes emotional spokesman for conservative values.'"

The Congressional Quarterly

"He's responsive to the concerns of small businesses and their employees. He's answered my companies call for help every time."

Stewart Ward

President, Brad-Foote Gear Works - Cicero

The Republican candidate for Congress is promising you a "Contract"

here's what being written...

"Read the fine print - the price tag is huge!"

Southtown Economist Editorial 10/3/93

"Despite the high-blown rhetoric, the Republicans are offering more of the same-tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

The Wall Street Journal 9/22/94

"This contract is an 'economic suicide pact' that would rob millions of senior citizens of their Social Security and Medicare benefits."

National Council of Senior Citizens 10/2/94

Reason after reason to keep
our Congressman
Bill Lipinski working for us.

Punch 81

Bill Lipinski



For Congress

“When the President of the United States calls you, it’s usually not easy to say no - but Bill Lipinski said *no* to President Clinton’s call for a tax hike - and he opposed the President again by voting for the balanced budget amendment. Why? Because of you.”

9604372611

Here's what they say about Bill Lipinski . . .

"A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 Civil Rights Bill, denouncing its quotas."

1993 Congressional Quarterly

"He stood with labor in leading the fight against NAFTA - the North American Free Trade Agreement."

The Chicago Federation of Labor

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"Lipinski is right - make taxes fair."

The Chicago Sun-Times

"Bill Lipinski has carved out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects."

Southtown Economist

"Lipinski is the workhorse of the Illinois delegation."

Chicago Sun-Times

"The social experiment that began with the Civil Rights Act of 1964 . . . has been an abysmal failure."

Bill Lipinski in a speech to Congress

"Bill Lipinski has kept the Southwest Side strong. He deserves our support. I'm voting for him."

Alderman Jim Laski

Here's what the Republican candidate for Congress is saying . . .

after making fun of bungalow owners, he tells suburban Republicans that Chicago residents get too much service. He promises to change that.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

Punch 81

9 6 0 4 3 7 7 2 6 1 3

Let's Keep

Bill Lipinski

Working For Us.





*"We won't become the main dumping ground for Cook County's raw sewage."
Bill Lipinski testifying against the proposed expanded McCook Reservoir.*

Bill Lipinski working for us on...

Welfare Reform

Welfare reform shouldn't cost us money - it should save us money! How? By reducing welfare recipients' unnecessary use of ambulances and doctors and hospital visits. By restricting aid to illegal immigrants. By changing a system that many experts believe subsidizes illegitimacy, divorce and non-work. These are the principles Bill Lipinski will demand in any welfare reform legislation.

Saving Jobs - Creating Jobs

He was the one that got plans to print food stamps overseas reversed, saving hundreds of jobs at the American Bank Note Company in Burbank. The President of Brad-Foote Gear Works in Cicero credits Bill's fight against unfair overseas competition for keeping his plant open. He has worked successfully to bring back Midway Airport - which has created hundreds of new jobs.

Mass Transit - Better Highways

He's just got \$15 million towards the building of the proposed Central Avenue Bypass to connect Burbank, Bedford Park and Oak Lawn with the Stevenson Expressway. He's the one personally responsible for getting the Southwest Rapid Transit line built. Bill brings back hundreds of millions of dollars a year for the RTA, PACE and METRA. The Southtown Economist has written that Bill Lipinski "annually brings back into his district more tax dollars than any of his colleagues." The Sun-Times has called him "the workhouse of the Illinois delegation."

Protecting Our Pocketbooks - Protecting Our Community

He voted **against** President Clinton's tax hike - a tax hike that added 5¢ a gallon to the price of gas. He successfully fought his own party to get a better crime bill - that means more prisons, more police and tougher sentences. He's led the fight against the building of incinerators and the proposed expanded McCook reservoir project.

Bill Lipinski

A commuter Congressman - home every weekend - he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

EXHIBIT

D

**Here's what others
have written...**

"Bill Lipinski is a member of a vanishing breed; a Democrat who symbolizes the kind of white ethnic voter his party has had difficulty winning in recent elections.

"persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 civil rights bill, denouncing its quotas. He introduced legislation that would provide remedies to those harmed by past 'race-norming' tests."

1993 Congressional Quarterly

"Congressman Lipinski has carved out a reputation as Mr. Planes, Trains, and Automobiles by securing federal funding for area transportation projects."

Southtown Economist, 5/4/93

Lipinski is right: make taxes fair.

Here's a good word for the Southwest Side Congressman, one of the few Democrats who upheld their party's historic opposition to the kind of hit-the-little-guy harder taxes found in the tax package approved last week by the House."

Chicago Sun-Times, 6/2/93



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 32 years and are the proud parents of two children.

**He has
been described as
"the voice
of middle class
America."**

"Having Bill Lipinski in Congress is 'important to our economic future'."

The Chicago Tribune in endorsing Bill Lipinski for re-election in 1992.

**LET'S KEEP
BILL LIPINSKI
WORKING
FOR US!**

9 6 0 4 3 7 2 6 1 5

and when it comes to fighting for us,
Bill Lipinski will stand up to anyone.

HIGHER TAXES

Last year some called it a deficit reduction plan, but Bill Lipinski saw it for what it was - the largest tax hike in history. HE VOTED "NO!"

"Lipinski quickly served notice that he is no Clinton Democrat."
The Congressional Quarterly

AMERICAN JOBS

Last fall, in another high profile split with the White House, Bill Lipinski voted against the North American Free Trade Agreement (NAFTA) saying it would hurt our economy.

"The imports from Mexico grew much more rapidly than U.S. exports, cutting (our) trade surplus with in the first quarter... by nearly half."

Chicago Tribune, 6/6/94

Lipinski

Rep. William D. Lipinski, 11th District, survived any comes his way for a regressive tax plan. But here's a good Side congressman, upheld their party's

Lipinski Aims at Alternate Route

by Karen Wagenhofer

A new four north- connect...

Lipinski Applauded For His Vote Against Budget

By DERMOT CONNOLLY
 Judging from an interview telephone

Lipinski's budget stand praised

Most of us are quick to criticize... when

History has shown that tax increases lead to a recession or

President Clinton, if passed, will not miss any of us in reaching into our wallets. The elderly

much larger scale. If the 1990 act solve the problem... Praside



But breaking with his party hasn't hurt his ability to deliver for our district.

THE LIPINSKI RECORD

- SAVING JOBS
- CREATING JOBS
- PROTECTING COMMUNITIES & PROPERTY VALUES
- BRINGING HOME TAX DOLLARS

While the revitalization of Midway Airport, the successful building of the CTA's Orange Line, and the tens of millions of dollars he brings back each year for highway repairs, the RTA and METRA get the most attention, it's the smaller successes that mean just as much. Here's a few of the latest:

Blocking plans by the Sanitary district to expand raw sewage reservoirs in McCook... successfully opposing plans to build incinerators in Stickney... intervening with the Commerce Department to save jobs at a gear manufacturing plant in Cicero... securing millions in federal dollars to build the much-needed Central Avenue bypass that will connect Burbank, Bedford Park, and Oak Lawn with the Stevenson Expressway... saving printing jobs in Bedford Park by forcing the government to drop plans to print food stamps overseas... solving hundreds of constituents' problems with Social Security, the Veterans Administration and other unresponsive government agencies.

BLUE CROSS TO CUT SPECIALIST FEES

Chicago Sun-Times

WEDNESDAY, JUNE 15, 1994

Sex, Drugs and Rukn Role

New Details Emerge on Witness Favors



New Zoo (loss: The Birdman Of Lincoln Park

Doubly Delicious Wedding Cake



The Creation of Dynamic Dinos

HE'S STILL MR. CHAIRMAN



Lipinski Keeps Post As Dem 'Purge' Falls

Black Caucus Says No to Clinton Meeting

EXHIBIT

E

ALDERMAN LASKI ENDORSES CONGRESSMAN LIPINSKI

In four weeks, we in this community have an opportunity to re-elect Congressman Bill Lipinski. Not only will I be voting for him but I am working as hard as I can to spread the word.

As you may know, Congressman Lipinski and I have had our differences in the past. But these differences keep our democracy healthy. At a time when politicians worry more about taking risks than taking charge, it's important to have elected officials who stand up for what they believe.

Bill Lipinski has always stood up. He and I have not always agreed. And there will be times in the future when we won't agree. But he and I both believe--the third Congressional District needs a Congressman of integrity, values and leadership. Bill Lipinski is that man.

It would be a blow for the working families of our community to lose Bill Lipinski. That's why I'm doing all I can to assure his re-election.

I hope you will too.

Cordially,

**Alderman Jim Laski,
23rd Ward**



9604372617



*"We Won't Let Lyons Township
become the main dumping ground
for Cook County's raw sewage."*

Bill Lipinski testifying against the
proposed expanded McCook Reservoir.

Leading The Fight ...

Lipinski will take the expansion fight to Senate

U.S. Rep. William O. Lipinski (D-Ill.) is making it a lifetime fight to take the fight to the floor of the U.S. Senate.

The House has passed a bill to build a 10.5-billion-gallon version of the McCook reservoir that would use only land located on Volcan Mountain property.

Lipinski said he is hoping to convince members of the Senate to approve funding for a limited, 10.5-billion-gallon version of the McCook reservoir that would use only land located on Volcan Mountain property.

Lipinski steps up the reservoir fight

By John Ambrose
For Press Publications

In his latest effort to thwart the Metropolitan Water Reclamation District reservoir project, U.S. Rep. William O. Lipinski, D-Chicago, of the 1st Congressional District, threatened last week to take the fight to the floor of the U.S. Senate.

Although a number of the House, Lipinski said he is hoping to convince members of the Senate to approve funding for a limited, 10.5-billion-gallon version of the McCook reservoir that would use only land located on Volcan Mountain property.



Bill Lipinski

Lipinski is taking the fight to the Senate.

Press Publications
September 22, 1994

Water Plan Smells Bad To Lipinski

Rep. William O. Lipinski (D-Ill.) is making it a lifetime fight.

The issue is the expansion of a flood control reservoir in the village of McCook in southwest suburban Cook County in the heart of Lipinski's 1st congressional district. The \$350 million project to be built in a 100-year-old quarry is part of the Metropolitan Water Reclamation District's Deep Tunnel system. Lipinski is fighting the district's proposal to triple the size of the McCook Reservoir to store 27 billion gal.



Steve Neal

Chicago Sun-Times
July 27, 1994



Phil Kadner

Lipinski, Topinka wage war against 'biggest toilet'

Critics call it "the world's biggest toilet," while supporters say the McCook Reservoir project would end imminent flooding in 70,000 Chicago-area homes.

U.S. Rep. William Lipinski (D-Chicago), co-chairman of the powerful 1st Congressional District Democratic Organization, is waging the campaign against any Democratic Metropolitan Water Reclamation District commissioner.

Daily Southtown
August 4, 1994

Protecting Our Community ...

CHICAGO SUN-TIMES

EDITORIALS

Heed Public Outcry Over Reservoir Plan

Metropolitan Water Reclamation District commissioners are turning their backs on thousands of people, just to dig a bigger hole.

They should cut it out and in the face of continued public outcry last week a final decision to triple the planned 10.5-billion-gallon reservoir to 27 billion gallons. At an 18th, in cooperation with the U.S. Army Corps of Engineers, it would reduce property taxes by 10 percent.

But the plan would triple the size of the reservoir to 27 billion gallons. At an 18th, in cooperation with the U.S. Army Corps of Engineers, it would reduce property taxes by 10 percent.

Chicago Sun-Times
September 27, 1994

Don't rush the deep hole project

When you have a couple of billion gallons of water and sewage in a deep tunnel that's filling up, where do you put the overflow? In a deeper hole.

That's been the plan for the Chicago area's Deep Tunnel project, designed to prevent flooding during heavy rains. The tunnels alone can't handle the water in the very worst storms, so plans have been to build three big reservoirs for the overflow. Those plans were approved by Congress and the Army Corps of Engineers.

Materials for mining. Eventually, all of the mined property would be used for a 27 billion-gallon reservoir. Nearby towns are balking at the condemnation of such a large plot of land-producing, private land for a project they say isn't needed. And they fear that 27 billion gallons of water and sewage will rise.

The district commissioners are scheduled to vote Thursday on a "quick-look" condemnation of the GM land. That would give the district immediate access.

Chicago Tribune
August 31, 1994

Viewpoints Of Our Readers

Lauds Lipinski's Position On Expanded Deep Tunnel

Editor: Last week, Cong. William Lipinski (D-Ill.) spoke out forcefully against the planned expansion of the McCook reservoir as part of the Metropolitan Water Reclamation District's Deep Tunnel project.

contaminated flood waters away from Lake Michigan and other ways in the metropolitan area. Today the project is slightly over halfway completed, has cost over \$2 billion and is

Southwest News-Herald
August 4, 1994

Amendment may limit McCook reservoir's size

By Steve Herman
Staff writer

At the request of U.S. Rep. William Lipinski (D-Ill.), a congressional committee approved an amendment Wednesday that would limit the size of the planned McCook reservoir and sewage reservoir to 11 billion gallons.

If it becomes law, the House committee's action would curtail any

The agency board has been debating whether to continue with a plan that could convert one large Volcan Mountain quarry into a 10.5-billion-gallon holding pond, or proceed with a newer plan that would involve three reservoirs and open the door to a future expansion to 27 billion gallons.

West suburban politicians and residents oppose the newer plan, saying it would bring the reservoir too close to homes and they've expressed doubt

Daily Southtown
September 29, 1994

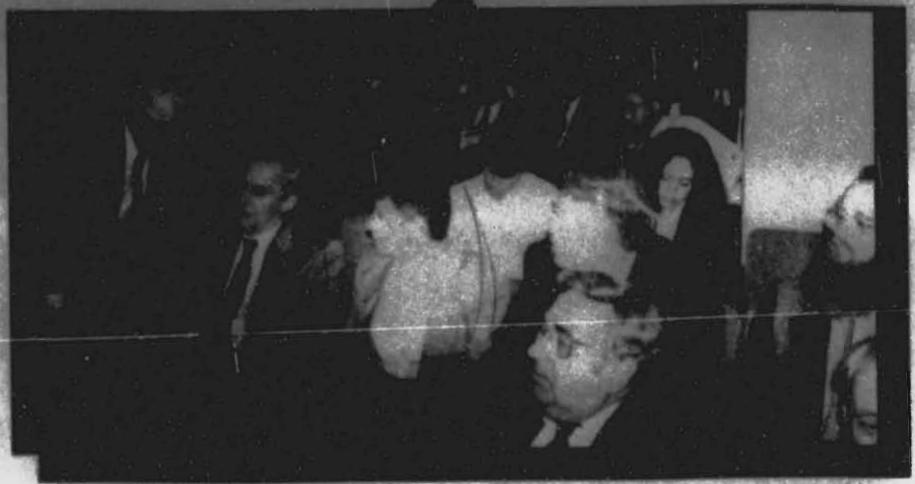
Getting Things Done ...

That's Our Congressman

Bill Lipinski

9604372619

When it comes to protecting a community - its homes and businesses, Bill Lipinski has never shied away from a fight. Since day one, Bill Lipinski has led the fight to defeat plans to build a 27 billion gallon rainwater and raw sewage reservoir in McCook. He's also successfully defeated several proposals to build incinerators in west suburban communities.



Congressman Bill Lipinski, Republican State Senator Judy Barr Topinka and Democratic State Representative Dave McAfee have worked closely together to defeat this plan. They're shown discussing strategy with an ally - Commissioner "Bus" Yourell.

What a 27 billion gallon rainwater and raw sewage reservoir would mean.

"The Electro Motive plant would close - laying off 2,500 people."

State Representative
Dave McAfee



"It would drive property values down. Who wants to live next door to the world's biggest toilet."

State Senator
Judy Barr Topinka



SATURDAY, SEPTEMBER 3, 1994

Suburban LIFE

Citizen

50¢

Hodgkins Highlands
Pleasantdale Indian Head Park
La Grange Burr Ridge
Countryside LaGrange Park
Western Springs Willow Springs

McCook reservoir proposal put on hold

By Carol Roehm-Mussetta
Finally convinced that they need a long-term water plan to deal with local officials and residents on an expanded flood reservoir

Water District Board puts off action to October 13th

asked for \$22 million, while the Water District has offered to also worried about the future of the Electro-Motive plant. "This is an assault upon the cart before the horse."

last Thomas Fuller both voted against deferring the decision, saying that the reservoir proposal will not change within the next 60 days. The commissioners who longer, Jim Nalega, attended the meeting, as well as Ellen

Call The Commissioners At The Metropolitan Water Reclamation District before they meet on October 13th and let them know how you feel!

CALL #1-312-751-5600

Here's a list of the Commissioners:

Tom Fuller
Frank Gardner
Nancy Sheehan

Joe Gardner
Gloria Majewski
Kathleen Meany

Terry O'Brien
Patricia Young
"Bus" Yourell

960437263C



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 32 years and are the proud parents of two children.

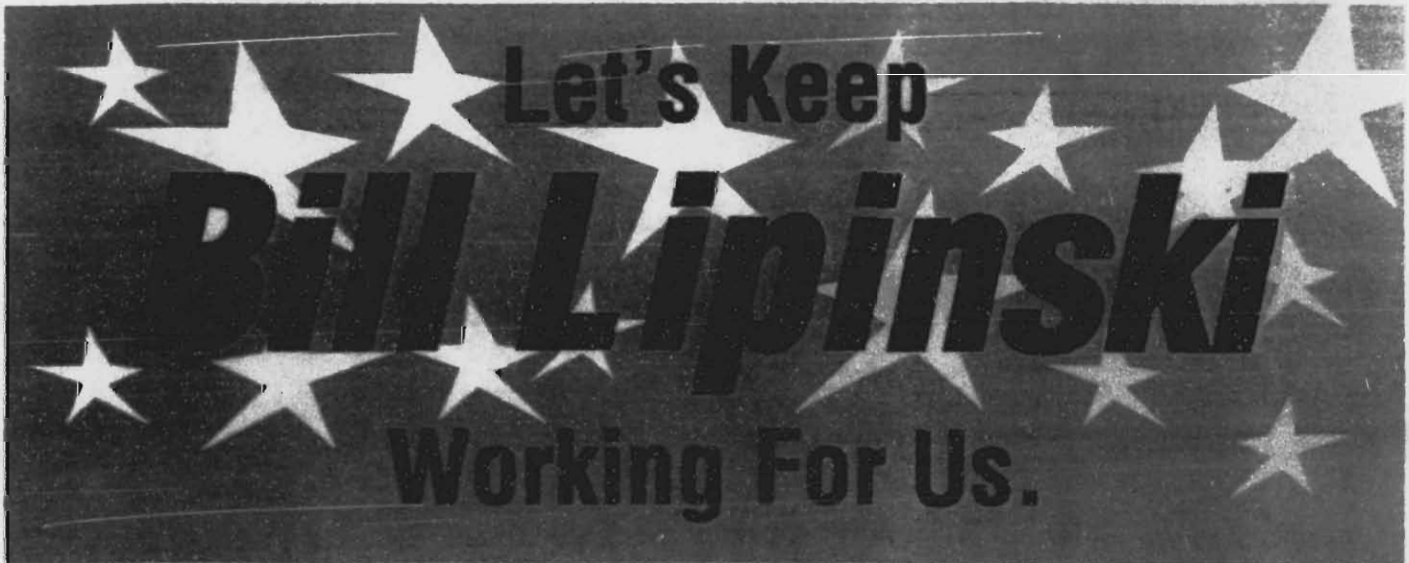
When Congress isn't in session, you'll find Bill Lipinski back home. Back in the district - back at work for the district.

Working full time, from his full time public service office, listening to his constituents, working to solve their problems.

Quiet - effective, he's not a self promoter. You won't find his name associated with scandals.

You see, Bill Lipinski is a full time public servant. Someone who's never forgotten where he comes from or who he represents.

A simple thing - but something that's all too rare in today's Congress.



BULLETIN

Lipinski works to block proposed Summit Incinerator.

At the request of Congressman Bill Lipinski, the United States Environmental Protection Agency has agreed to examine the proposed incinerator site. The EPA could block current plans for building an incinerator if it determines the site is hazardous. Stay tuned.

Lipinski For Congress
5838 S. Archer Ave.
Chicago, IL 60638

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CAR-RT SORT

6341

CAROL B WARHANIK
OR CURRENT OCCUPANT

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WESTERN SPRING IL 60558

XXXG00A

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 8, 1994

Harold Smith, Chairman
Patrick J. O'Shea, General Counsel
Illinois Republican Party
188 W. Randolph Street, #627
Chicago, IL 60601

RE: MUR 4121

Dear Messrs. Smith and O'Shea:

This letter acknowledges receipt on November 2, 1994, of your complaint, filed on behalf of Harold Smith and the Illinois Republican Party, alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4121. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar (gsm)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

9604372602



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 8, 1994

John Mooney, Treasurer
Lipinski for Congress
6242 W. 59th Street
Chicago, IL 60638

RE: MUR 4121

Dear Mr. Mooney:

The Federal Election Commission received a complaint which indicates that Lipinski for Congress ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4121. Please refer to this number in all future correspondence.

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

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

9604372623

If you have any questions, please contact Joan McNery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar (Dor)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

9604372624



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 8, 1994

Representative William Lipinski
6242 W. 59th Street
Chicago, IL 60638

RE: MUR 4121

Dear Mr. Lipinski:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4121. Please refer to this number in all future correspondence.

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

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9604372625

If you have any questions, please contact Joan McNery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar (gms)

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

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LAW OFFICES
KUBASIAK, CREMIEUX, FYLSTRA & REIZEN

PROFESSIONAL CORPORATION
30 NORTH LA SALLE STREET
SUITE 2700
CHICAGO, ILLINOIS 60602-2505

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Nov 30 11 21 AM '94

Telephone
(312) 630-9600
Facsimile
(312) 630-7939

ELLEN CHAPELLE
November 22, 1994

VIA FACSIMILE

Ms. Joan McEnery
Federal Election Commission
Washington D.C. 20463

Re: MUR 4121

Dear Ms. McEnery:

Attached please find a copy of our Designation of Counsel forms relating to the above matter. In addition, please consider this letter a request for an extension of the time to respond to the Complaint until December 9, 1994. Since Daniel J. Kubasiak and the firm of Kubasiak, Cremieux, Fylstra & Reizen have been designated as counsel today, and because of the Thanksgiving holiday, we will require additional time in order to review the Complaint and familiarize ourselves with the allegations. Unless an extension is granted, a response would be due early next week.

Please contact me as soon as possible concerning the extension.

Sincerely,

KUBASIAK, CREMIEUX, FYLSTRA & REIZEN, P.C.

Ellen Chapelle

Ellen Chapelle

EMC

Nov 30 12 15 PM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

9604372607

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4121

NAME OF COUNSEL: Daniel J. Kubasiak/Kubasiak, Cremieux, Fylstra & Reize

ADDRESS: 30 N. LaSalle Street, Suite 2700

Chicago, Illinois 60602

TELEPHONE: (312) 630-9600

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
NOV 30 12 15 PM '94

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

November 22, 1994
Date

John Mooney
Signature

RESPONDENT'S NAME: John Mooney

ADDRESS: 5838 S. Archer Ave.

Chicago, Illinois 60638

HOME PHONE: _____

BUSINESS PHONE: 312-582-7323

960437268

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4121 4121

NAME OF COUNSEL: Daniel J. Kubasiak/Kubasiak, Cremieux, Fylstra &

ADDRESS: 30 N. LaSalle St., Suite 2700

Chicago, Illinois 60602

TELEPHONE: (312) 630-9600

Reizen

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 30 12 15 PM '94

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

November 22, 1994
Date

Richard A. Lipinski
Signature

RESPONDENT'S NAME: Richard A. Lipinski

ADDRESS: 5838 S. Archer Ave.

Chicago, Illinois 60638

HOME PHONE: _____

BUSINESS PHONE: 312-582-7323

9604372609



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 30, 1994

Ellen Chapelle, Esq.
Kubasiak, Cremieux, Fylstra & Reizen
30 North LaSalle Street, Suite 2700
Chicago, IL 60602-2505

RE: MUR 4121
John Mooney and
Richard A. Lipinski

Dear Ms. Chapelle:

This is in response to your letter dated November 22, 1994, requesting an extension until December 9, 1994 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 9, 1994.

If you have any questions, please contact Joan McEnery at (202) 219-3400.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

960437263C

Dec 9 12 38 PM '94

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

Illinois Republican Party,
and Harold B. Smith,
Complainants,

vs.

Lipinski For Congress,
a Political Committee, and
William Lipinski, Candidate
Respondents

Case No: MUR4121

ANSWER

To: The Federal Election Commission
999 E. Street - Northwest
Washington, D.C. 20463

Lipinski for Congress and William Lipinski, (hereinafter referred to as "Respondents"), by their attorneys, answer the complaint of the Illinois Republican Party and Harold B. Smith (herein after referred to as "Complainants"), as follows:

1. Paragraph 1 alleges:

"On information and belief, the Respondent committee and its candidate have disseminated numerous public campaign literature and advertisements as more fully set out in Exhibits A through F, attached and made part of this complaint by attachment."

ANSWER:

Respondent admits to having produced the publications attached to Complainant's Complaint as Exhibits A, B, C, D, and F. The publication identified as Exhibit E is not a product of the Respondent. Respondent further states that only two of the six Exhibits set forth by the Complainant are "campaign literature" as alleged by Complainant. Complainant's Exhibits C, D, E, and F are not campaign literature.

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Complainant's Exhibits are attached and made part of this Answer by attachment.

2. Paragraph 2 alleges:

"That upon information and belief, Respondent, "Lipinski for Congress", a political committee, and its candidate, Congressman William Lipinski, have failed to attach or place the appropriate disclaimer on numerous public advertisements of the candidate and /or his committee, as more fully set forth on Exhibits A through F, in violation of the Federal Election Campaign Act, Title 2, United States Code, Section 441d."

ANSWER:

Respondent denies the allegations contained in paragraph 2.

WHEREFORE, Respondents respectfully request that the Complaint submitted by the Complainants to the Federal Election Commission be dismissed with prejudice.

Respectfully submitted,

Lipinski For Congress and William Lipinski,
Respondent,

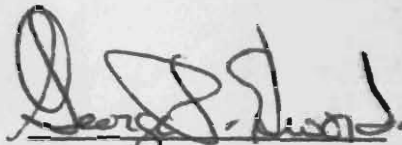

Attorney for Respondent.

Daniel Kubasiak
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602
(312) 630-9600

96043172632

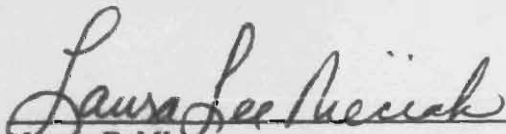
VERIFICATION

I, the undersigned have this day, under oath before a Notary Public, sworn to and affirmed the matters contained in this Complaint are based upon my personal knowledge, information, and belief.



George Edwards
Campaign Manager,
Lipinski For Congress

Sworn and subscribed to
before me this 2 day of April 1994.


Notary Public



9604372633

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION

Illinois Republican Party,
and Harold B. Smith,
Complainants,

vs.

Lipinski For Congress,
a Political Committee, and
William Lipinski, Candidate
Respondents

Case No: MUR4121

MOTION TO DISMISS

To: The Federal Election Commission
999 E. Street - Northwest
Washington, D.C. 20463

Lipinski for Congress and William Lipinski, (hereinafter referred to as "Respondents"), by their attorneys, move to dismiss the Complaint of the Illinois Republican Party and Harold B. Smith (hereinafter referred to as "Complainants"). In support of their motion, Respondents state as follows:

INTRODUCTION

Respondent, William Lipinski was seeking reelection to the House of Representative of the United States in November, 1994. Complainant was Respondent's opponent in this election. Complainant alleges that Respondent violated the Federal Election Campaign Act, Title 2 United States Code, Section 441(d). Respondent denies this allegation in its Answer to the Complaint, which it is filing simultaneously with this motion to dismiss the Complaint.

ARGUMENT

A. Respondent did not violate the Federal Election Campaign Act, Title 2 United States code, Section 441(d) as alleged by the Complainant.

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Section 441(d) governs the contents of "campaign communications". The statute requires that the party responsible for producing the communication indicate that the communication is a product of such party. However, the statute is silent as to the precise manner in which campaign literature is to be attributed to its source.

Where a statute does not specify the means of complying with its terms, the court should look to the prevailing community practice in determining how the rule is to be applied. In Illinois, the forum in which the election at issue was held, the prevailing community practice is liberal as a result of the Illinois Supreme court holding in Illinois v. White, 506 N.E.2d 1284 (Ill. 1987). In White, the Court struck down a election provision similar to the provision at issue as a violation of the First Amendment. In order to stay abreast of the numerous campaign laws promulgated to regulate elections, candidates must gain information regarding compliance with these laws from the political community in which they are participating. In this community, communications which conspicuously indicate the candidate's name on the face of the publication are generally understood to have been produced by the candidate and/or his committee for election. As evidence of this practice, Respondent submits publications which, on information and belief, are the campaign literature of the Complainant, which do not contain any standardized attribution clause. Copies of Complainant's campaign literature are attached here to as Respondent's Exhibits A through C.

The Illinois Supreme Court endorsed this prevailing community practice by striking down a similar provision of the Illinois Election Code. Illinois v. White, 506 N.E.2d 1284 (Ill. 1987). In White, the Illinois Supreme Court held that an Illinois Election Code provision which prohibited the publication of political literature which does not show the name and address of the persons publishing and distributing literature violated the First Amendment of the Constitution. Although a state supreme court ruling is not binding upon a Federal Court, in this case, the Illinois Supreme Court ruling provides further explanation of why the Respondent was reasonable in believing he did not violate Title 2 U.S.C. §441(d). In light of this court-ordered practice, the prevailing standard in the political community is to identify the sponsor of campaign literature merely by naming the candidate on the face of the publication. The Respondent merely imitated the community practice around him, which includes the Complainant's campaign literature (see Respondent's Exhibits A through C), in belief that the community practice was proper.

Illinois v. White 506 N.E.2d 1284 is a particularly well-reasoned decision. The Illinois Supreme Court based its decision upon several United States Supreme Court cases. In White, the Illinois Court stated that the statute at issue in the case did not prohibit the anonymous distribution of all handbills and leaflets, but only "political literature soliciting votes for or against any candidate for nomination, election or retention or in support of or in opposition to any public question to be submitted for the ballot at an election." Id (quoting Ill. Rev. Stat. 1983, ch. 46, par. 29-14). " In evaluating

the validity of a restraint a First Amendment Right, the court must assess three points:

- 1) the 'character and magnitude of the asserted injury' to the individual's rights;
- 2) the strength and legitimacy of the 'precise interests put forward by the State as justification'; and
- 3) 'the extent to which those interests make it necessary to burden' the individual's rights." *Id.* (quoting Anderson v. Celebrezze, 460 U.S. 780, 789 (1983)).

The United States Supreme Court held such significant encroachments on the First Amendment must survive "exacting scrutiny." Accordingly, this means that the statute must further a "compelling" State interest and the State "may not choose means that unnecessarily restrict constitutionally protected liberty." In order for a State to accomplish a goal which "so closely touches our most precious freedom," any regulation promulgated to that end must be extremely precise. If there is any less drastic measure available to the State in achieving its interests, it may not choose legislation which "broadly stifles the exercise of fundamental personal liberties." *Id.* (quoting Buckley v. Valeo, 424 U.S. 1, 64 (1976); Brown v. Hartlage, 456 U.S. 45, 53-54 (1982); and Anderson v. Celebrezze, 460 U.S. 780, 806 (1983)).

The State of Illinois contended that the provision placed only a "negligible restraint" on free expression. *Id.* at 1286. The Illinois Court rejected this argument holding that such an identification requirement would clearly "restrict the freedom to distribute thereby restricting the freedom of expression." *Id.* (quoting Talley v. California, 362 U.S. 60, 64 (1960)). The court reasoned that "the effect of broadly compelling the disclosure of the identities of persons expressing political views is 'unconstitutional intimidation of the free exercise of the right to advocate.'" *Id.* (quoting NAACP v. Alabama, 357 U.S. 449, 461 (1958)). The Court thus held that by requiring the identification of the speaker, the provision plainly imposes a substantial restriction on the right to express political views and clearly violated the First Amendment. *Id.* at 1287.

The instant case is analogous to White in that it also involves an election provision which does not prohibit all anonymous literature, it only prohibits "political literature soliciting votes for or against any candidate for nomination, election or retention or in support of or in opposition to any public question to be submitted for the ballot at an election." *Id.* According to the Illinois Supreme Court, which based its decision largely on United States Supreme Court cases, such a provision creates an impermissible restraint on free expression and thus violates the First Amendment. Therefore, enforcement of such a provision would be unconstitutional.

B. The Federal Election Campaign Act, Title 2 United States Code, Section 441(d) is unconstitutional on its face because it is vague and violative of the First Amendment of the Constitution.

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If the Federal Election Commission were to accept Complainant's proffered interpretation of the statute, it would be unconstitutional. The Supreme Court stated, "its a fundamental tenet of our jurisprudence that statutes which proscribe conduct may not be so inartfully worded that persons of common intelligence must speculate as to their meaning. Lanzetta v. New Jersey, 306 U.S. 451, 59 S. Ct. 618. Furthermore, the Court asserted that "vaguely phrased measures run afoul of substantial due process requirements by failing to convey with reasonable certainty the statute's intended sweep. The underlying principle is that no man shall be held responsible for conduct which he could not reasonably understand to be proscribed." U. S. v. Harris, 347 U.S. 612, 74 S. Ct. 808(1954). This statute does not specify any particular method in which the party responsible for the publication is to be identified. The Respondent's literature conspicuously displayed his name on each publication clearly indicating that his campaign sponsored the publication. Since the statute does not specifically direct candidates as to how to comply, it does not adequately inform candidates of the conduct which it proscribes.

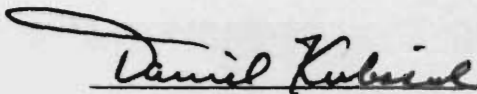
In addition, this Statute violates the First Amendment of the Constitution of the United States. If section 441(d) is enforced as requested by the Complainant, the result of its application would be an impermissible restraint on free speech. The Complainant alleged that the Respondent produced and distributed anonymous election publications. If the statute prohibits anonymous speech, as Complainant contends, it is unconstitutional on its face. The Supreme Court has repeatedly held that the First Amendment protects anonymous speech. Thomas v. Collins, 323 U.S. 516 (1945); Bates v. Little Rock, 361 U.S. 516 (1960); Shelton v. Tucker, 364 U.S. 479 (1960); Lamont v. Postmaster General, 381 U.S. 301(1965).

Anonymity has played an important role in political history. Talley v. State of California, 362 U.S. 60, 80 S. Ct. 536 (1960). As the Court stated in Talley, "Even the Federalist Papers, written in favor of the adoption of our Constitution, were published under fictitious names. It is plain that anonymity has sometimes been assumed for the most constructive purposes." By banning anonymous speech, this statute flies in the face of the First Amendment's protection of such communication. Congress has taken upon itself to decide that the voters must know names of those who choose to communicate their message by leaflets and similar means. The First Amendment does not allow the enforcement of legislation designed to compel political speakers to communicate specified information in a manner that the State believes to be useful. State-compelled speech has long been disapproved by the Supreme Court. Miami Herald v. Tornillo, 418 U.S. 241 (1974). There can be no doubt that such an identification requirement would tend to restrict freedom to distribute information thereby restricting freedom of expression. Talley, 362 U.S. 60. Therefore, this legislative attempt at regulating the information disseminated to the public regarding elections is a violation of the First Amendment.

WHEREFORE, Respondents respectfully request that the Federal Election Commission dismiss the complaint filed by the Complainant with prejudice.

Respectfully submitted,

Lipinski For Congress and William Lipinski,
Respondent,


Attorney for Respondent

Daniel Kubasiak
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602
(312) 630-9600



Tim Nalepa, candidate for U.S. Congress, and mother, Christel.

Please vote for my son

Tim Nalepa

on November 8.

Sincerely,

Christel Nalepa



Christel Nalepa
105 North Catherine
LaGrange, Illinois 60525

Dear Thomas and A J,

My name is Christel Nalepa. I am 66 years old. I'm writing to tell you about my son, Jim Nalepa. Jim is running for U.S. Congress.

Like most mothers, I'm proud of my son, but I suppose that's natural. I was proud of Jim when he graduated from West Point and served in the 82nd Airborne Division, but I've never been more proud of Jim than I am right now.

You see, I live on a fixed income, and I worry a lot these days. Everybody's talking about Social Security. One day they raise taxes on benefits and the next day they want to cut Cost of Living Adjustments.

It's hard enough to make ends meet as it is. It's not fair.

That's why I'm especially proud of my son. Jim feels strongly that seniors, who have worked hard and paid our fair share, have earned the right to feel secure in our retirement.

I know that in politics some people are willing to tell lies to hold on to elected office. I've heard that Jim's opponent claims that Jim will try to cut Social Security. That man should be ashamed of himself.

Jim will do everything he can to make sure that the seniors in this country get what we've earned and that nothing is ever done to jeopardize that. Jim will not cut Social Security. He has given me his word on it, and as Jim's mother, I know his word is good.

I am proud to have Jim Nalepa for a son.

I know you will be proud to have him for a congressman.

Christel Nalepa

P.S. Please support my son, Jim Nalepa, on November 8 and punch #82.

9604377261C

WANTED

RESPONDENTS EXHIBIT C

FOR ATTEMPTED ROBBER BY TRYING TO RAISE YOUR PROPERTY TAXES



202-225-5701

Suspect Name:

Rep. William O. Lipinski

Alias:

"Bungalow Bill"

Last Known Whereabouts:

Washington, D.C.

Biggest Caper: Bill Lipinski tried to raise your property taxes \$11 Million dollars last year. And he almost pulled it off.

Method of Operation: Works out of Washington. Has been spotted before elections in the 23rd Ward, posing as "a regular neighborhood guy."

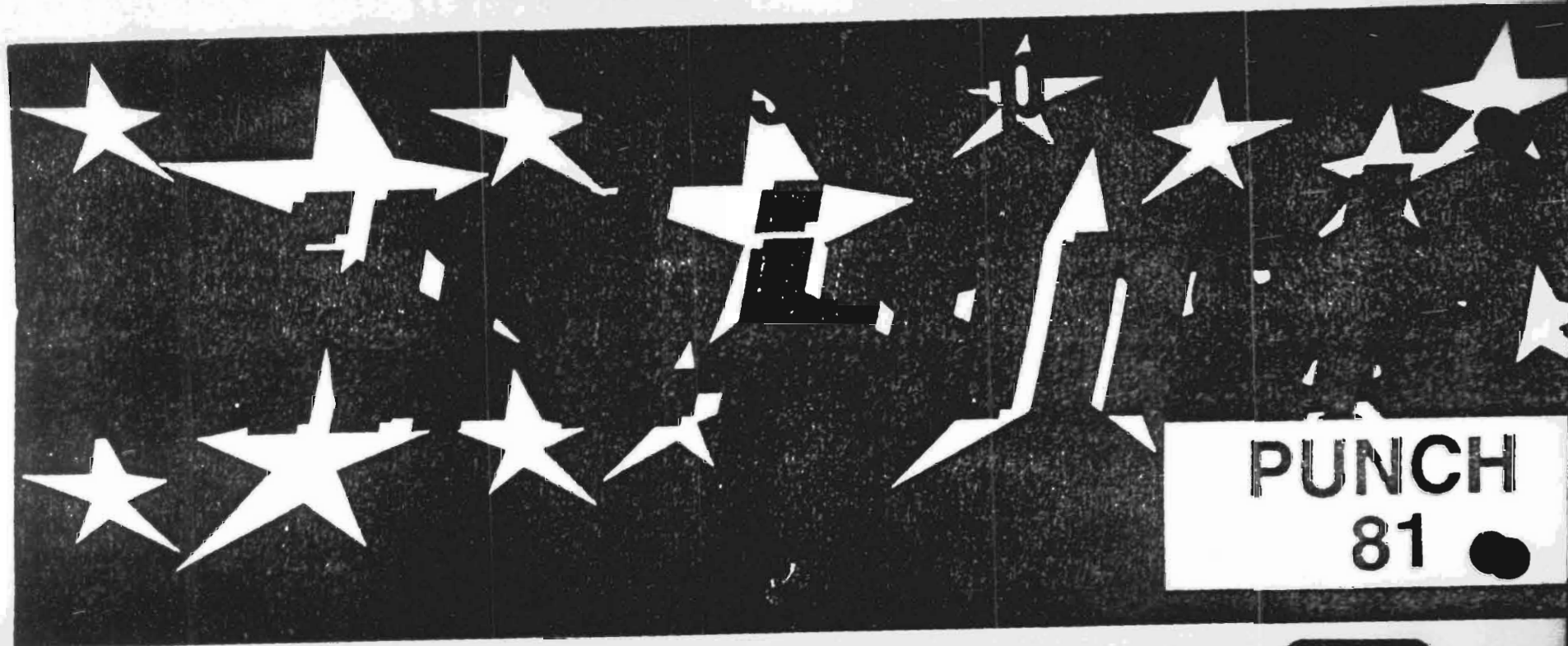
Also Wanted For: Multiple counts of tax increases while giving himself a \$35,000 raise.

PROCEED WITH CAUTION:

Lipinski has proven that he will stop at nothing to keep his job. Should be considered desperate.

9604372641

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PUNCH
81 ●



COMPLAINANT'S EXHIBIT A

Here's what they say about Bill Lipinski . . .

"Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator. He's represented his district well as evidenced by his leadership in opposing the expanded McCook Reservoir."

Chicago Sun-Times 10/16/94

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"No one is more involved in local matters - no one is more protective of homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski is 'persistent and sometimes emotional spokesman for conservative values.'"

The Congressional Quarterly

"He's responsive to the concerns of small businesses and their employees. He's answered my companies call for help every time."

Stewart Ward

President, Brad-Foote Gear Works - Cicero

The Republican candidate for Congress is promising you a "Contract"

here's what being written...

"Read the fine print - the price tag is huge!"

Southtown Economist Editorial 10/3/93

"Despite the high-blown rhetoric, the Republicans are offering more of the same-tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

The Wall Street Journal 9/22/94

"This contract is an 'economic suicide pact' that would rob millions of senior citizens of their Social Security and Medicare benefits."

National Council of Senior Citizens 10/2/94

Reason after reason to keep
our Congressman
Bill Lipinski working for us.

Punch 81

Bill Lipinski

For Congress

“When the President of the United States calls you, it’s usually not easy to say no - but Bill Lipinski said *no* to President Clinton’s call for a tax hike - and he opposed the President again by voting for the balanced budget amendment. Why? Because of you.”

Here's what they say about Bill Lipinski . . .

"A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 Civil Rights Bill, denouncing its quotas."

1993 Congressional Quarterly

"He stood with labor in leading the fight against NAFTA - the North American Free Trade Agreement."

The Chicago Federation of Labor

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"Lipinski is right - make taxes fair."

The Chicago Sun-Times

"Bill Lipinski has carved out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects."

Southtown Economist

"Lipinski is the workhorse of the Illinois delegation."

Chicago Sun-Times

"The social experiment that began with the Civil Rights Act of 1964 . . . has been an abysmal failure."

Bill Lipinski in a speech to Congress

"Bill Lipinski has kept the Southwest Side strong. He deserves our support. I'm voting for him."

Alderman Jim Laski

Here's what the Republican candidate for Congress is saying . . .

after making fun of bungalow owners, he tells suburban Republicans that Chicago residents get too much service. He promises to change that.

Reason after reason to keep
our Congressman
Bill Lipinski working for us.

Punch 81

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Let's Keep

Bill Lipinski

Working For Us.

COMPLAINANT'S EXHIBIT C



*"We won't become the main dumping ground for Cook County's raw sewage."
Bill Lipinski testifies against the proposed expanded McCook Reservoir.*

Bill Lipinski working for us on...

Welfare Reform

Welfare reform shouldn't cost us money - it should save us money! How? By reducing welfare recipients' unnecessary use of ambulances and doctors and hospital visits. By restricting aid to illegal immigrants. By changing a system that many experts believe subsidizes illegitimacy, divorce and non-work. These are the principles Bill Lipinski will demand in any welfare reform legislation.

Saving Jobs - Creating Jobs

He was the one that got plans to print food stamps overseas reversed, saving hundreds of jobs at the American Bank Note Company in Burbank. The President of Brad-Foote Gear Works in Cicero credits Bill's fight against unfair overseas competition for keeping his plant open. He has worked successfully to bring back Midway Airport - which has created hundreds of new jobs.

Mass Transit - Better Highways

He's just got \$15 million towards the building of the proposed Central Avenue Bypass to connect Burbank, Bedford Park and Oak Lawn with the Stevenson Expressway. He's the one personally responsible for getting the Southwest Rapid Transit line built. Bill brings back hundreds of millions of dollars a year for the RTA, PACE and METRA. The Southtown Economist has written that Bill Lipinski "annually brings back into his district more tax dollars than any of his colleagues." The Sun-Times has called him "the workhouse of the Illinois delegation."

Protecting Our Pocketbooks - Protecting Our Community

He voted **against** President Clinton's tax hike - a tax hike that added 5¢ a gallon to the price of gas. He successfully fought his own party to get a better crime bill - that means more prisons, more police and tougher sentences. He's led the fight against the building of incinerators and the proposed expanded McCook reservoir project.

Bill Lipinski

A commuter Congressman - home every weekend - he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

Here's what others
have written...

"Bill Lipinski is a member of a vanishing breed... Democrat who symbolizes the kind of white ethnic voter his party has had difficulty winning in recent elections.

A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 civil rights bill, denouncing its quotas. He introduced legislation that would provide remedies to those harmed by past 'race-norming' tests."

1993 Congressional Quarterly

"Congressman Lipinski has carved out a reputation as Mr. Planes, Trains, and Automobiles by securing federal funding for area transportation projects."

Southtown Economist, 5/4/93

"Having Bill Lipinski in Congress is 'important to our economic future'."

The Chicago Tribune in endorsing Bill Lipinski for re-election in 1992.

Lipinski is right: make taxes fair.

Here's a good word for the Southwest Side Congressman, one of the few Democrats who upheld their party's historic opposition to the kind of hit-the-little-guy harder taxes found in the tax package approved last week by the House."

Chicago Sun-Times, 6/2/93



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 52 years and are the proud parents of two children.

**LET'S KEEP
BILL LIPINSKI
WORKING
FOR US!**

**He has
been described as
"the voice
of middle class
America."**

ALDERMAN LASKI ENDORSES CONGRESSMAN LIPINSKI

In four weeks, we in this community have an opportunity to re-elect Congressman Bill Lipinski. Not only will I be voting for him but I am working as hard as I can to spread the word.

As you may know, Congressman Lipinski and I have had our differences in the past. But these differences keep our democracy healthy. At a time when politicians worry more about taking risks than taking charge, it's important to have elected officials who stand up for what they believe.

Bill Lipinski has always stood up. He and I have not always agreed. And there will be times in the future when we won't agree. But he and I both believe--the third Congressional District needs a Congressman of integrity, values and leadership. Bill Lipinski is that man.

It would be a blow for the working families of our community to lose Bill Lipinski. That's why I'm doing all I can to assure his re-election.

I hope you will too.

Cordially,

Alderman Jim Laski,
23rd Ward



96043172619



*"We Won't Let Lyons Township
become the main dumping ground
for Cook County's raw sewage."*

Bill Lipinski testifying against the
proposed expanded McCook Reservoir.

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Leading The Fight ...

Lipinski will take the expansion fight to Senate

By Staff Writers
For Press Publications

In his latest effort to thwart the Metropolitan Water Reclamation District's reservoir project, U.S. Rep. William O. Lipinski, D-Chicago, of the 1st Congressional District, developed last week to take the fight to the floor of the U.S. Senate.

Although a member of the House, Lipinski said he is trying to convince members of the Senate to approve funding for a tunnel, which would be the centerpiece of the reservoir that would not only be located on Village Lake property.

Press Publications
September 22, 1994

Lipinski steps up the reservoir fight

By Staff Writers
For Press Publications

In his latest effort to thwart the Metropolitan Water Reclamation District's reservoir project, U.S. Rep. William O. Lipinski, D-Chicago, of the 1st Congressional District, developed last week to take the fight to the floor of the U.S. Senate.



Bill Lipinski

Press Publications
September 22, 1994

Water Plan Smells Bad To Lipinski

By Staff Writers
For Chicago Sun-Times

The only way to get around a bad reservoir in the village of McCook is to build a tunnel, U.S. Rep. William O. Lipinski, D-Chicago, said last week.

The plan to build a 27-mile tunnel to carry water from the Lake Michigan Water Reclamation District's Deep Tunnel project to the village of McCook is "a bad idea," Lipinski said.

Lipinski said he is trying to convince members of the Senate to approve funding for a tunnel, which would be the centerpiece of the reservoir that would not only be located on Village Lake property.



Steve Rosen

Chicago Sun-Times
July 27, 1994



Phil Kadner

Lipinski, Topinka wage war against 'biggest toilet'

Chicago will be "the world's largest toilet," while supporters say the McCook reservoir project would not be a "biggest toilet," U.S. Rep. William O. Lipinski, D-Chicago, said last week.

Lipinski said he is trying to convince members of the Senate to approve funding for a tunnel, which would be the centerpiece of the reservoir that would not only be located on Village Lake property.

Daily Southtown
August 4, 1994

Protecting Our Community ...

EDITORIALS

Heed Public Outcry Over Reservoir Plan

Metropolitan Water Reclamation District's reservoir plan is a bad idea, and it is a bad idea to build a tunnel to carry water from the Lake Michigan Water Reclamation District's Deep Tunnel project to the village of McCook. The plan to build a 27-mile tunnel to carry water from the Lake Michigan Water Reclamation District's Deep Tunnel project to the village of McCook is "a bad idea," U.S. Rep. William O. Lipinski, D-Chicago, said last week.

Chicago Sun-Times
September 27, 1994

Don't rush the deep hole project

When you have a couple of billion gallons of water and sewage in a deep tunnel that's filling up, where do you put the water? In a deeper hole?

You're back to the plan for the Chicago area's Deep Tunnel project, designed to prevent flooding during heavy rains. The tunnel also can't handle the water in the very worst storms so plans have been to build these big reservoirs for the overflow. These plans were approved by Congress and the Army Corps of Engineers for funding. Eventually, all of the water properly would be used for a 27 billion-gallon reservoir (Shapiro's term) at the end of the tunnel.

The plan to build a 27-mile tunnel to carry water from the Lake Michigan Water Reclamation District's Deep Tunnel project to the village of McCook is "a bad idea," U.S. Rep. William O. Lipinski, D-Chicago, said last week.

Chicago Tribune
August 31, 1994

Viewpoints Of Our Readers

Lauds Lipinski's Position On Expanded Deep Tunnel

Editor: Last week, Cong. William O. Lipinski (D-Ill.) spoke out forcefully against the proposed expansion of the McCook reservoir as part of the Metropolitan Water Reclamation District's Deep Tunnel project. He said the plan to build a 27-mile tunnel to carry water from the Lake Michigan Water Reclamation District's Deep Tunnel project to the village of McCook is "a bad idea."

Southwest News-Herald
August 4, 1994

Amendment may limit McCook reservoir's size

By Steve Rosen
For Daily Southtown

At the request of U.S. Rep. William O. Lipinski, D-Chicago, a congressional amendment to the McCook reservoir project would limit the size of the planned McCook reservoir and sewage treatment plant to 11 billion gallons.

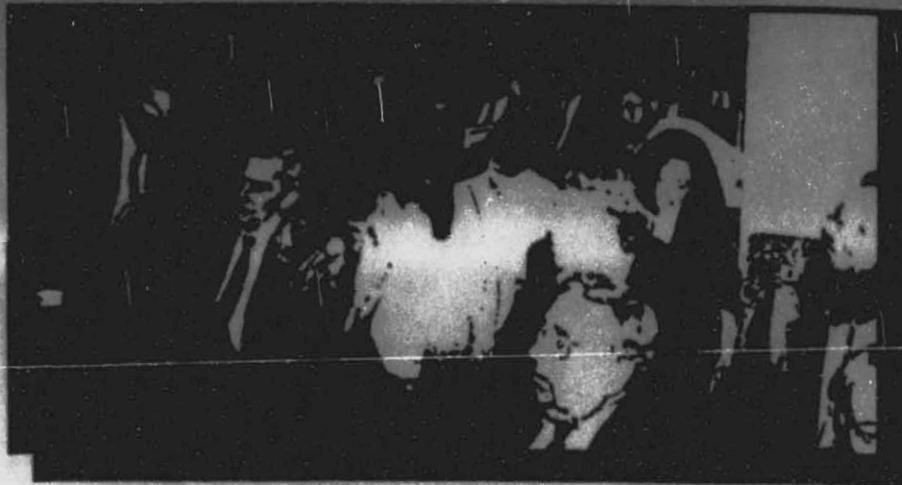
If a Senate bill, the House amendment would limit the size of the McCook reservoir to 11 billion gallons.

Daily Southtown
September 29, 1994

Getting Things Done ...
That's Our Congressman
Bill Lipinski

9 6 0 4 3 7 2 6 5 1

When it comes to protecting a community - its homes and businesses, Bill Lipinski has never shied away from a fight. Since day one, Bill Lipinski has led the fight to defeat plans to build a 27 billion gallon rainwater and raw sewage reservoir in McCook. He's also successfully defeated several proposals to build incinerators in west suburban communities.



Congressman Bill Lipinski, Republican State Senator Judy Barr Topinka and Democratic State Representative Dave McAfee have worked closely together to defeat this plan. They're shown discussing strategy with an ally - Commissioner "Bus" Yourell.

What a 27 billion gallon rainwater and raw sewage reservoir would mean.

"The Electro Motive plant would close - laying off 2,500 people."

State Representative
Dave McAfee



"It would drive property values down. Who wants to live next door to the world's biggest toilet."

State Senator
Judy Barr Topinka

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SATURDAY, SEPTEMBER 3, 1994

Suburban LIFE

Citizen

Midwest Highlands
Parkland Indian Hill Park
La Grange Burr Ridge
Countryside La Grange Park
Western Springs B. & C. Springs

McCook reservoir proposal put on hold

By Carol Roehm-Moschetti
Finally convinced that they need a long-term plan to solve local officials and residents on an expanded flood reservoir

Water District Board puts off action to October 13th

asked for \$10 million, while the Water District has offered \$5 million. The board also worried about the future of the Electro-Motive plant, which is an essential part of the area's economy.

Sen. Thomas Fuller took votes against deferring the decision, saying that the reservoir proposal will not change within the next 60 days. The commissioners who

Call The Commissioners At The Metropolitan Water Reclamation District before they meet on October 13th and let them know how you feel!

CALL #1-312-751-5600

Here's a list of the Commissioners:

Tom Fuller
Frank Gardner
Nancy Sheehan

Joe Gardner
Gloria Majewski
Kathleen Meany

Terry O'Brien
Patricia Young
"Bus" Yourell



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 32 years and are the proud parents of two children.

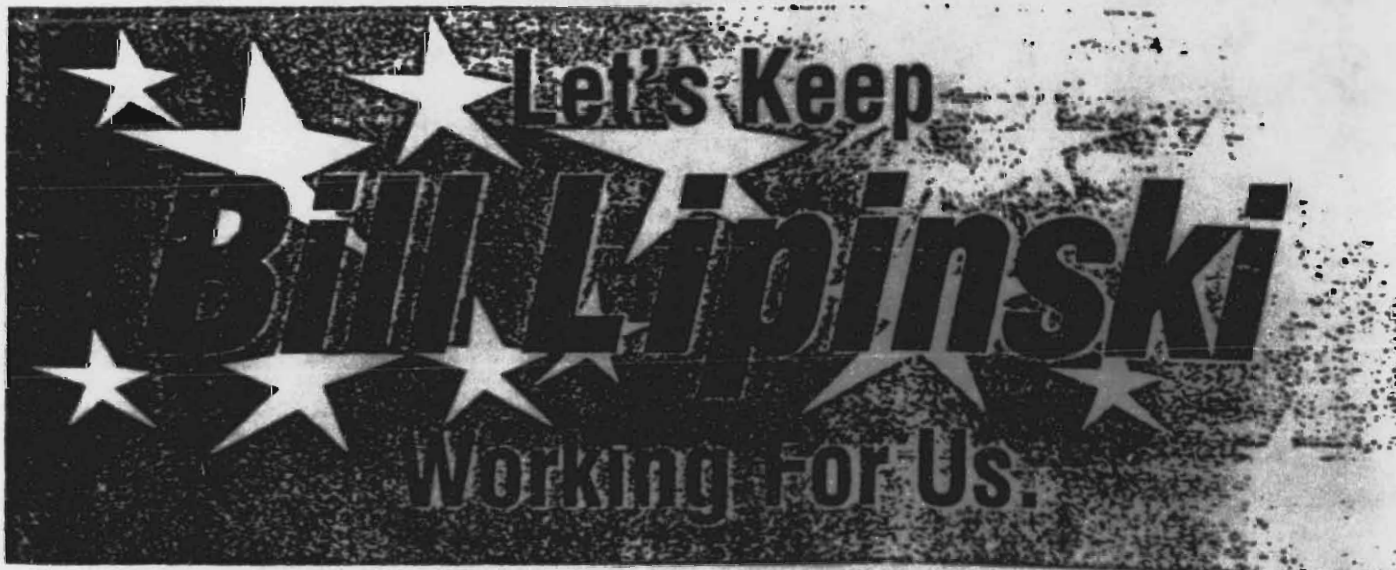
When Congress isn't in session, you'll find Bill Lipinski back home. Back in the district - back at work for the district.

Working full time, from his full time public service office, listening to his constituents, working to solve their problems.

Quiet - effective, he's not a self promoter. You won't find his name associated with scandals.

You see, Bill Lipinski is a full time public servant. Someone who's never forgotten where he comes from or who he represents.

A simple thing - but something that's all too rare in today's Congress.



BULLETIN

Lipinski works to block proposed Summit Incinerator.

At the request of Congressman Bill Lipinski, the United States Environmental Protection Agency has agreed to examine the proposed incinerator site. The EPA could block current plans for building an incinerator if it determines the site is hazardous. Stay tuned.

Lipinski For Congress
5838 S. Archer Ave.
Chicago, IL 60638

BULK RATE
U.S. POSTAGE
PAID
PERMIT NO. 168
ADDISON, IL.

CAR-RT SORT

62/1

CAROL B. WAKHANI
OR CURRENT OCCUPANT

1130 BIRCH LN

WESTERN SPRGS IL 60558

11X008

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

REC'D
NOV 9 11 50 AM '94

FIRST GENERAL COUNSEL'S REPORT

MUR: 4121
Date Complaint filed: November 2, 1994
Date of Notification: November 8, 1994
Date Activated: September 12, 1995
Staff Member: Stephan O. Kline

COMPLAINANT: Illinois Republican Party
RESPONDENTS: Lipinski for Congress Committee and
John Mooney, as treasurer
Congressman William O. Lipinski
RELEVANT STATUTES: 2 U.S.C. § 441d
INTERNAL REPORTS CHECKED: none
FEDERAL AGENCIES CHECKED: none

I. GENERATION OF MATTER

This matter arises from a complaint received on November 2, 1994 by the Federal Election Commission ("Commission"). The Illinois Republican Party ("Complainant") alleged that the Lipinski for Congress Committee and John Mooney, as treasurer, ("Lipinski Committee" or "Committee") and Congressman William O. Lipinski (collectively "Respondents") violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended. ("Act" or "FECA"). Respondents were notified of the complaint on November 8, 1994 and responded to it on December 9, 1994 in the form of a Motion to Dismiss. Attachment 1.

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II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Act requires that a disclaimer notice be affixed to any communication that expressly advocates the election or defeat of any candidate for federal office or solicits contributions for any candidate for federal office through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing, or any other form of general public advertising. 2 U.S.C. § 441d(a). If paid for and authorized by a candidate or an authorized political committee of a candidate, the communication must clearly state that it was paid for by such candidate or authorized committee. 2 U.S.C. § 441d(a)(1). If paid for by persons other than a candidate or an authorized political committee of a candidate, but authorized by a candidate or his or her committee, it must clearly state that the communication has been paid for by such other persons and authorized by such political committee. 2 U.S.C. § 441d(a)(2). Finally, if the communication is not authorized by the candidate or his or her authorized political committee, it must clearly state the name of the person who paid for the communication and that the communication is not authorized by the candidate or the candidate's committee. 2 U.S.C. § 441d(a)(3). The disclaimer must appear in a clear and conspicuous manner, giving the reader adequate notice of the identity of persons who paid for the communication. 11 C.F.R. § 110.11(a)(1). The disclaimer need not appear on the front face or page of a communication, so long as it appears somewhere within the communication. Id.

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New regulations¹ which became effective on October 5, 1995 define "express advocacy" to include a number of phrases explicitly set forth in Buckley v. Valeo, 424 U.S. 1 (1976) or the communication of campaign slogans or individual words which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate. The newly effective regulations also provide a more extensive list of examples of the types of phrases the Commission considers to be express advocacy. 60 Fed. Reg. 35304 (1995) (to be codified at 11 C.F.R. § 100.22).²

B. Complaint

The Illinois Republican Party filed a complaint with the Commission on November 2, 1994. Complainant included six exhibits of campaign literature, attachment 1 at 12-23, allegedly disseminated by the Lipinski Committee and Congressman Lipinski, and claimed that Respondents failed to attach or place the appropriate disclaimers on those communications. Complaint at 1 (November 9, 1994).

Complainant's Exhibit A is a double-sided flier. On one side the communication states: "Let's Keep Bill Lipinski working for us. Punch 81." On the second side are six laudatory quotations about Congressman Lipinski under the heading: "Here's what they

¹ The regulations' only prior definition for express advocacy appeared within the context of independent expenditures and defined express advocacy to mean any communication 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. 11 C.F.R. § 109.1(b)(2).

² The new regulations provide an alternative method of showing express advocacy when taken as a whole and with limited reference to external events, such as the proximity to the election, the communication could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate because the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning.

say about Bill Lipinski." Then the flier makes several critical statements about the Contract with America. The flier concludes with "Reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." Attachment 1 at 12-13.

Complainant's Exhibit B is similar. On one side it states "Bill Lipinski for Congress," followed by a statement that the Congressman opposed President Clinton by opposing a tax hike and voting for the balanced budget amendment. On the other side are eight quotations favoring Congressman Lipinski, one against his Republican opponent, and concludes with: "Reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." Id. at 14-15.

Complainant's Exhibit C is also a double-sided flier. The front contains the same slogan found on the front of Exhibit A -- "Let's keep Bill Lipinski working for us," although there is no "Punch 81." The other side explains Congressman Lipinski's achievements on welfare reform, saving job and creating jobs, mass transit and better highways, and protecting our pocketbooks and protecting our community. The flier concludes: "Bill Lipinski -- A commuter Congressman -- home every weekend -- he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents. Reason after reason to keep our Congressman Bill Lipinski working for us." Id. at 16-17.

Complainant's Exhibit D is another flier. It states: "He has been described as 'the voice of middle class America.'" There are a number of laudatory quotations about

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Congressman Lipinski. The slogan "Let's keep Bill Lipinski working for us" also appears. *Id.* at 18.

Complainant's Exhibit E seems to be a general letter to the public which appeared in the Clear-Ridge Reporter newspaper on October 12, 1994. The letter is from Alderman Jim Laski and begins: "Alderman Laski endorses Congressman Lipinski. In four weeks, we in this community have an opportunity to re-elect Congressman Bill Lipinski. Not only will I be voting for him but I am working as hard as I can to spread the word." It concludes: "It would be a blow for the working families of our community to lose Bill Lipinski. That's why I'm doing all I can to assure his re-election." *Id.* at 19.

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Finally, Complainant's Exhibit F appears to be a four page flier. On the first page is a large photograph of the Congressman, and a quotation from him opposing the expansion of a Chicago reservoir. The next two pages contain numerous quotations and photo copies from newspaper articles where Lipinski spoke out against the reservoir. In large type, the following statement appears on the second page: "Leading the fight . . . Protecting our community . . . Getting things Done . . . That's our Congressman Bill Lipinski." The third page tells the reader to call the Metropolitan Water Reclamation District Commissioner to let them know how the reader feels about the reservoir. The last page again contains the slogan: "Let's keep Bill Lipinski working for us." *Id.* at 20-23. This exhibit was mailed out and the return address is "Lipinski for Congress."

C. Response

The Lipinski Committee and Congressman Lipinski responded to the complaint on December 9, 1994. Of the six exhibits submitted by Complainant, Respondents

claimed that Complainant's Exhibit E was not produced by the Lipinski Committee and that Complainant's Exhibits C, D, E, and F were not "campaign literature." Attachment 1 at 1. Furthermore, Respondents deny that they violated the disclaimer provisions relating to any of the material submitted by Complainant.

To elaborate on their denial, Respondents submitted a Motion to Dismiss which makes several points. Respondents claim that 2 U.S.C. § 441d is silent as to "the precise manner in which campaign literature is to be attributed to its source . . .," and as such "the court should look to the prevailing community practice in determining how the rule is to be applied." *Id.* at 5. Respondents assert that community practice involving use of disclaimers is liberal in Illinois because the state supreme court struck down the applicable state statute in *Illinois v. White*, 506 N.E.2d 1284 (Ill. 1987), and imposed a "court-ordered practice" not to have a disclaimer. Respondents state that the Committee followed community practice because in their community, "communications which conspicuously indicate the candidate's name on the face of the publication are generally understood to have been produced by the candidate and/or his committee for election." *Id.* To depict this, Respondents submitted campaign material allegedly produced by Congressman Lipinski's challenger which appear not to contain appropriate disclaimers. *Id.* at 9-11. A related argument is that the Committee reasonably believed it did not have to comply with 441d because the similar Illinois law was held unconstitutional. Respondents also made several constitutional arguments claiming that the disclaimer provisions are void for vagueness and an impermissible restraint on free speech.

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D. Analysis

Complainant's Exhibits A, B, C, D, and F all appear to be communications expressly advocating the election of Congressman Lipinski. The Lipinski Committee acknowledged producing all of them, and the communications failed to contain the required disclaimer that they were paid for by the Lipinski Committee.

Complainant's Exhibit B (attachment 1 at 14-15) contains the language "Bill Lipinski for Congress" on one side and "reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81" on the second side. Complainant's Exhibit A (attachment 1 at 12-13) contains very similar language. On one side it states: "Let's keep Bill Lipinski working for us. Punch 81;" the second side again states "reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." The cited language on both of the pamphlets appears to be exactly the kind of exhortation to vote for Congressman Lipinski that is at the core of express advocacy.

For example, the phrase "Bill Lipinski for Congress" appearing on Exhibit B clearly urges support for Congressman Lipinski's candidacy. Indeed, the more exhaustive list of examples in the new regulations of phrases the Commission considers to be express advocacy includes "Smith for Congress," a virtually identical phrase.³

Similarly the phrase "Punch 81" in this context appears to tell the reader to vote for Congressman Lipinski and to explain logistically how that can be accomplished --

apparently "81" was Congressman Lipinski's line on the 1994 general election ballot in Illinois' 3rd Congressional district.⁴ This phrase, which appears on both Exhibits A and B, is yet another example of communications expressly advocating the election of a Congressional candidate containing the type of "magic words" described in Buckley v. Valeo, 424 U.S. 1 (1976).

Complainant's Exhibits A, B, C, D, and F (attachment 1 at 12-18 and 20-23) all contain either the exact phrase or variations of the phrase: "Let's keep Bill Lipinski working for us," suggesting that this was a campaign slogan which advocated the election of Congressman Lipinski. The more exhaustive list of examples of express advocacy appearing in the new regulations at 11 C.F.R. § 100.22(a) specifically include a campaign slogan which in context can have no other reasonable meaning than to urge the election of a clearly identified candidate. Thus the new regulations clearly reflect the Commission's position that these types of phrases are equivalent to the magic words contained in Buckley v. Valeo.⁵

Nor does the state supreme court decision in Illinois v. White free the Committee from compliance with FECA disclaimer requirements. In White, the Illinois Supreme Court ruled unconstitutional a state ordinance prohibiting the publication of political

⁴ Similarly, an advertisement which appears to have been produced by Congressman Lipinski's 1994 general election opponent requests the reader to "Punch 82," apparently the opponent's ballot line. Attachment 1 at 9.

⁵ Complainant's Exhibit E is a newspaper advertisement containing a letter from Alderman Laski which appears to expressly advocate the re-election of Congressman Lipinski; it fails to include the required disclaimer in violation of 2 U.S.C. § 441d(a). However, because Respondents deny that they produced the advertisement and because there is no evidence on its face to indicate that this advertisement was produced by Respondents, this Office makes no recommendation about it

literature which did not show the name and address of persons distributing the literature, because the state had not advanced any compelling interest and less restrictive alternatives were available to achieve the state's goals. Although the court ruled the state statute unconstitutional on its face, it did not substitute a requirement that disclaimers must only comply with the community standard. Even if a community practice standard resulted from the finding of unconstitutionality, this would not excuse compliance with a separate federal statute governing literature produced and distributed in connection with a federal election. Furthermore, not only did the Illinois statute in White apply to issue advocacy as well as candidacy advocacy, but the court specifically distinguished the Illinois statute from FECA. The Illinois Supreme Court explained that the United States Supreme Court in Buckley v. Valeo held that FECA's disclosure requirements appeared to be the least restrictive alternative for achieving the compelling interest. Illinois v. White, 506 N.E.2d at 1291.

Respondents' argument that the state court decision mandates that community practice should prevail and that this excuses compliance with 2 U.S.C. § 441d is also incorrect. The Act and the Commission's regulations are quite specific on what is required in a disclaimer. Under the supremacy clause of the United States Constitution when there is a clear collision or conflict between federal and state law the federal law will prevail. See Hines v. Davidowitz 312 U.S. 52 (1941); Weber v. Heaney 995 F.2d 872 (8th Cir. 1993); and Stern v. General Electric Company, 924 U.S. 472 (2nd Cir. 1991). In addition, the Act specifically states that "the provision of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect

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to election to Federal office." 2 U.S.C. § 453. The Commission has applied this preemption clause in a number of advisory opinions questioning whether the FECA disclaimer provisions can be preempted or superseded by state law. See AO 1978-24, AO 1980-36, AO 1981-27, and AO 1986-11.

In this instance, however, there is not even a state law which conflicts with 2 U.S.C. § 441d. Once this state law was struck down, Respondents had even less of a credible argument in ignoring the FECA disclaimer provisions because apparently there was no remaining state law which even addressed disclaimers. Despite Respondents' contention that 441d is "silent as to the precise manner in which campaign literature is to be attributed to its source," attachment 1 at 5, FECA's disclaimer provisions specifically require that communications paid for and authorized by a candidate or his or her committee shall state that such communications have been paid for by such authorized political committee. The supremacy clause trumps state statutes and Respondents' argument favoring community practice is even weaker in the face of a clearly articulated federal statute and the absence of a conflicting state law.

Even if a related state law were held unconstitutional, it is unreasonable to assume that a federal law predicated on different bases would also be unconstitutional and thus could be ignored. Furthermore, not only was it unreasonable for the Respondents to fail to include an appropriate disclaimer because FECA and the Commission's regulations clearly articulate those requirements, but the Lipinski Committee, like all principal campaign committee's, would have received the Commission's publication Campaign

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Guide for Congressional Candidates and Committees which clearly outlines the disclaimer requirements.

Based on the foregoing, this Office recommends that the Commission find that there is reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a). Because no evidence of personal involvement by the candidate was shown by the Complainant, this Office recommends that the Commission find no reason to believe that Congressman William O. Lipinski violated 2 U.S.C. § 441d(a), and close the file as to him. This Office also recommends that the Commission deny the Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer, and Congressman William O. Lipinski.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

This Office further recommends that the Commission offer to enter into conciliation with the Lipinski Committee. Attached for the Commission's approval is a proposed conciliation agreement. Attachment 2.

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Based on the

foregoing, this Office recommends that the Commission approve the terms of the attached conciliation agreement.

IV. RECOMMENDATIONS

1. Deny the Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer, and Congressman William O. Lipinski.
2. Find reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a) and enter into conciliation prior to a finding of probable cause to believe.

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3. Find no reason to believe Congressman William O. Lipinski violated 2 U.S.C. § 441d(a), and close the file as to him.
4. Approve the attached Factual and Legal Analysis and Conciliation Agreement.
5. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

4/8/96
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Response
2. Conciliation Agreement
3. Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4121
Lipinski for Congress Committee)
and John Mooney, as treasurer,)
Congressman William O. Lipinski)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 17, 1996, do hereby certify that the Commission took the following actions in MUR 4121:

1. Decided by a vote of 5-0 to find reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a) with respect to Exhibits A and B in the April 8, 1996 report from the Office of General Counsel.

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

2. Decided by a vote of 4-1 to find reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a) with respect to Exhibit C in the April 8, 1996 report from the Office of General Counsel.

Commissioners Aikens, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented.

(continued)

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3. Failed in a vote of 3-2 to pass a motion to find reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a) with respect to Exhibit D in the April 8, 1996 report from the Office of General Counsel.

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

4. Failed in a vote of 3-2 to pass a motion to find reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a) with respect to Exhibit F in the April 8, 1996 report from the Office of General Counsel.

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

5. Decided by a vote of 5-0 to

- a) Deny the Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer, and Congressman William O. Lipinski.
- b) Find no reason to believe Congressman William O. Lipinski violated 2 U.S.C. § 441d(a) and close the file as to him.

(continued)

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- c) Approve the Factual and Legal Analysis and Conciliation Agreement recommended in the General Counsel's April 8, 1996 report
- d) Approve appropriate letters pursuant to the actions noted above.

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

Attest:

4/18/96
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 24, 1996

**Representative William Lipinski
6242 W. 59th Street
Chicago, IL 60638**

**RE: MUR 4121
Congressman William O. Lipinski**

Dear Congressman Lipinski:

On November 8, 1994, the Federal Election Commission notified you, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On April 17, 1996, the Commission found, on the basis of the information in the complaint, that there is no reason to believe you violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

**Lawrence M. Noble
General Counsel**

A handwritten signature in dark ink, appearing to read "LGL", is written over a horizontal line.

**BY: Lois G. Lerner
Associate General Counsel**

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 24, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Congressman William O. Lipinski

Dear Mr. Kubasiak:

On November 8, 1994, the Federal Election Commission notified Congressman William O. Lipinski, your client, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On April 17, 1996, the Commission found, on the basis of the information in the complaint, that there is no reason to believe Congressman Lipinski violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter as it pertains to Congressman Lipinski.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all other respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to read "LGL", is written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 24, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress and
John Mooney, as treasurer

Dear Mr. Kubasiak:

On November 8, 1994, the Federal Election Commission notified Lipinski for Congress, and John Mooney, as treasurer ("Committee"), your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on April 17, 1996, found that there is reason to believe Lipinski for Congress and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a), a provision of the Act, with respect to Complainant's Exhibits A, B, and C. There were, however, an insufficient number of votes to find reason to believe that the Lipinski Committee violated 2 U.S.C. § 441d(a) with respect to Complainant's Exhibits D and F. You will receive a statement of reasons on this issue when the entire file has been closed in this matter. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. The Commission also denied the Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

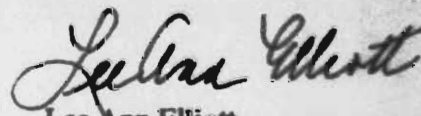
If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Stephan Kline, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Lee Ann Elliott
Chairman

Enclosures

Conciliation Agreement
Factual and Legal Analysis

cc: Congressman William O. Lipinski

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Lipinski for Congress Committee and
John Mooney, as treasurer
Congressman William O. Lipinski

MUR 4121

I. GENERATION OF MATTER

This matter arises from a complaint received on November 2, 1994 by the Federal Election Commission ("Commission"). The Illinois Republican Party ("Complainant") alleged that the Lipinski for Congress Committee and John Mooney, as treasurer, ("Lipinski Committee" or "Committee") and Congressman William O. Lipinski (collectively "Respondents") violated 2 U.S.C. § 441d, a provision of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). Respondents were notified of the complaint on November 8, 1994 and responded to it on December 9, 1994 in the form of a Motion to Dismiss.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Act requires that a disclaimer notice be affixed to any communication that expressly advocates the election or defeat of any candidate for federal office or solicits contributions for any candidate for federal office through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing, or any other form of general public advertising. 2 U.S.C. § 441d(a). If paid for and authorized by a candidate or an authorized political committee of a candidate, the communication must clearly state that it was paid for by such candidate or authorized committee. 2 U.S.C. § 441d(a)(1). If paid for by persons other than a candidate or an

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authorized political committee of a candidate, but authorized by a candidate or his or her committee, it must clearly state that the communication has been paid for by such other persons and authorized by such political committee. 2 U.S.C. § 441d(a)(2). Finally, if the communication is not authorized by the candidate or his or her authorized political committee, it must clearly state the name of the person who paid for the communication and that the communication is not authorized by the candidate or the candidate's committee. 2 U.S.C. § 441d(a)(3). The disclaimer must appear in a clear and conspicuous manner, giving the reader adequate notice of the identity of persons who paid for the communication. 11 C.F.R. § 110.11(a)(1). The disclaimer need not appear on the front face or page of a communication, so long as it appears somewhere within the communication. *Id.*

New regulations¹ which became effective on October 5, 1995 define "express advocacy" to include a number of phrases explicitly set forth in Buckley v. Valeo, 424 U.S. 1 (1976) or the communication of campaign slogans or individual words which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate. The newly effective regulations also provide a more extensive list of examples of the types of phrases the Commission considers to be express advocacy. 60 Fed. Reg. 35304 (1995) (to be codified at 11 C.F.R. § 100.22).²

¹ The regulations' only prior definition for express advocacy appeared within the context of independent expenditures and defined express advocacy to mean any communication 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. 11 C.F.R. § 109.1(b)(2).

² Section b of the new regulations provides an alternative method of showing express advocacy when taken as a whole and with limited reference to external events,

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B. Complaint

The Illinois Republican Party filed a complaint with the Commission on November 2, 1994. Complainant included exhibits of campaign literature allegedly disseminated by the Lipinski Committee and Congressman Lipinski, and claimed that Respondents failed to attach or place the appropriate disclaimers on those communications. Complaint at 1 (November 9, 1994).

Complainant's Exhibit A is a double-sided flier. On one side the communication states: "Let's Keep Bill Lipinski working for us. Punch 81." On the second side are six laudatory quotations about Congressman Lipinski under the heading: "Here's what they say about Bill Lipinski." Then the flier makes several critical statements about the Contract with America. The flier concludes with "Reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81."

Complainant's Exhibit B is similar. On one side it states "Bill Lipinski for Congress," followed by a statement that the Congressman opposed President Clinton by opposing a tax hike and voting for the balanced budget amendment. On the other side are eight quotations favoring Congressman Lipinski, one against his Republican opponent, and concludes with: "Reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." *Id.* at 14-15.

such as the proximity to the election, the communication could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate because the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning. A Maine district court in Maine Right to Life Committee, Inc. v. FEC, No. 95 Civ. 261-B (D. Maine, February 13, 1996) (*motion to reconsider denied* March 12, 1996), recently declared section b of the express advocacy regulations invalid, but the analysis relies by analogy on section a and not b.

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Complainant's Exhibit C is also a double-sided flier. The front contains the same slogan found on the front of Exhibit A -- "Let's keep Bill Lipinski working for us," although there is no "Punch 81." The other side explains Congressman Lipinski's achievements on welfare reform, saving job and creating jobs, mass transit and better highways, and protecting our pocketbooks and protecting our community. The flier concludes: "Bill Lipinski -- A commuter Congressman -- home every weekend -- he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents. Reason after reason to keep our Congressman Bill Lipinski working for us." *Id.* at 16-17.

C. Response

The Lipinski Committee and Congressman Lipinski responded to the complaint on December 9, 1994. Of the exhibits submitted by Complainant, Respondents claimed that Complainant's Exhibit C was not "campaign literature." Furthermore, Respondents deny that they violated the disclaimer provisions relating to any of the material submitted by Complainant.

To elaborate on their denial, Respondents submitted a Motion to Dismiss which makes several points. Respondents claim that 2 U.S.C. § 441d is silent as to "the precise manner in which campaign literature is to be attributed to its source . . .," and as such "the court should look to the prevailing community practice in determining how the rule is to be applied." *Id.* at 5. Respondents assert that community practice involving use of disclaimers is liberal in Illinois because the state supreme court struck down the

applicable state statute in Illinois v. White, 506 N.E.2d 1284 (Ill. 1987), and imposed a "court-ordered practice" not to have a disclaimer. Respondents state that the Committee followed community practice because in their community, "communications which conspicuously indicate the candidate's name on the face of the publication are generally understood to have been produced by the candidate and/or his committee for election."

Id. To depict this, Respondents submitted campaign material allegedly produced by Congressman Lipinski's challenger which appear not to contain appropriate disclaimers.

Id. at 9-11. A related argument is that the Committee reasonably believed it did not have to comply with 441d because the similar Illinois law was held unconstitutional.

Respondents also made several constitutional arguments claiming that the disclaimer provisions are void for vagueness and an impermissible restraint on free speech.

D. Analysis

Complainant's Exhibits A, B, and C all appear to be communications expressly advocating the election of Congressman Lipinski. The Lipinski Committee acknowledged producing all of them, and the communications failed to contain the required disclaimer that they were paid for by the Lipinski Committee.

Complainant's Exhibit B contains the language "Bill Lipinski for Congress" on one side and "reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81" on the second side. Complainant's Exhibit A contains very similar language. On one side it states: "Let's keep Bill Lipinski working for us. Punch 81;" the second side again states "reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." The cited language on both of the pamphlets appears to be exactly the

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kind of exhortation to vote for Congressman Lipinski that is at the core of express advocacy.

For example, the phrase "Bill Lipinski for Congress" appearing on Exhibit B clearly urges support for Congressman Lipinski's candidacy. Indeed, the more exhaustive list of examples in the new regulations of phrases the Commission considers to be express advocacy includes "Smith for Congress," a virtually identical phrase.

Similarly the phrase "Punch 81" in this context appears to tell the reader to vote for Congressman Lipinski and to explain logistically how that can be accomplished -- apparently "81" was Congressman Lipinski's line on the 1994 general election ballot in Illinois' 3rd Congressional district.³ This phrase, which appears on both Exhibits A and B, is yet another example of communications expressly advocating the election of a Congressional candidate containing the type of "magic words" described in Buckley v. Valeo. 424 U.S. 1 (1976).

Complainant's Exhibits A, B, and C all contain either the exact phrase or variations of the phrase: "Let's keep Bill Lipinski working for us," suggesting that this was a campaign slogan which advocated the election of Congressman Lipinski. The more exhaustive list of examples of express advocacy appearing in the new regulations at 11 C.F.R. § 100.22(a) specifically include a campaign slogan which in context can have no other reasonable meaning than to urge the election of a clearly identified candidate.

³ Similarly, an advertisement which appears to have been produced by Congressman Lipinski's 1994 general election opponent requests the reader to "Punch 82," apparently the opponent's ballot line.

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Thus the new regulations clearly reflect the Commission's position that these types of phrases are equivalent to the magic words contained in Buckley v. Valeo.

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Nor does the state supreme court decision in Illinois v. White free the Committee from compliance with FECA disclaimer requirements. In White, the Illinois Supreme Court ruled unconstitutional a state ordinance prohibiting the publication of political literature which did not show the name and address of persons distributing the literature, because the state had not advanced any compelling interest and less restrictive alternatives were available to achieve the state's goals. Although the court ruled the state statute unconstitutional on its face, it did not substitute a requirement that disclaimers must only comply with the community standard. Even if a community practice standard resulted from the finding of unconstitutionality, this would not excuse compliance with a separate federal statute governing literature produced and distributed in connection with a federal election. Furthermore, not only did the Illinois statute in White apply to issue advocacy as well as candidacy advocacy, but the court specifically distinguished the Illinois statute from FECA. The Illinois Supreme Court explained that the United States Supreme Court in Buckley v. Valeo held that FECA's disclosure requirements appeared to be the least restrictive alternative for achieving the compelling interest. Illinois v. White, 506 N.E.2d at 1291.

Respondents' argument that the state court decision mandates that community practice should prevail and that this excuses compliance with 2 U.S.C. § 441d is also incorrect. The Act and the Commission's regulations are quite specific on what is required in a disclaimer. Under the supremacy clause of the United States Constitution

when there is a clear collision or conflict between federal and state law the federal law will prevail. See Hines v. Davidowitz 312 U.S. 52 (1941); Weber v. Heaney 995 F.2d 872 (8th Cir. 1993); and Stern v. General Electric Company, 924 U.S. 472 (2nd Cir. 1991). In addition, the Act specifically states that "the provision of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office." 2 U.S.C. § 453. The Commission has applied this preemption clause in a number of advisory opinions questioning whether the FECA disclaimer provisions can be preempted or superseded by state law. See AO 1978-24, AO 1980-36, AO 1981-27, and AO 1986-11.

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In this instance, however, there is not even a state law which conflicts with 2 U.S.C. § 441d. Once this state law was struck down, Respondents had even less of a credible argument in ignoring the FECA disclaimer provisions because apparently there was no remaining state law which even addressed disclaimers. Despite Respondents' contention that 441d is "silent as to the precise manner in which campaign literature is to be attributed to its source," FECA's disclaimer provisions specifically require that communications paid for and authorized by a candidate or his or her committee shall state that such communications have been paid for by such authorized political committee. The supremacy clause trumps state statutes and Respondents' argument favoring community practice is even weaker in the face of a clearly articulated federal statute and the absence of a conflicting state law.

Even if a related state law were held unconstitutional, it is unreasonable to assume that a federal law predicated on different bases would also be unconstitutional and thus

could be ignored. Furthermore, not only was it unreasonable for the Respondents to fail to include an appropriate disclaimer because FECA and the Commission's regulations clearly articulate those requirements, but the Lipinski Committee, like all principal campaign committee's, would have received the Commission's publication Campaign Guide for Congressional Candidates and Committees which clearly outlines the disclaimer requirements.

Based on the foregoing, there is reason to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a) because the Committee paid for and authorized Complainant's Exhibits A, B, and C but failed to include disclaimers. Because no evidence of personal involvement by the candidate was shown by the Complainant, there is no reason to believe that Congressman William O. Lipinski violated 2 U.S.C. § 441d(a), and the file was closed as to him.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 2, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Congressman William O. Lipinski

Dear Mr. Kubasiak:

In a letter dated April 24, 1996, you were notified that the Federal Election Commission found, on the basis of the information in the complaint, that there is no reason to believe Congressman Lipinski violated 2 U.S.C. § 441b(a). In fact, that letter included a typographical error. On April 17, 1996, the Commission found that there is no reason to believe Congressman Lipinski violated 2 U.S.C. § 441d(a), and closed the file as it pertains to Congressman Lipinski.

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

Sincerely,

Stephan O. Kline
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 2, 1996

Representative William Lipinski
6242 W. 59th Street
Chicago, IL 60638

RE: MUR 4121
Congressman William O. Lipinski

Dear Congressman Lipinski:

In a letter dated April 24, 1996, you were notified that the Federal Election Commission found, on the basis of the information in the complaint, that there is no reason to believe you violated 2 U.S.C. § 441b(a). In fact, that letter included a typographical error. On April 17, 1996, the Commission found that there is no reason to believe you violated 2 U.S.C. § 441d(a), and closed the file as it pertains to you.

Sincerely,

A handwritten signature in dark ink, reading "Stephan O. Kline", is written over a horizontal line.

Stephan O. Kline
Attorney

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LAW OFFICES
**KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO**

PROFESSIONAL CORPORATION
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CHICAGO, ILLINOIS 60602-2505

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

May 17 2 41 PM '96
Telephone
(312) 630-9600
Facsimile
(312) 630-7939

DANIEL J. KUBASIAK

May 15, 1996

VIA FACSIMILE AND REGULAR MAIL

Lee Ann Elliott, Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

May 17 3 03 PM '96

Re: MUR 4121 Lipinski for Congress Committee and John Mooney, as Treasurer

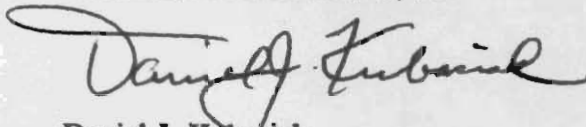
Dear Ms. Elliott:

In response to your letter dated April 24, 1996 regarding the above referenced matter, please find enclosed herewith a Renewed Motion to Dismiss in Response to Commission's Finding of Reason to Believe Violation of Federal Election Campaign Act Occurred.

We are anxious to expedite the resolution of this matter and hope that the enclosed will be helpful in that regard. If you should have questions or comments in regard to this matter, please contact me.

Very truly yours,

KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.



Daniel J. Kubasiak

DJK/rop
Enclosure

cc: Congressman William O. Lipinski
Stephan Kline, General Counsel's Office

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FEDERAL ELECTION COMMISSION

Respondents:

**Lipinski for Congress
Committee and
John Mooney, as Treasurer**

MUR 4121

**RENEWED MOTION TO DISMISS AND
RESPONSE TO COMMISSION'S FINDING OF REASON TO BELIEVE
VIOLATION OF FEDERAL ELECTION CAMPAIGN ACT OCCURRED**

"Lipinski for Congress" and John Mooney, as Treasurer, respond to the Federal Election Commission's (the "Commission") Finding of Reason to Believe a Violation of the Federal Election Campaign Act (the "Act") Occurred as follows:

Background

In response to a complaint filed by the Illinois Republican Party, the Commission issued a "Reason to Believe" finding against "Lipinski for Congress" and John Mooney, as Treasurer¹ for failing to include a disclaimer on three pieces of campaign literature pursuant to 2 U.S.C. §441d. The campaign literature consists of three double-sided fliers which are no larger than a bumper sticker. The fliers consist mostly of informative quotations from attributed sources about Congressman Lipinski. The fliers also discuss various issues which concern the community, including "the Contract for America", welfare reform, keeping jobs in the United States, mass transit, federal funding of highways, and taxation.

¹For the sake of simplicity, both "Lipinski for Congress", the committee devoted to advocating the re-election of William Lipinski, and its Treasurer, John Mooney, will be referred to as "Lipinski for Congress."

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The Commission's Finding concluded that the use of the following terms constituted "express advocacy" pursuant to 2 U.S.C. §441d:

1. "Bill Lipinski for Congress"
2. "Reason after reason to keep our Congressman Bill Lipinski working for us."
3. "Punch 81."
4. "Let's keep Bill Lipinski working for us."

Finding, pp. 5-7.

Introduction

The fliers should not be found in violation of the Act's disclaimer requirement because they do not consist of "express advocacy" and they satisfy the goal of the Act by giving the reader adequate notice of the source of the fliers. The Commission fails to recognize that the reader of the fliers would attribute the fliers to Congressman Lipinski's committee. Moreover, the fliers, when read in their entirety are merely informative and do not rise to the level of "express advocacy". The Commission's Finding isolates particular phrases and interprets them without reference to the meaning of the words in the community and the context in which they appear.

In response to the complaint, respondents filed a motion to dismiss asserting, in part, that the Act's disclaimer requirement violates the First Amendment guarantee of free speech. Since respondents filed that motion, the United States Supreme Court, in McIntyre v. Ohio Election Commission, 115 S.Ct. 1511 (1995), invalidated a similar disclaimer requirement in an Ohio election statute. In part B below, Respondents renew their motion to dismiss in light of the recent Supreme Court decision.

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A. The Fliers Do Not Violate the Federal Election Campaign Act.

1. The Fliers Give the Reader "Adequate Notice"
of Who Paid for the Communication.

Neither the Act nor the regulations promulgated pursuant to the Act specify "magic words" which must be used on campaign literature to identify its source. The "Lipinski for Congress" campaign literature encompassed within the Commission's Finding gives the reader adequate notice of its source. The objective of the disclaimer requirement, according to the regulations, is:

... to give the reader, observer or listener adequate notice of the identity of persons who paid for and, where required, who authorized the communication.

11 CFR §110.11(a). The use of the phrase "Bill Lipinski for Congress" notifies the reader that the source of the material is "Lipinski for Congress", the committee named in the matter under inquiry. Likewise, the use of the term "Punch 81" is synonymous with a candidate's committee in Illinois. The fliers do satisfy the objective of the regulations by giving the reader adequate notice of the source of the material particularly in light of the meaning of the phrases "Lipinski for Congress" and "Punch 81" in the community. The Commission's Finding elevates form over substance and underestimates the ability of the "common man" to evaluate the merits of the fliers.²

²The fliers at issue are no larger than a bumper sticker, and the terms at issue could fit conveniently on either a bumper sticker or button. The disclaimer requirement does not apply to "bumper stickers, pins, button, pens and similar small items upon which the disclaimer cannot be conveniently printed." 11 CFR §110.11(a)(2). There is no basis to distinguish the fliers from a bumper sticker or button. See, Part B below.

2. The Fliers Do Not Consist of Express Advocacy.

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The Act requires that a disclaimer appear on every "communication that expressly advocates the election or defeat of a clearly identified candidate." 2 U.S.C. §441d. The determination that a communication falls within the parameters of the Act does not merely depend on the use of magic words, but rather "to be express advocacy under the Act . . . it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir. 1987). "[S]peech that is merely informative is not covered by the Act." Id. Exhibits A and B consist almost entirely of quotations attributed to their sources. Exhibit C contains information on many issues facing the American electorate, including welfare reform, keeping jobs in the United States, mass transit, federal highway funds, and taxes. Whether used on a piece of campaign literature, or on a bumper sticker or button, the use of the phrase "Punch 81" must be interpreted in light of local custom as informing the reader of the position of the candidate on the ballot. When read as a whole, the communications on which the Commission based its Finding are merely informative.

The Commission's Finding rests on a few isolated phrases of the communications. The phrases, "Reason after reason to keep our Congressman Bill Lipinski working for us" and "Let's keep Bill Lipinski working for us" do not specifically urge the reader to re-elect Congressman Bill Lipinski. The phrases could be interpreted to urge the reader to lobby the Congressman on particular issues or to monitor the Congressman's actions in Congress to ascertain whether the Congressman continues to represent the views he previously espoused. "Speech cannot be

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'express advocacy' when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action. *Id.*

The Commission's Finding with respect to Exhibits A and B rests on the use of the name of the committee -- "Lipinski for Congress" -- named in the matter under inquiry. That is the very phrase which identifies the source of the material in compliance with the Act's disclaimer requirement. In Illinois, the use of the phrase "Punch 81" also denotes the candidate's committee and identifies the source of the material. Reasonable minds could find that the phrases "Lipinski for Congress" and "Punch 81", in the context of the information provided in the fliers, merely identify the source rather than urge the reader to take specific action at the ballot box.

The Commission's reliance on the definition of "express advocacy" in new regulations is inappropriate. The regulations were not in effect when the fliers were distributed. The term "express advocacy" depends on the entire communication when read as a whole and not the use of a few magic words. The fact that the regulations were promulgated (with specific examples) is indicative of the fact that the term "express advocacy" is not self-explanatory, but rather depends on the communication as a whole.

**B. The Disclaimer Requirement of the Act Violates
The First Amendment of the Constitution.**

The fliers distributed by "Lipinski for Congress" are core political speech entitled to the utmost protection against government interference under the First Amendment. "Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution." McIntyre v. Ohio Election Commission, 115 S.Ct. 1511, 1518 (1995)(quoting Roth v. United States, 354 U.S. 476, 484 (1957)). A law

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which burdens core political speech must be narrowly tailored to serve an overriding governmental interest in order to survive the "exacting scrutiny" applied by the courts to preserve First Amendment rights. McIntyre v. Ohio Elections Commission, 115 S.Ct. 1511 (1995). In McIntyre, the Supreme Court recently invalidated a similar disclaimer requirement in an Ohio election statute based on the First Amendment. The Ohio statute, like the Act, required that anyone who produces printed material advocating the election or defeat of a candidate or promoting the adoption or defeat of any issue to include a disclaimer identifying who paid for the material.

Although McIntyre involved the regulation of speech promoting the adoption or defeat of an issue in an election, the reasoning is equally applicable to candidate-based advocacy. "Advocacy of the election or defeat of candidates for federal office is not less entitled to protection under the First Amendment than the discussion of political policy generally or advocacy of the passage or defeat of legislation." Buckley v. Valeo, 424 U.S. 1, 48 (1975).

The Ohio Election Commission defended the Ohio law on the grounds that it was intended to prevent fraudulent and libelous statements and to provide the electorate with relevant information. The Supreme Court found that neither governmental interest sufficiently supported the intrusion on the right to anonymous political speech. The Ohio statute, like the Act, fails to distinguish between fraudulent and libelous speech and legitimate political advocacy. The Act extends far beyond the breadth necessary to regulate fraudulent or libelous speech. The fliers distributed by "Lipinski for Congress" are not even negative, let alone fraudulent or libelous. The fliers contain mostly quotations from identified persons. The fliers do not portray Congressman Lipinski's opponent in a negative light. Some aspects of the fliers concern issues faced by

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Congress, not the election or defeat of a candidate for office. If the Act's disclaimer requirement is intended to prevent fraudulent and libelous speech, it is not narrowly tailored to meet that objective.

In Furgatch, the government advanced two governmental interests served by the Act: (1) informing the public of the source of campaign literature; and (2) deterring corruption and undue influence. Furgatch, 807 F.2d at 862. The disclaimer requirement may inform the public of the source of campaign literature, but it does not deter corruption or undue influence. There is no reason to suppose that someone wishing to use campaign literature for improper purposes will properly attribute the source of the material. Moreover, the Act's reporting requirements are more directly and effectively designed to expose the sources of campaign funds to scrutiny.³

The goal of informing the public does not justify the imposition of the disclaimer requirement. "[T]he name and address of the author adds little, if anything, to the reader's ability to evaluate the document's message." McIntyre, 115 S.Ct. at 1520. In McIntyre, the Supreme Court admonished:

Don't underestimate the common man. People are intelligent enough to evaluate the source of an anonymous writing. They can see it is anonymous. They know it is anonymous. They can evaluate its anonymity along with its message, as long as they are permitted, as they must be, to read that message. And then, once

³The regulations contain an exception for bumper stickers, buttons and other items. If the disclaimer requirement is intended to prevent fraudulent and libelous speech, then there should be no reason to distinguish between bumper stickers and buttons which contain libelous or fraudulent statements and other items with the same information. Similarly, the exception is not related to the furthering the goal of informing the public of the source of campaign literature or deterring undue influence and corruption. "If the [government's] interest were indeed compelling, would it permit the identification requirement to be so easily subverted?" People v. White, 116 Ill.2d 171, 183, 506 N.E.2d 1284, 1289 (1987).

they have done so, it is for them to decide what is 'responsible', what is valuable, and what is truth.

McIntyre, 115 S.Ct. at 1520, n.11 (quoting New York v. Duryea, 351 N.Y.S.2d 978, 996 (1974)). The informational value of the disclaimer requirement is minimal. The goal of informing the electorate of the sources of campaign funds is met by the reporting and disclosure requirements of the Act.

In its Findings, the Commission disregarded the well-reasoned opinion of the Illinois Supreme Court in People v. White, 116 Ill.2d 171, 506 N.E.2d 1284 (1987), which invalidated a similar Illinois statute under the First Amendment. The Commission found that People v. White was inapplicable because it was decided by a state court. The Supreme Court in McIntyre, however, cited People v. White with approval of its analysis of the pertinent First Amendment issues. McIntyre, 115 S.Ct. at 1521, n. 16.

The Commission instead cited Buckley v. Valeo, 424 U.S. 1 (1976), as upholding the constitutionality of the Act's disclaimer requirement. The reliance on Buckley is misplaced. As the Supreme Court pointed out in McIntyre, the Buckley decision addressed the "mandatory disclosure of campaign-related expenditures" and did not involve "a prohibition of anonymous campaign literature." McIntyre, 115 S.Ct. at 1522.⁴ The Act did not even have the same disclaimer requirement at the time Buckley was decided. The only attribution requirement included in that version of the Act stated:

⁴The Commission relies on a statement in White by the Illinois Supreme Court suggesting that Buckley found the "disclosure requirements" to be constitutional. The United States Supreme Court has not made any such finding, and, in fact, specifically stated that the federal Act "may not be constitutional in all its applications." McIntyre, 115 S.Ct. at 1524, n. 21.

Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

Buckley, 424 U.S. at 152 (Appendix to per curiam opinion)(emphasis added). That is obviously a much more narrowly tailored provision. That provision assumes that all literature advocating the election of a candidate was disseminated by the candidate or the candidate's committee. It is designed to prevent citizens from being misled by requiring only those communications whose proponents are not obvious to attribute the source. If that were the provision in effect now, "Lipinski for Congress" could not be found in violation of the Act.

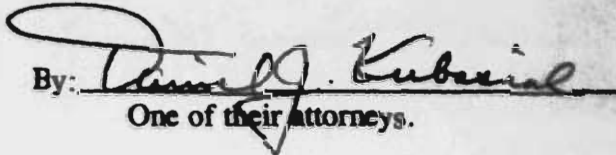
Conclusion

The Act's disclaimer requirement violates the First Amendment and in light of the United States Supreme Court's recent decision in McIntyre, this matter should be dismissed. In the alternative, the Commission should decline to pursue the matter under inquiry for the reasons stated herein.

Respectfully submitted,

LIPINSKI FOR CONGRESS COMMITTEE
and JOHN MOONEY, as Treasurer

Daniel J. Kubasiak
Ellen Chapelle
KUBASIAK, CREMIEUX, FYLSTRA,
Reizen & Rotunno, P.C.
30 North LaSalle Street, Suite 2700
Chicago, Illinois 60602
(312) 630-9600

By: 
One of their attorneys.

LAW OFFICES

**KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO**PROFESSIONAL CORPORATION
30 NORTH LA SALLE STREET
SUITE 2700
CHICAGO, ILLINOIS 60602-2505Telephone
(312) 630-9600
Facsimile
(312) 630-7939**DANIEL J. KUBASIAK**

May 21, 1996

Via FacsimileMr. Stephan Kline
Federal Election Commission
999 E. Street - Northwest
Washington, D.C. 20463RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 21 5 03 PM '96

RE: MUR 4121, Lipinski for Congress and John Mooney, as Treasurer

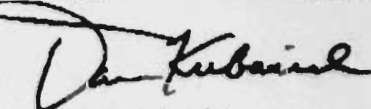
Dear Mr. Kline:

Pursuant to our telephone discussion of this morning, enclosed herewith are copies of the four pieces which we discussed. Please note that each of the four contain the words "Paid for by Lipinski for Congress". I hope these documents are helpful in your deliberation.

I spoke with a member of the Committee and they are reviewing their printing records in order to prepare the affidavit which you requested. Hopefully, the affidavit can be forwarded to you tomorrow.

If you have any questions or comments in regards to this matter, please contact me.

Very truly yours,

**KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.**

Daniel J. Kubasiak

DJK/ir
Enclosure

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5TH PIECE

4 PAGES

Staying in touch

Protecting our pocketbooks

Saving and creating good jobs

getting things done . . . for us

That's
Bill

Lipinski

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The Record

- no one is more involved in local affairs



He led the fight against the proposed expanded McCook Reservoir project...a project some have called "the world's biggest toilet."



Lipinski has carried out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects."

Southtown Economist
3/4/91



Bill's opposition to his party's tax hikes and social programs hasn't hurt his ability to deliver for our districts.

representing our values, our beliefs

His votes: against government funded abortions, against gays in the military, against death penalty quotas, against funding obscene art. For: allowing prayer in our schools, for money for church based day care, for an amendment to prohibit flag burning, for making English our official language. These votes, combined with his opposition to the 1991 Civil Rights Act over it's call for quotas, led the Congressional Quarterly to describe Bill Lipinski as "a persistent and emotional spokesman for conservative values".

saving jobs / creating jobs

He saved hundreds of jobs at the American Bank Note Company in Bedford Park by forcing the government to drop plans to shift printing contracts overseas...the President of Brad-Foote Gear Works in Cicero says Bill's intervention with the Commerce Department kept his people working...the revitalization of Midway Airport, due in part to legislation written by Bill Lipinski, has created hundreds of new private sector jobs...Governor Edgar's administration gives credit to Bill for securing billions for Illinois highway and mass transit projects, and that means jobs...his visionary plan to rebuild the American Merchant Marine industry by taxing foreign operators has just passed the House.

protecting communities and property values

He defeated plans for a 27 billion gallon rainwater and raw sewage reservoir in McCook...he blocked plans to build an incinerator in Stickney...he helped convince the CTA to rebuild the Lake Street El instead of shutting it and kept it running through last Christmas to help local merchants...he's working to block a waste incinerator from being built in Summit...he acts quickly on requests from area residents and local elected officials.

fighting tax hikes and useless government programs

The Concord Coalition called it President Clinton's deficit reduction plan, but Bill Lipinski saw it for what it was, the largest tax hike in U.S. history - he voted NO! He's voted for the tough balanced budget amendment. He's proposed over \$60 billion in specific cuts in government spending, and each year his office solves hundreds of problems constituents are having with Social Security, the Veterans Administration, and other unresponsive government agencies.

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The Agenda

ending welfare as a permanent handout

Many experts believe that our current welfare system heavily subsidizes illegitimacy, divorce and non-work. Bill Lipinski believes welfare reform shouldn't cost money, it should save us money. For example, those on welfare who get their medical treatment free use the system a lot more than those who have to pay for insurance. They go to their doctors 3.6 times as much as people with insurance and they go to the hospital 4.5 times as much. We can cut spending there. Other proposals to be considered: denying additional benefits to welfare recipients who continue to have babies out of wedlock . . . increasing efforts to establish the paternity of illegitimate babies and forcing the father to contribute to the cost of raising the child . . . and limiting the amount of time a person capable of working can receive welfare checks.



"Bill Lipinski stands up for small businesses. He fought to keep our Company working and our people employed." Steward Ward, the President of Brad - Foote Gear Works, in Cicero.

The Opponent



"Jim Nalepa, the G.O.P. challenger", (seen here modeling two Soviet assault weapons), cites his combat experience in his campaign literature. His resume notes his participation in the Grenada invasion - though the only fighting he did was with the media. Nalepa was a public information officer."

The Republican candidate for Congress isn't from here and doesn't know much about the people and the problems of the 3rd District.

Born in Puerto Rico, raised in Massachusetts, he moved to Illinois after serving a minimum period in the U.S. Army.

He only moved into the 3rd District last August - weeks before announcing for Congress.

Before that, he lived in one of Chicago's wealthiest suburbs - South Barrington - where he served as a Village Trustee.

His votes while in office? Ignoring vocal opposition from homeowners concerned about their property values on July 11, 1991, Jim Nalepa voted in favor of building the controversial Bartlett Garbage Dump. (He now says he's against such projects).

On July 12, 1990, he voted to increase the Village's line item budget 10% across the board. (He now says he wants governments to cut spending).

On November 8, 1990, he voted to increase the property tax levy. (Now he wants tax cuts.)

On March 12, 1992, he hosted a dinner honoring Congressman Phil Crane - almost a quarter of a century of service in Washington. (He now says Congressmen shouldn't serve that long).

Chicago Tribune
10/5/94

All this information is from the official records of the Village of South Barrington.

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Republican Congressional candidates are offering you a "contract."

If you are concerned about the deficit DON'T SIGN

"Read the fine print! The promises were chosen because they were popular. The price tag is huge."

Southtown Economist Editorial
October 3, 1994

"This jerry built contract is little more than the voodoo economics of the Reagan 80's."

New York Times
October 9, 1994

"Despite the high blown rhetoric, the Republicans are offering more of the same - tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

Wall Street Journal
September 22, 1994

If you are concerned about Social Security and Medicare DON'T SIGN

This contract is an "economic suicide pact" that would "rob millions of senior citizens of their Social Security and Medicare benefits they depend on."

National Council of Senior Citizens

"This bundle of promises isn't mere rhetoric, it threatens Medicare."

The Bangor Daily News
September 30, 1994

And what do the Congressman who wrote the contract Jim Nalepa signed have to say about Social Security?

In 1986 Congressman Newt Gingrich proposed abolishing Social Security and

Congressman Dick Armey said in a C-SPAN interview last week, "I never would have created Social Security".

Reason after reason
to keep

Bill Lipinski

working for us

Lipinski for Congress
5255 S. Linder Ave.
Chicago, IL 60638

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BILL LIPINSKI

Congressman - 3rd District



It's not easy to say no when the President calls - but Bill Lipinski said NO to President Clinton's call for a tax hike - and he opposed the President again by voting for the balanced budget amendment why? ... because of you.

HERE'S WHAT NEWSPAPER EDITORIALS HAVE TO SAY

Daily Southtown

3rd District (Southwest Side and suburbs from Berwyn to Tinley Park). Bill Lipinski is a moderate Democrat who has effectively represented the views of his constituents. He has been a productive congressman, having brought home federal money for projects such as the Southwest Rapid Transit Line. He has scored important points with his suburban constituents by helping defeat plans for an expanded sewer reservoir in McCook. His challenger, Republican Jim Nalepa, recently moved into the district. We endorse Lipinski.

Daily Southtown Economist
October 23, 1994

Chicago Sun-Times

The Chicago Sun-Times endorses Bill Lipinski for Congress.

Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator who is good for the region. Lipinski has represented the interests of his district well, as evidenced by his leadership in opposing the expansion of the McCook Reservoir.

Chicago Sun-Times
October 16, 1994

Chicago Tribune

The Chicago Tribune endorses Bill Lipinski for Congress.

In representing a largely suburban district, Bill Lipinski has worked hard to learn the needs of those communities and he's one of the most effective members of the Illinois delegation. Suburbanites saw just how effective when he led the successful fight to stop the ill-advised expansion of the McCook quarry.

With Illinois' influence waning with the retirement of House Minority Leader Bob Michel, and the legal troubles of Rep. Dan Rostenkowski, it is tough to cast out someone who truly knows how to work Washington for his state and his constituents.

Chicago Tribune
October 25, 1994

JOURNAL

"Republican James Nalepa, truly is frightening."

Wednesday Journal
October 26, 1994

PUNCH 81

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AREA OFFICIALS AGREE "WE NEED BILL LIPINSKI"

"No one is more involved in local matters - no one has fought harder to protect homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski has proved accessible, sensitive and very helpful to our areas concerns. He has used his ability and influence to our definite advantage."

Mayor Bonnie Strack - Palos Heights

"He answered our call, he led the fight - he won for us. With the defeat of the proposed expanded McCook Reservoir, we don't have to worry about declining property values or increased health threats. And the 2500 people who won't lose their jobs at the Electro-Motive plant are pretty happy too."

Mayor Emil Sergo - McCook

"He deserves our support."

Mayor Gene Siegel - Chicago Ridge

"His constituent service offices are the best. Responsive, polite, understanding, they help people and local elected officials cut through bureaucratic red tape."

Mayor Ernie Kolb - Oak Lawn

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

Let's Keep
BILL LIPINSKI
working for us!
Punch 81

SOME THINGS YOU SHOULD KNOW ABOUT THE OPPONENT - JIM NALEPA

SUCCESSFUL BUSINESSMAN?

That's what his literature says. He's disclosed to the U.S. House of Representatives that he owns stock worth between \$500,000.00 and \$1 million. But he told a court that he could only afford to pay the legal minimum in child support - \$250.00 a month (that's \$8.33 a day) - and to get that on time - the court was forced to issue an order of withholding from his paycheck.

TERM LIMITS?

Term limits are supposed to mean 6 years and get out, but the Chicago Sun-Times reports "despite his support for limits, Nalepa could (if he wins) wind up in Washington for a long time. Nalepa pledged to leave office only if Congress passes a constitutional amendment limiting House members to three terms and the amendment is ratified by the states.

That promise is different than pledging to only serve six years. The 27th amendment to the U.S. Constitution took 203 years to ratify!

COMMUNITY INVOLVEMENT?

Jim Nalepa isn't from here and as a result he doesn't know much about the people or the problems of our community.

Born in Puerto Rico, raised in Massachusetts, he's only lived in Illinois for a few years. He didn't even move into the district until last August - weeks before announcing for Congress.

Lipinski for Congress
5255 S. Linder Ave.
Chicago, IL 60638

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MORE LOCAL OPINION

Lipinski in 3rd District

Voters in the 3rd Congressional District should re-elect William O. Lipinski, the incumbent, to his seat in Congress.

Lipinski, a Chicago Democrat, has served his district well since 1992 when it took on a more suburban cast because of reapportionment. Lipinski is **not** in lockstep with the House Democratic leadership. He has a more independent streak that serves the district well. He voted for the crime bill, but opposed military intervention in Haiti.

He has been a force in helping keep the Lake Street El open, and in securing federal funds for its rehab. He should be returned to Congress.

The Oak Leaves
A Pioneer Press Newspaper
October 26, 1994

**"Republican
James Nalepa,
truly is frightening."**

Wednesday Journal Editorial
October 26, 1994

"Bill Lipinski is a friend to Oak Park. He helped convince the CTA to rebuild the Lake Street El, instead of shutting it and he kept it running through last Christmas to help Oak Park residents and merchants."

Phil Rock

Lipinski For Congress
5255 S. Linder Dr.
Chicago, IL 60638

Not for Bill Lipinski For Congress



Bill & Rose Marie Lipinski have been married 32 years and are the proud parents of two children.

Reason after reason
to keep
Bill Lipinski
working for us
Punch 81

Bulk Rate
US Postage
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Service

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"He came last week for our endorsement. Fat Chance."

"Imagine my surprise...to find the fraud-fearful Nalepa's name in the Sun-Times connected to a story of allegations that he had bribed a small newspaper..."

Wednesday Journal October 26, 1984

Nalepa follows Reagan's lead, trades cash for coverage

There he was. Sitting at the end of our conference table. Upright. Proving he was a vote-buyer.

Jim Nalepa, Republican. Candidate for the U.S. Congress from the 3rd Congressional District, a district which includes a portion of South Oak Park and a portion of just about everything else, too.

Jim Nalepa, Republican. Candidate with the looks and the manner of a small-market TV anchorman just going to bed.

Jim Nalepa. The same I credit with convincing me that I'm not just another middle-aged white guy going conservative.

Thank you, Jim.

He came last week for our endorsement. Fat chance. Here's a guy who wants to freeze any further cuts in military spending—over. Wants to cut \$143 million, or, maybe it was billion. In social programs. All except Social Security, which he wants to protect. Except, on further consideration, for the drunks and drug addicts who collect Social Security disability benefits and who should be tossed off because "it's self-inflicted."

The National Endowment for the Arts should be eliminated so that the arts can compete and flourish in a free market economy, says Candidate Jim Nalepa. And this is not just some anti-art guy talking, he insists to add. "I used to be on the stage," he says. Say something that surprises us, Candidate Jim Nalepa.

He does, in fact, surprise us, when, in the next breath, he demands that both the honey bee subsidies and the Small Business Administration be abolished. Saying I'd never heard a "New Gingrich Republican" seek to end any government program which included the word "business" in it, he said his decision was based on the fact that never in his enormous experience had he met a person who had received a Small Business Administration loan.

I didn't have the guts to ask him how many drug-addicted Social Security snoots he'd met, but I was reassured when he returned to the script and declared that the solution to urban economic woes was the creation of enterprise zones.

Candidate Jim Nalepa was entirely back on track when he revealed that he is a big fan of Midway Airport. That is another major surprise since the airport sits directly in the middle of the congressional district he is trying to win from current Congressman, and fellow vote-buyer, William Lipinski. Well, says Candidate Jim Nalepa, not only does he like the airport, but he is an especial fan of its Number 1 airline. That would be Southwest.

Government should support efforts like Southwest Airlines, says the candidate, puffing up as if Southwest bencho Herb Kelleher's millions might rub off on him.

Why government should support Southwest but leave the arts competing in a free market economy is seemingly a trick question put to Candidate Jim Nalepa by an editorial board he seems to fancy ugly on him.

Seeing as how the editorial board, or, at least, certain members of the editorial board, had never heard of Candidate Jim Nalepa until just moments before he presented his credentials, it seemed reasonable to ask him just how this campaign was progressing against the incumbent Democrat Lipinski.

Where Reagan Republicans in South Oak Park who might like to vote for Candidate Jim Nalepa will be glad to hear that the campaign is "going very well." The district has been "targeted," he said with the relish of a Reaganist picturing cruise missiles aimed at the Kremlin. The Republican National Committee has promised \$5,000 in subsidies to the Nalepa campaign. Sounds like cheap change to me, but I hold my tongue, in the event this man somehow gets to Congress and I need to buy his vote.

Speaking of buying votes, Candidate Jim Nalepa is very calm about vote fraud on election day. He shares this insight,

this alleged, potential, affront to democracy in a hushed tone to indicate both his seriousness and his potential as a scoop for the newsstands gathered around the table. Then he tells us that Channel 3 is set to break a story of William Lipinski's purported evil-doing at 3 p.m., some 15 minutes hence. Some scoop, Candidate Jim.

But so you need worry about vote fraud when Jim Nalepa, West Palm Gardens, is the candidate. The "scoops" will be out on election day, 200 strong, he says. No one will steal this man's election to the U.S. Congress.

Imagine my surprise the following morning, by which time I was certain that I had indicated Candidate Jim Nalepa's Reaganism would view from my memory bank, to find the fraud-fearful Nalepa's name in the Sun-Times connected to a story of allegations that he had bribed a small newspaper, the Midway News on the Southwest Side, in exchange for a positive story.

Say it ain't so, Candidate Jim Nalepa!

Of course, he did say it ain't so. He said the \$5,000 he handed over to the small, struggling and suddenly defunct newspaper—only days before it ran a flattering page one article—was nothing like a bribe. It was a loan, he said. He wanted to keep the small, struggling Midway News in business, he said. The guy's a regular Small Business Administration, I thought to myself.

Who needs the SBA when Candidate Jim Nalepa's got the checkbook open. I wonder if he is handing out checks to small, struggling honey bee ranchers or small, struggling artists.

(And what do you suppose Candidate Jim Nalepa thought when he saw in Monday's Sun-Times that the now defunct, soon to file bankruptcy Midway News was controlled by a Chicago alderman who is a Lipinski crony?)

Candidate Jim Nalepa told our editorial board that he had proudly traveled to Washington, D.C., our nation's capital, recently to sign the Republican's "Contract With America." Kind of makes you wonder what collateral he had to back up that contract.

"never...had he met a person who had received a Small Business Administration loan."

"The district has been targeted," he said with the relish of a Reaganist picturing cruise missiles aimed at the Kremlin."

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HE TOLD THE COURT ... he could only afford \$8.23 a day for child support!

...But he's come up with \$25,000 in cash out of his own pocket to run for Congress!

That's Republican, JIM NALEPA

Here are the SHOCKING Facts...

- According to his divorce records, Jim Nalepa agreed only to pay "the minimum sum of \$250.00 per month" in child support. That's \$8.23 a day!
- According to his campaign disclosure reports ... Jim Nalepa personally loaned his campaign \$25,000 in cash. That's almost 10 times what he spends a year on child support!
- According to his own personal financial disclosure he states that his stock holdings are worth between \$500,000 and **ONE MILLION DOLLARS**. All that money and he can only find **\$250.00** a month for child support?
- To get even that small amount of money for child support the court had to issue an **ORDER OF WITHHOLDING**.

Makes you wonder about Jim Nalepa's priorities and values!

Reason after reason to keep BILL LIPINSKI working for us ... PUNCH 81

Newspapers Agree ... Lipinski for Congress

Star Newspaper

Bill Lipinski can get things done. And U.S. Rep. William O. Lipinski, D-Chicago, surely knows the people of the 3rd Congressional District far better than his Nov. 8 challenger, who's only a year out of South Barrington. ... Lipinski knows the territory and should be returned to office.

Press Publications

We solidly endorse BILL LIPINSKI. Lipinski has worked hard to support the interests of the district. He is a knowledgeable and influential member of Congress. Lipinski is not even the stereotypical Democrat that Nalepa attacks. He is more socially conservative ...

The Landmark Newspapers

Nalepa is sharp, but a bit too slick for us. The Republican transplant from Barrington won't be in the neighborhood long, he's looking for a one-way ticket to D.C. Face it, he can't compare to Lipinski in political know-how and will never relate to the vast silent masses like Bill does. In addition, Lipinski has always been his own boss and he's worked hard for his constituents.

Paid for by Lipinski for Congress, 5255 S. Linder Dr., Chicago, IL 60636

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WEDNESDAY JOURNAL

"He came last week for our endorsement. Fat Chance."

in the Sun-Times connected to a story of allegations that he had bribed a small newspaper..."

Wednesday Journal October 26, 1984

Nalepa follows Reagan's lead, trades cash for coverage

There he was. Sitting at the end of our conference table. Upright. Proving he was a vanguard. Just Nalepa. Minimal. Candidate for the U.S. Congress from the 3rd Congressional District, a district which includes a portion of South Oak Park and a portion of just about everything else, too.

Jim Nalepa, Republican. Candidate with the looks and the manner of a small-market TV anchorman just going to bed.

Jim Nalepa. The man I caught with confounding me that I'm not just another middle-aged white guy going conservative.

Thank you, Jim.

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He does, in fact, surprise us, when, in the next breath he demands that both the honey bee subsidies and the Small Business Administration be abolished. Saying I'd never heard a "Newt Gingrich Republican" seek to end any government program which included the word "business" in it, he said his decision was based on the fact that never in his economic experience had he met a person who had received a Small Business Administration loan.

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Why government should support Southwest but leave the arts competing in a free market economy is seemingly a trick question put to Candidate Jim Nalepa by an editorial board he seems to be tending to on his.

Seeing as how the editorial board, or, at least, certain members of the editorial board, had never heard of Candidate Jim Nalepa until just moments before he presented his credentials, it seemed reasonable to ask him just how this campaign was progressing against the incumbent Democrat Lipinski.

Winning Reagan Republicans in South Oak Park who might like to vote for Candidate Jim Nalepa will be glad to hear that the campaign is "going very well." The district has been "targeted," he said with the smile of a Republican picturing cruise missiles aimed at the Kremlin. The Republican National Committee has promised \$5,000 in airfare to the Nalepa campaign. Sounds like cheap change to me, but hold my tongue, in the event this money somehow gets to Congress and I need to buy his vote.

Speaking of buying votes, Candidate Jim Nalepa is very concerned about vote fraud on election day. He shares this insight,

this alleged, potential, effort to democracy in a hushed tone to indicate both his discomfort and its potential as a scoop for the newspapers gathered around the table. Then he tells us that Channel 5 is set to break a story of William Lipinski's purported evil-doing at 5 p.m., some 15 minutes hence. Some scoop, Candidate Jim.

But as you need worry about vote fraud when Jim Nalepa, What? Politician, is the candidate. The "scoops" will be out on election day, 200 strong, he says. No one will need this man's attention to the U.S. Congress.

Imagine my surprise the following morning, by which time I was certain that I had contacted Candidate Jim Nalepa's Republican world view from my memory bank, to find the first-herald Nalepa's name in the Sun-Times connected to a story of allegations that he had bribed a small newspaper, the Midway News on the Southwest Side, in exchange for a positive story.

Say it ain't so, Candidate Jim Nalepa. Of course, he did say it ain't so. He said the \$5,000 he handed over to the small, struggling and suddenly defunct newspaper—only days before it was a flourishing page one article—was nothing like a bribe. It was a loan, he said. He wanted to keep the small, struggling Midway News in business, he said. The guy's a regular Small Business Administration, I thought to myself.

Who needs the SBA when Candidate Jim Nalepa's got the checkbook open. I wonder if he is handing out checks to small, struggling honey bee producers or small, struggling unions.

(And what do you suppose Candidate Jim Nalepa thought when he saw in Monday's Sun-Times that the now defunct, soon to file bankruptcy Midway News was controlled by a Chicago alderman who is a Lipinski crony?)

Candidate Jim Nalepa told our editorial board that he had personally traveled to Washington, D.C., our nation's capital, recently to sign the Republican's "Contract With America." Kind of makes you wonder what collateral he had to back up that contract.



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The district has been targeted, he said with the relish of a Reaganist picturing cruise missiles aimed at the Kremlin.

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL ELECTION COMMISSION**

RESPONDENTS:

**LIPINSKI FOR CONGRESS COMMITTEE
AND JOHN MOONEY, AS TREASURER**

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MUR 4121

**AFFIDAVIT OF JOHN MOONEY REGARDING
PREPARATION AND DISTRIBUTION OF CAMPAIGN LITERATURE**

I, John Mooney, being first duly sworn, upon oath depose and state as follows:

1. I am the treasurer of the Lipinski for Congress Committee (the "Committee"). I have personal knowledge of the matters set forth in this affidavit and if called to testify, would be competent to testify as to the facts stated herein.
2. I submit this affidavit in support of the Renewed Motion to Dismiss and Response to Commission's Finding of Reason to Believe Violation of Federal Election Campaign Act Occurred.
3. I have reviewed the bills for printing fees and costs incurred by the Committee, as treasurer in this matter, which form the basis for this petition.
4. My review has revealed that the Committee incurred printing fees and costs for numerous items including design work, distribution and mailing expenses, stationary, posters, and the printing of miscellaneous items in addition to the following mailed and hand distributed pieces of literature:

960437711

<u>Date Piece Order from Printer</u>	<u>Description of Piece</u>	<u>Number of Pieces</u>
1. 6/27/94	Complaint Exhibit D	100,000
2. 8/3/94	Complaint Exhibit D	15,000
3. 9/7/94	Complaint Exhibit C	100,000
4. 9/28/94	Complaint Exhibit F	25,000
5. 10/5/94	Complaint Exhibit D	50,000
6. 10/5/94	Complaint Exhibit B	20,000
7. 10/11/94	Mailed Piece with Return Address and "Paid For By ..."	130,000
8. 10/17/94	Hand Delivered Piece	110,000
9. 10/20/94	Complaint Exhibit A	115,000
10. 10/20/94	Hand Delivered Piece	50,000
11. 10/23/94	Mailed Piece with Return Address and "Paid for By ..."	43,000
12. 10/23/94	Mailed Piece with Return Address and "Paid for By ..."	41,000
13. 10/31/94	Mailed Piece with Return Address and "Paid for By ..."	120,000
14. 11/1/94	Mailed Piece with Return Address and "Paid for By ..."	21,000
15. 11/1/94	Mailed Piece with Return Address and "Paid For By ..."	4,000
16. 11/2/94	Mailed Piece with Return Address and "Paid for By ..."	<u>65,000</u>
TOTAL		1,009,000

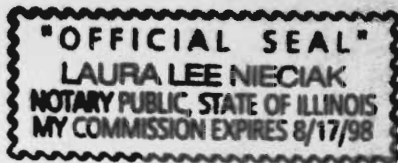
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Further affiant sayeth not.

John Mooney
John Mooney, Treasurer, Lipinski for
Congress Committee

SUBSCRIBED AND SWORN to me
this 3 day of July, 1996.

Laura Lee Nieciak
Notary Public



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JUL 22 1 34 PM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress and John Mooney,
as Treasurer

MUR 4121

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On April 17, 1996, the Federal Election Commission ("Commission") found reason to believe that Lipinski for Congress and John Mooney, as treasurer, ("Lipinski Committee," "Committee," or "Respondents") violated 2 U.S.C. § 441d(a) with respect to three communications which contained no disclaimer. By votes of 3-2, the Commission also failed to pass motions to find reason to believe that the Lipinski Committee violated 2 U.S.C. § 441d(a) with respect to two other communications. On April 17 the Commission also denied a Motion to Dismiss filed by Respondents; found no reason to believe that Congressman William O. Lipinski violated 2 U.S.C. § 441d(a) and closed the file as to him; and decided to enter into pre-probable cause conciliation

Attached is a Renewed Motion to Dismiss filed on behalf of the Lipinski Committee

Attachments 1-4. For

the reasons given below, this Office recommends that the Commission deny the Renewed Motion to Dismiss

Because the time period for pre-

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probable cause conciliation has elapsed, this Office would then move to the next stage of the enforcement process.

II. ANALYSIS

The Lipinski Committee filed a Renewed Motion to Dismiss and a response to the Commission's reason to believe findings on May 15, 1996. Attachment 1. Respondents argue that the communications at issue in this matter were not express advocacy. This argument was raised in the Committee's original Motion to Dismiss and was addressed in the First General Counsel's Report (April 8, 1996). Respondents argue that the Commission inappropriately relied on its new express advocacy regulations which were not in effect when the fliers were distributed. Although this Office had referred to the new express advocacy regulation (11 C.F.R. § 100.22) in that report, the analysis did not depend on the new express advocacy regulations because the types of phrases contained in the Lipinski communications were equivalent to the "magic words" described in Buckley v. Valeo, 424 U.S. 1 (1976).

The Lipinski Committee also asserts that the Act's disclaimer requirements violate the First Amendment and that the Supreme Court has invalidated a similar Ohio provision in McIntyre v. Ohio Election Commission, 115 S. Ct. 1511 (1995). The Court's holding in McIntyre did not invalidate 2 U.S.C. § 441d. The Ohio provision at issue in the case was a disclaimer provision prohibiting the distribution of campaign literature for both candidate elections and issue referenda which did not contain the name and address of the person or campaign official issuing the literature. While finding the provision unconstitutional as a regulation of core political speech that was not narrowly tailored to serve an overriding state interest, the Court did recognize "that a State's enforcement interest might justify a more limited

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identification requirement, but Ohio has shown scant cause for inhibiting the leafletting at issue here." McIntyre v. Ohio Election Commission, 115 S. Ct. at 1522. The Court specifically refers to FECA implying that, in contrast to the Ohio provision, the FECA disclaimer provisions are constitutional.¹

Based on the foregoing and since the Lipinski Committee has failed to present new information demonstrating that the communications at issue in this matter were not express advocacy, this Office recommends that the Commission deny the Renewed Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer.

¹ The Court noted that the FECA regulates only candidate elections and not referenda or other issue-based measures, and "[i]n candidate elections, the Government can identify a compelling state interest in avoiding the corruption that might result from campaign expenditures." *Id.* at 1523.

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This Office would then move to the next stage of the enforcement process.

III. RECOMMENDATIONS

Deny the Renewed Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer.

Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date

7/22/96

BY:


Lois G. Kerner
Associate General Counsel

Attorney assigned: Stephan O. Kline

96043772718

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Lipinski for Congress and John)
Mooney, as Treasurer.)

MUR 4121

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 25, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4121:

Deny the Renewed Motion to Dismiss filed on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer.

Approve the appropriate letter, as recommended in the General Counsel's Report dated July 22, 1996.

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

Attest:

7-25-96
Date

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

Received in the Secretariat: Mon., July 22, 1996 1:34 p.m.
Circulated to the Commission: Mon., July 22, 1996 4:00 p.m.
Deadline for vote: Thurs., July 25, 1996 4:00 p.m.

bjr

96043772719



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 31, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress and
John Mooney, as treasurer

Dear Mr. Kubasiak:

This letter is to confirm the Federal Election Commission's May 15, 1996 receipt of Lipinski for Congress and John Mooney, as treasurer's, Renewed Motion to Dismiss pertaining to the captioned matter. The Commission reviewed and denied the motion on July 25, 1996.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephan O. Kline".

Stephan O. Kline
Attorney

96043772700



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via Facsimile

August 1, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress Committee and
John Mooney, as treasurer

Dear Mr. Kubasiak:

Pursuant to our conversation earlier today, the Office of the General Counsel requests that the Lipinski for Congress Committee and John Mooney, as treasurer, ("Lipinski Committee") provide the following information by the close of business on August 8, 1996:

1. The total cost to the Lipinski Committee to produce each of three communications – Complainant's Exhibits A, B, and C; and
2. The seven communications produced by the Lipinski Committee and referenced in John Mooney's July 3, 1996 affidavit which are described as "Mailed Piece with Return Address and 'Paid for By ...,'" and the piece number of each such communication as referenced in Mr. Mooney's affidavit.

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

Sincerely,

Stephan O. Kline
Attorney

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

96043772721



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via Facsimile

August 13, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress Committee and
John Mooney, as treasurer

Dear Mr. Kubasiak:

After speaking with you on August 1, 1996, I faxed you a letter requesting that the Lipinski for Congress Committee and John Mooney, as treasurer, ("Lipinski Committee") provide the Commission the following information by the close of business on August 8, 1996:

1. The total cost to the Lipinski Committee to produce each of three communications -- Complainant's Exhibits A, B, and C; and
2. The seven communications produced by the Lipinski Committee and referenced in John Mooney's July 3, 1996 affidavit which are described as "Mailed Piece with Return Address and 'Paid for By . . .,'" and the piece number of each such communication as referenced in Mr. Mooney's affidavit.

As of this morning, the Office of General Counsel has not received the requested information. If we do not receive this material by the close of business on August 15, 1996, we will seek subpoena authority from the Commission. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

96043772722

LAW OFFICES
**KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO**

PROFESSIONAL CORPORATION
30 NORTH LA SALLE STREET
SUITE 2700
CHICAGO, ILLINOIS 60602-2505

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

AUG 16 9 26 AM '96

Telephone
(312) 630-9600
Facsimile
(312) 630-7939

DANIEL J. KUBASIAK

August 15, 1996

Via Federal Express

Mr. Stephan Kline
Federal Election Commission
999 E. Street - Northwest
Washington, D.C. 20463

RE: MUR 4121, Lipinski for Congress and John Mooney, as Treasurer

Dear Mr. Kline:

After our discussion on August 1, 1996, I relayed your request to the Lipinski for Congress Committee and John Mooney, as treasurer (the "Committee"). Enclosed herewith is information responsive to your letter of August 1, 1996.

1. The total cost to the Lipinski Committee to produce each of three communications - Complainant's Exhibit A, B and C.

• Exhibit A	\$2,609.00
• Exhibit B	1,547.50
• Exhibit C	<u>2,152.25</u>
Total	\$6,308.75

2. The seven communications produced by the Lipinski Committee and referenced in John Mooney's July 3, 1996 affidavit which are described as "Mailed Piece with Return Address and Paid for by . . .," and the piece number of each such communication as referenced in Mr. Mooney's affidavit.

In response to your request for the seven communications, I have enclosed herewith a complete set of all of the communications referred to in the Mooney affidavit dated July 3, 1996 which is attached to my letter of that date addressed to Ms. Elliott. Regrettably, there are two corrections which must be made to the Mooney affidavit. The first, item number 5 of the affidavit is identified as "Complainant Exhibit D". There apparently was a second printing of Complainant Exhibit D and item number 5 is, in fact, the modified version of Exhibit D. Also, item number 11 of the affidavit does not, in fact, contain a "Paid for By" identification. Item number 11, like

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COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 16 10 24 AM '96

9604372703

Mr. Stephan Kline

August 15, 1996

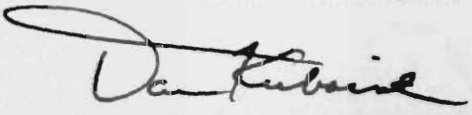
Page 2

item number 12, was prepared and mailed by the Illinois House Democratic Majority. When the affidavit was prepared, the Committee did not have a copy of item number 11 in hand but had contacted the printer who informed the Committee that a disclaimer was included. Based on that representation and the Committee's desire to respond to your request, the affidavit stated that a disclaimer had been included. It was only recently, that the Committee received an item number 11 piece and discovered that a disclaimer had not been included. The Committee regrets this mistake. I must point out, however, that there is no direct statement advocating the election of Congressman Lipinski in item number 11. The reference to "Vote Democratic Punch 28" encourages the reader to vote a straight democratic ticket as opposed to advocating the election of a "clearly identified candidate".

I have included a revised list of the pieces of literature referred to in the Mooney affidavit and have made revisions where appropriate to correct inaccuracies. I trust that this information is responsive to your request. If you have questions or comments in regards to this information, please contact me.

Very truly yours,

KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.


Daniel J. Kubasiak

DJK/ir
Enclosures

96043772724

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 16 10 24 AM '96

(CORRECTED)

<u>Date Piece Order from Printer</u>	<u>Description of Piece</u>	<u>Number of Pieces</u>
1. 6/27/94	Complaint Exhibit D	100,000
2. 8/3/94	Complaint Exhibit D	15,000
3. 9/7/94	Complaint Exhibit C	100,000
4. 9/28/94	Complaint Exhibit F (Mailed Piece - Return Address)	25,000
5. 10/5/94	Complaint Exhibit D ² (2nd Printing - Modified)	50,000
6. 10/5/94	Complaint Exhibit B	20,000
7. 10/11/94	Mailed Piece with Return Address and "Paid For By . . ."	130,000
8. 10/17/94	Hand Delivered Piece	110,000
9. 10/20/94	Complaint Exhibit A	115,000
10. 10/20/94	Hand Delivered Piece	50,000
11. 11/1/94	Mailed Piece - No Disclaimer	43,000
12. 10/23/94	Mailed Piece with Return Address and "Paid for By . . ."	41,000
13. 10/31/94	Mailed Piece with Return Address and "Paid for By . . ."	120,000
14. 11/1/94	Mailed Piece with Return Address and "Paid for By . . ."	21,000
15. 11/1/94	Mailed Piece with Return Address and "Paid For By . . ."	4,000
16. 11/2/94	Mailed Piece with Return Address and "Paid for By . . ."	<u>65,000</u>
	TOTAL	1,009,000

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**He has
been described as
"the voice
of middle class
America."**

96043772726

and when it comes to fighting for us,
Bill Lipinski will stand up to anyone.

HIGHER TAXES

Last year some called it a deficit reduction plan,
 but Bill Lipinski saw it for what it was -
 the largest tax hike in history.
HE VOTED "NO!"

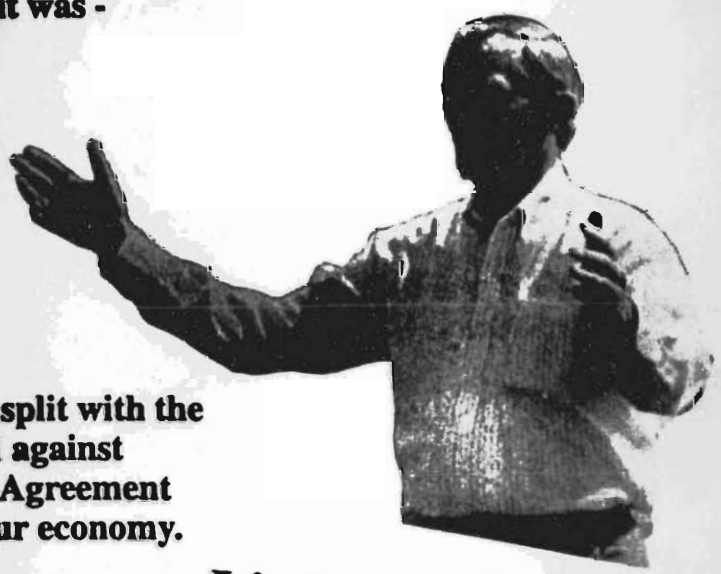
"Lipinski quickly served notice that
 he is no Clinton Democrat."
The Congressional Quarterly

AMERICAN JOBS

Last fall, in another high profile split with the
 White House, Bill Lipinski voted against
 the North American Free Trade Agreement
 (NAFTA) saying it would hurt our economy.

"The imports from Mexico grew much more rapidly
 than U.S. exports, cutting (our) trade surplus with
 Mexico in the first quarter... by nearly half."

Chicago Tribune, 6/6/94



Lipinsk

Rep. William O
 lenced and am
 surviving any
 comes his way for vo
 regressive tax plan.
 But here's a good
 Side: congressman, c
 uphold their party's
 ...

**Lipinski
 Aims at
 Alternate
 Route**

by Karen Wagenhofer
 A new four north-
 connect...

**Lipinski Applauded For
 His Vote Against Budget**

By DERMOT CONNOLLY
 Judging from an inform... line out...
 telephone...

Lipinski's budget stand praised

Most of us are quick to criti-
 cize officials when

History has shown that tax
 increases lead to a recession or

President Clinton, if passed,
 will not miss any of us in reach-
 ing into our wallets. The elderly

much larger scale:
 If the 1990 act
 solve the problem
 ...

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While the revitalization of Midway Airport, the successful building of the CTA's Orange Line, and the tens of millions of dollars he brings back each year for highway repairs, the RTA and METRA get the most attention, it's the smaller successes that mean just as much. Here's a few of the latest:

intervening with the Commerce Department to save jobs at a gear manufacturing plant in Cicero. . .securing millions in federal dollars to build the much-needed Central Avenue bypass that will connect Burbank, Bedford Park, and Oak Lawn with the Stevenson Expressway. . .saving printing jobs in Bedford Park by forcing the government to drop plans to print food stamps overseas. . .solving hundreds of constituents' problems with Social Security, the Veterans Administration and other unresponsive government agencies.

Affidavit Item No. 1 & 2
Page 3

Here's what others have written...

"Bill Lipinski is a member of a vanishing breed; a Democrat who symbolizes the kind of white ethnic voter his party has had difficulty winning in recent elections.

A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 civil rights bill, denouncing its quotas. He introduced legislation that would provide remedies to those harmed by past 'race-norming tests'."

1993 Congressional Quarterly

"Congressman Lipinski has carved out a reputation as Mr. Planes, Trains, and Automobiles by securing federal funding for area transportation projects."

Southtown Economist, 5/4/93

"Having Bill Lipinski in Congress is 'important to our economic future'."

The Chicago Tribune in endorsing Bill Lipinski for re-election in 1992.

Lipinski is right: make taxes fair.

Here's a good word for the Southwest Side Congressman, one of the few Democrats who upheld their party's historic opposition to the kind of hit-the-little-guy harder taxes found in the tax package approved last week by the House."

Chicago Sun-Times, 6/2/93



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 32 years and are the proud parents of two children.

**LET'S KEEP
BILL LIPINSKI
WORKING
FOR US!**

Let's Keep

Bill Lipinski

Working For Us.



"We won't become the main dumping ground for Cook County's raw sewage,"
Bill Lipinski testifies against the proposed expanded McCook Reservoir.

Bill Lipinski working for us on...

Welfare Reform

Welfare reform shouldn't cost us money - it should save us money! How? By reducing welfare recipients' unnecessary use of ambulances and doctors and hospital visits. By restricting aid to illegal immigrants. By changing a system that many experts believe subsidizes illegitimacy, divorce and non-work. These are the principles Bill Lipinski will demand in any welfare reform legislation.

Saving Jobs - Creating Jobs

He was the one that got plans to print food stamps overseas reversed, saving hundreds of jobs at the American Bank Note Company in Burbank. The President of Brad-Foote Gear Works in Cicero credits Bill's fight against unfair overseas competition for keeping his plant open. He has worked successfully to bring back Midway Airport - which has created hundreds of new jobs.

Mass Transit - Better Highways

He's just got \$15 million towards the building of the proposed Central Avenue Bypass to connect Burbank, Bedford Park and Oak Lawn with the Stevenson Expressway. He's the one personally responsible for getting the Southwest Rapid Transit line built. Bill brings back hundreds of millions of dollars a year for the RTA, PACE and METRA. The Southtown Economist has written that Bill Lipinski "annually brings back into his district more tax dollars than any of his colleagues." The Sun-Times has called him "the workhouse of the Illinois delegation."

Protecting Our Pocketbooks - Protecting Our Community

He voted against President Clinton's tax hike - a tax hike that added 5¢ a gallon to the price of gas. He successfully fought his own party to get a better crime bill - that means more prisons, more police and tougher sentences. He's led the fight against the building of incinerators and the proposed expanded McCook reservoir project.

Bill Lipinski

A commuter Congressman - home every weekend - he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

Affidavit Item No. 3
Back Side

9604372731



*"We Won't Let Lyons Township
become the main dumping ground
for Cook County's raw sewage."*

Bill Lipinski testifying against the
proposed expanded McCook Reservoir.

When it comes to protecting a community - its homes and businesses, Bill Lipinski has never shied away from a fight. Since day one, Bill Lipinski has led the fight to defeat plans to build a 27 billion gallon rainwater and raw sewage reservoir in McCook. He's also successfully defeated several proposals to build incinerators in west suburban communities.



Congressman Bill Lipinski, Republican State Senator Judy Barr Topinka and Democratic State Representative Dave McAfee have worked closely together to defeat this plan. They're shown discussing strategy with an ally - Commissioner "Bus" Yourell.

What a 27 billion gallon rainwater and raw sewage reservoir would mean.

"The Electro Motive plant would close - laying off 2,500 people."

State Representative
Dave McAfee



"It would drive property values down. Who wants to live next door to the world's biggest toilet."

State Senator
Judy Barr Topinka

SATURDAY, SEPTEMBER 3, 1994



Suburban LIFE

Citizen

Madison Highlands Pleasantdale Indian Head Park La Grange Burr Ridge Countryville LaGrange Park Western Springs Willow Springs

McCook reservoir proposal put on hold

By Carol Reuter-Mazzullo
Finally convinced that they need a long-term plan to deal with local officials and residents on an expanded flood reservoir

Water District Board puts off action to October 13th

asked for \$22 million, while the Water District has offered \$10 million. The board also worried about the future of the Electro-Motive plant, which is an essential part of the area's economy. "This is an essential part of the area's economy," said Jim Holman, attended the meeting, as well as Ellen

dent Thomas Fuller both voted against deferring the decision, saying that the reservoir proposal will not change within the next six years. The commissioners who

Call The Commissioners At The Metropolitan Water Reclamation District before they meet on October 13th and let them know how you feel!

CALL #1-312-751-5600

Here's a list of the Commissioners:

Tom Fuller
Frank Gardner
Nancy Sheehan

Joe Gardner
Gloria Majewski
Kathleen Meany

Terry O'Brien
Patricia Young
"Bus" Yourell

Affidavit Item No. 4

Page 3

9604372734



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 32 years and are the proud parents of two children.

When Congress isn't in session, you'll find Bill Lipinski back home. Back in the district - back at work for the district.

Working full time, from his full time public service office, listening to his constituents, working to solve their problems.

Quiet - effective, he's not a self promoter. You won't find his name associated with scandals.

You see, Bill Lipinski is a full time public servant. Someone who's never forgotten where he comes from or who he represents.

A simple thing - but something that's all too rare in today's Congress.



BULLETIN

Lipinski works to block proposed Summit Incinerator.

At the request of Congressman Bill Lipinski, the United States Environmental Protection Agency has agreed to examine the proposed incinerator site. The EPA could block current plans for building an incinerator if it determines the site is hazardous. Stay tuned.

Lipinski For Congress
5838 S. Archer Ave.
Chicago, IL 60638

BULK RATE
U.S. POSTAGE
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PERMIT NO. 168
ADDISON, IL

CAR-RT SORT

**He has
been described as
"the voice
of middle class
America."**

and when it comes to fighting for us,
Bill Lipinski will stand up to anyone.

HIGHER TAXES

Last year some called it a deficit reduction plan,
but Bill Lipinski saw it for what it was -
the largest tax hike in history.
HE VOTED "NO!"

"Lipinski quickly served notice that
he is no Clinton Democrat."

The Congressional Quarterly

AMERICAN JOBS

Last fall, in another high profile split with
the White House, Bill Lipinski voted against
the North American Free Trade Agreement
(NAFTA) saying it would hurt our economy.

"The imports from Mexico grew much more rapidly
than U.S. exports, cutting (our) trade surplus with
Mexico in the first quarter... by nearly half."

Chicago Tribune, 6/6/94

**Lipinski Applauded For
His Vote Against Budget**

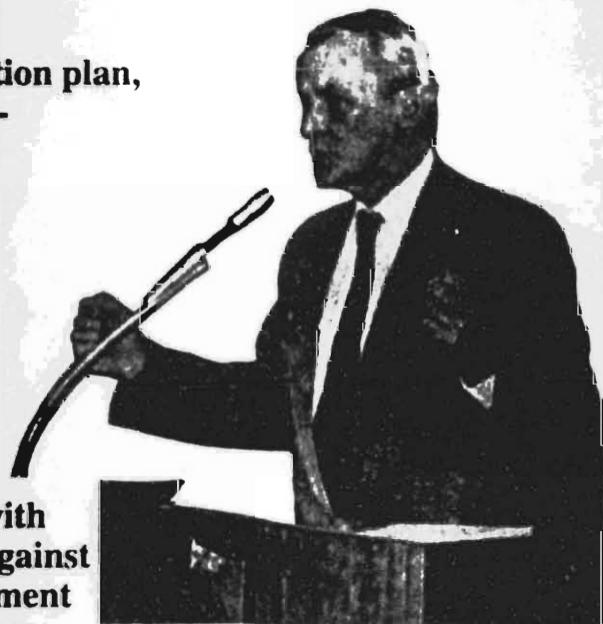
By BERNIE CONNOLLY
Reporting from an informal line

Lipinski's budget stance

Most of us are quick to criti-

History has shown that tax
increases lead to a recession or

Prosperity
will not be



9604377277

But breaking with his party hasn't hurt his ability to deliver for the Southwest Side.

THE LIPINSKI RECORD

- SAVING JOBS
- CREATING JOBS
- PROTECTING COMMUNITIES & PROPERTY VALUES
- BRINGING HOME TAX DOLLARS
- STAYING IN TOUCH

The revitalization of Midway Airport, the success of the CTA's Orange Line, the tens of millions of dollars he brings back each year for highway improvements, the CTA, the RTA, and Metra get the most attention. The smaller successes, however, mean just as much. Here's just a few:

Bill Lipinski forced the CTA to keep several express bus lines open - he helped get federal money to hire more Chicago Police - he's blocking construction of an incinerator in Summit - he got the House of Representatives to provide \$15 million to help build the much needed Central Avenue by-pass which will relieve congestion on Cicero and Harlem Avenues - he got the money to sound proof several area schools - public and private - his office solves hundreds of problems a year that people have with Social Security, the Veterans Administration and other unresponsive government agencies.

BLUE CROSS TO CUT SPECIALIST FEES Business Page 53

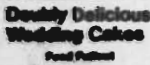
Chicago Sun-Times 36¢

NICE June 8, 1993 THURSDAY, JUNE 10, 1993 Late Sports Final

LIPINSKI KEEPS POST AS DEM 'PURGE' FAILS



New Zoo Boos: The Birdman Of Lincoln Park
Page 4



Doubtful Delicious Wedding Cakes
Pond Pollard



The Creation of Dynamic Dinosaurs
Article 10 More, Page 17



HE'S STILL MR. CHAIRMAN

Lipinski Keeps Post As Dem 'Purge' Fails

Black Caucus Says No to Clinton Meeting

STORIES ON PAGE 8

Here's what others have written. . .

"Bill Lipinski is a member of a vanishing breed; a Democrat who symbolizes the kind of white ethnic voter his party has had difficulty winning in recent elections.

A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 civil rights bill, denouncing its quotas. He introduced legislation that would provide remedies to those harmed by past 'race-norming tests'."

1993 Congressional Quarterly

"Congressman Lipinski has carved out a reputation as Mr. Planes, Trains, and Automobiles by securing federal funding for area transportation projects."

Southtown Economist, 5/4/93

"Lipinski is right: make taxes fair.

Here's a good word for the Southwest Side Congressman, one of the few Democrats who upheld their party's historic opposition to the kind of hit-the-little-guy harder taxes found in the tax package approved last week by the House."

Chicago Sun-Times, 6/2/93



While some people preach family values, Bill and Rose Marie Lipinski live them. They have been married for 32 years and are pictured here with their son-in-law, Jim Broeking (1), their daughter, Laura, and their son, Dan.

What's the Republican candidate for Congress saying?

After making fun of bungalow owners — he tells the Suburban Republicans that Chicago residents get too much service. He promises to change that.

**KEEP THE SOUTHWEST SIDE STRONG
KEEP BILL LIPINSKI WORKING FOR US!
PUNCH 81**

**Bill
Lipinski**

For Congress

“When the President of the United States calls you, it’s usually not easy to say no - but Bill Lipinski said *no* to President Clinton’s call for a tax hike - and he opposed the President again by voting for the balanced budget amendment. Why? Because of you.”



Here's what they say about Bill Lipinski . . .

"A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 Civil Rights Bill, denouncing its quotas."

1993 Congressional Quarterly

"He stood with labor in leading the fight against NAFTA - the North American Free Trade Agreement."

The Chicago Federation of Labor

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"Lipinski is right - make taxes fair."

The Chicago Sun-Times

"Bill Lipinski has carved out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects."

Southtown Economist

"Lipinski is the workhorse of the Illinois delegation."

Chicago Sun-Times

"The social experiment that began with the Civil Rights Act of 1964 . . . has been an abysmal failure."

Bill Lipinski in a speech to Congress

"Bill Lipinski has kept the Southwest Side strong. He deserves our support. I'm voting for him."

Alderman Jim Laski

Here's what the Republican candidate for Congress is saying . . .

after making fun of bungalow owners, he tells suburban Republicans that Chicago residents get too much service. He promises to change that.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

Punch 81

Affidavit Item No. 6
Back Side

96043172711

Staying in touch

Protecting our pocketbooks

Saving and creating good jobs

getting things done . . . for us

That's
Bill
Lipinski

Affidavit Item No. 7
Page 1



- no one is more involved in local affairs



He led the fight against the proposed expanded McCook Reservoir project...a project some have called "the world's biggest toilet."



Lipinski has carried out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects.

Southtown Economist
5/4/93



Bill's opposition to his party's tax hikes and social programs hasn't hurt his ability to deliver for our district.

representing our values, our beliefs

His votes: against government funded abortions, against gays in the military, against death penalty quotas, against funding obscene art. For: allowing prayer in our schools, for money for church based day care, for an amendment to prohibit flag burning, for making English our official language. These votes, combined with his opposition to the 1991 Civil Rights Act over it's call for quotas, led the Congressional Quarterly to describe Bill Lipinski as "a persistent and emotional spokesman for conservative values".

saving jobs / creating jobs

He saved hundreds of jobs at the American Bank Note Company in Bedford Park by forcing the government to drop plans to shift printing contracts overseas...the President of Brad-Foote Gear Works in Cicero says Bill's intervention with the Commerce Department kept his people working...the revitalization of Midway Airport, due in part to legislation written by Bill Lipinski, has created hundreds of new private sector jobs...Governor Edgar's administration gives credit to Bill for securing billions for Illinois highway and mass transit projects, and that means jobs...his visionary plan to rebuild the American Merchant Marine industry by taxing foreign operators has just passed the House.

protecting communities and property values

He defeated plans for a 27 billion gallon rainwater and raw sewage reservoir in McCook...he blocked plans to build an incinerator in Stickney...he helped convince the CTA to rebuild the Lake Street El instead of shutting it and kept it running through last Christmas to help local merchants...he's working to block a waste incinerator from being built in Summit...he acts quickly on requests from area residents and local elected officials.

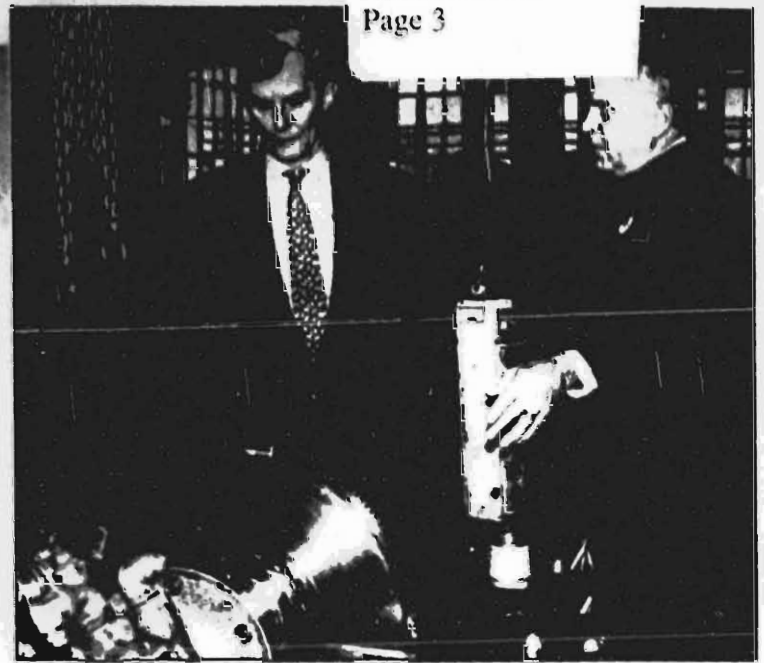
fighting tax hikes and useless government programs

The Concord Coalition called it President Clinton's deficit reduction plan, but Bill Lipinski saw it for what it was, the largest tax hike in U.S. history - he voted NO! He's voted for the tough balanced budget amendment. He's proposed over \$60 billion in specific cuts in government spending, and each year his office solves hundreds of problems constituents are having with Social Security, the Veterans Administration, and other unresponsive government agencies.

The Agenda

ending welfare as a permanent handout

Many experts believe that our current welfare system heavily subsidizes illegitimacy, divorce and non-work. Bill Lipinski believes welfare reform shouldn't cost money, it should save us money. For example, those on welfare who get their medical treatment free use the system a lot more than those who have to pay for insurance. They go to their doctors 3.6 times as much as people with insurance and they go to the hospital 4.5 times as much. We can cut spending there. Other proposals to be considered: denying additional benefits to welfare recipients who continue to have babies out of wedlock . . . increasing efforts to establish the paternity of illegitimate babies and forcing the father to contribute to the cost of raising the child . . . and limiting the amount of time a person capable of working can receive welfare checks.



"Bill Lipinski stands up for small businesses. He fought to keep our Company working and our people employed," Steward Ward, the President of Brad - Foote Gear Works, in Cicero.

The Opponent

The Republican candidate for Congress isn't from here and doesn't know much about the people and the problems of the 3rd District.

Born in Puerto Rico, raised in Massachusetts, he moved to Illinois after serving a minimum period in the U.S. Army.

He only moved into the 3rd District last August - weeks before announcing for Congress.

Before that, he lived in one of Chicago's wealthiest suburbs - South Barrington - where he served as a Village Trustee.

His votes while in office? Ignoring vocal opposition from homeowners concerned about their property values on July 11, 1991, Jim Nalepa voted in favor of building the controversial Bartlett Garbage Dump. (He now says he's against such projects).

On July 12, 1990, he voted to increase the Village's line item budget 10% across the board. (He now says he wants governments to cut spending).

On November 6, 1990, he voted to increase the property tax levy. (Now he wants tax cuts.)

On March 12, 1992, he hosted a dinner honoring Congressman Phil Crane - almost a quarter of a century of service in Washington. (He now says Congressmen shouldn't serve that long).



"Jim Nalepa, the G.O.P. challenger", (seen here modeling two Soviet assault weapons), cites his combat experience in his campaign literature. His resume notes his participation in the Grenada invasion - though the only fighting he did was with the media. Nalepa was a public information officer."

Republican Congressional candidates are offering you a "contract."

if you are concerned about the deficit

DON'T SIGN

"Read the fine print! The promises were chosen because they were popular. The price tag is huge."

*Southtown Economist Editorial
October 3, 1994*

"This jerry built contract is little more than the voodoo economics of the Reagan 80's."

*New York Times
October 9, 1994*

"Despite the high blown rhetoric, the Republicans are offering more of the same - tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

*Wall Street Journal
September 22, 1994*

if you are concerned about Social Security and Medicare

DON'T SIGN

This contract is an "economic suicide pact" that would "rob millions of senior citizens of their Social Security and Medicare benefits they depend on."

National Council of Senior Citizens

"This bundle of promises isn't mere rhetoric, it threatens Medicare."

*The Bangor Daily News
September 30, 1994*

And what do the Congressman who wrote the contract Jim Nalepa signed have to say about Social Security?

In 1986 Congressman Newt Gingrich proposed abolishing Social Security and
Congressman Dick Armey said in a C-SPAN interview last week, "I never would have created Social Security".

Reason after reason
to keep

Bill Lipinski

working for us

Lipinski for Congress
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Punch 81

The Republican - Jim Nalepa

One: His Background

He's not from here and as a result he doesn't know much about the people and the problems of our community.

Born in Puerto Rico, raised in Massachusetts, he's only lived in Illinois a few years. He didn't even move into the third district until last August—weeks before announcing for Congress. He's divorced.



Jim Nalepa

Two: His Promises

On 9/27/94 he went to Washington D.C. to sign the Republican "Contract with the Voters." This contract was written by two long-term incumbent Republican Congressmen, Dick Armye of Texas and Newt Gingrich of Georgia. Several years ago Gingrich introduced legislation to abolish Social Security. And in an interview with C-SPAN earlier this month, Congressman Armye said Social Security is one program "that never should have been created."

More on the "Republican's Contract"... here's what is being written:

"Read the fine print! The price tag is huge."

—*Southtown Economist Editorial* of 10/3/94

"Despite the high-blown rhetoric, the Republicans are offering more of the same—tax cuts for the affluent, budget promises that don't add up—and political reforms they don't mean."

—*The Wall Street Journal* 9/22/94

This contract is an "economic suicide pact" that would "rob millions of senior citizens of their Social Security and Medicare benefits."

—*National Council of Senior Citizens* 10/2/94

Three: His Promises vs. His Record



He says he was against the expanded McCook Reservoir plan, but as a Village Trustee in South Barrington (where he lived until last year) according to official village records on July 11, 1991 he ignored protests from local homeowners concerned about property values and voted in favor of building a garbage dump in nearby Bartlett.



He says government spends too much, but on 7/22/90 he voted in favor of increasing every single item in his Village budget by 10%.



He says he'd never vote to increase taxes but on 11/8/90 as a Village Trustee he voted in favor of a property tax increase.



He says he's for term limits but on 3/12/92 he hosted a dinner honoring Congressman Phil Crane's almost a quarter of a century service in Congress. And he's promised (if he's elected) to vote for 18 yr. incumbent Congressman Newt Gingrich for Speaker of the House—the man who tried to abolish Social Security.



He says he'll fight the influence of special interests but after signing "The Contract" according to the *Southtown Economist* he then went to a fundraiser with Washington lobbyists who spent \$5000.00 a person to get in.

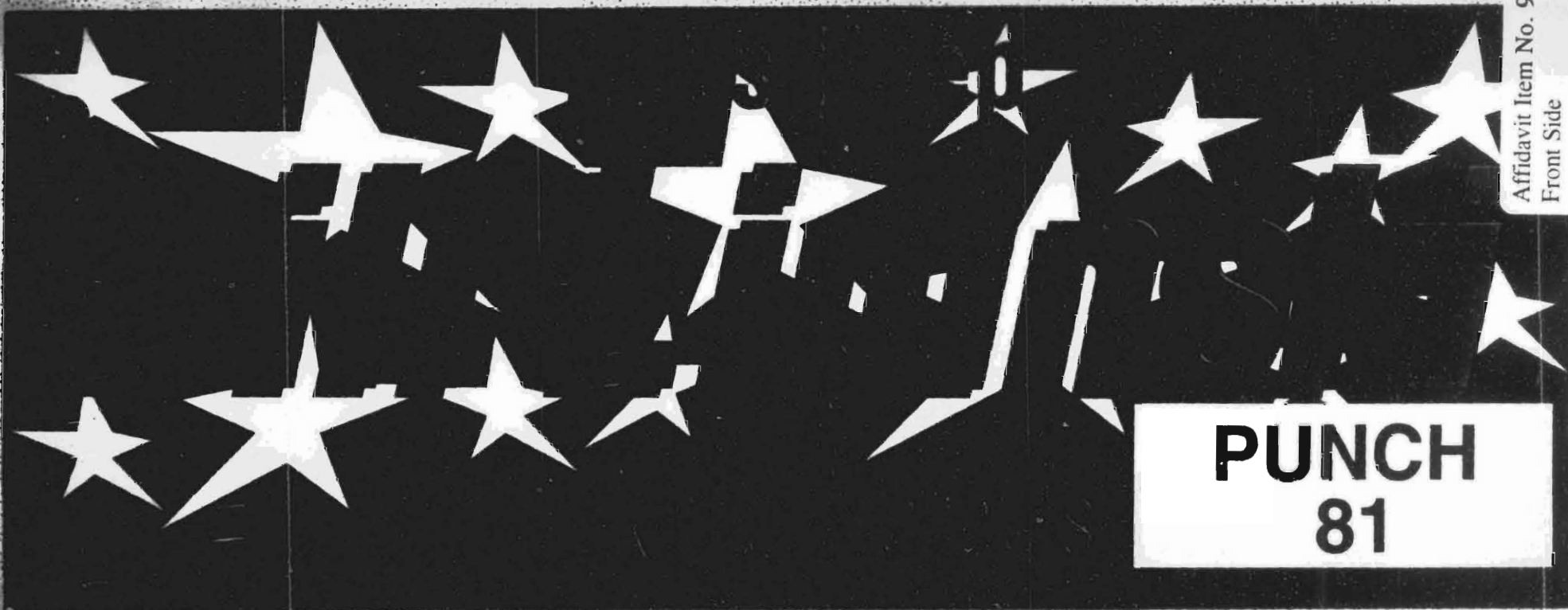


His literature says he's a combat veteran but the *Chicago Tribune* on 10/5/94 reported that the only combat he saw was handling a hostile press corp in Grenada where he was a public information officer.

Affidavit Item No. 8
Back Side



Reason after reason to keep Bill Lipinski working for us.



Affidavit Item No. 9
Front Side

9 6 0 4 3 7 7 2 7 4 8

Here's what they say about Bill Lipinski . . .

"Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator. He's represented his district well as evidenced by his leadership in opposing the expanded McCook Reservoir."

Chicago Sun-Times 10/16/94

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"No one is more involved in local matters - no one is more protective of homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski is 'persistent and sometimes emotional spokesman for conservative values.'"

The Congressional Quarterly

"He's responsive to the concerns of small businesses and their employees. He's answered my companies call for help every time."

Stewart Ward

President, Brad-Foote Gear Works - Cicero

The Republican candidate for Congress is promising you a "Contract"

here's what being written...

"Read the fine print - the price tag is huge!"

Southtown Economist Editorial 10/3/93

"Despite the high-blown rhetoric, the Republicans are offering more of the same-tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

The Wall Street Journal 9/22/94

"This contract is an 'economic suicide pact' that would rob millions of senior citizens of their Social Security and Medicare benefits."

National Council of Senior Citizens 10/2/94

Reason after reason to keep
our Congressman
Bill Lipinski working for us.
Punch 81

Affidavit Item No. 9
Back Side

96043772719

BILL LIPINSKI

Congressman : 3rd District



It's not easy to say no when the President calls -
but Bill Lipinski said NO to President Clinton's call
for a tax hike - and he opposed the President again
by voting for the balanced budget amendment -
why? . . . because of you."

Affidavit Item No. 10
Front Side

96043772750

Our Congressman **BILL LIPINSKI**

REPRESENTING OUR VALUES - OUR BELIEFS

His votes: against government funded abortions, against gays in the military, against death penalty quotas, against funding obscene art. For: allowing prayer in schools, for: money for church based day care, for: making English our official language. These votes combined with his opposition to the 1991 Civil Rights Act over it's calls for quotas, led the Congressional Quarterly to describe Bill Lipinski as "a persistent and sometimes emotional spokesman for conservative values."

CUTTING WELFARE SPENDING

He has a plan to drastically cut welfare spending by denying additional benefits to welfare recipients who continue to have babies out of wedlock and to limit the amount of time a person capable of working can receive welfare checks.

SAVING JOBS - CREATING JOBS

He saved hundreds of jobs at the American Bank Note Co. in Bedford Park by forcing the government to drop plans to shift printing contracts overseas. His intervention with the Commerce Department kept the people of Brad - Foote Gear Works in Cicero employed. The revitalization of Midway Airport has created hundreds of new jobs. Governor Edgar's administration gives credit to Congressman Lipinski for securing billions of dollars for Illinois highways and mass transit projects.

STAYING IN TOUCH

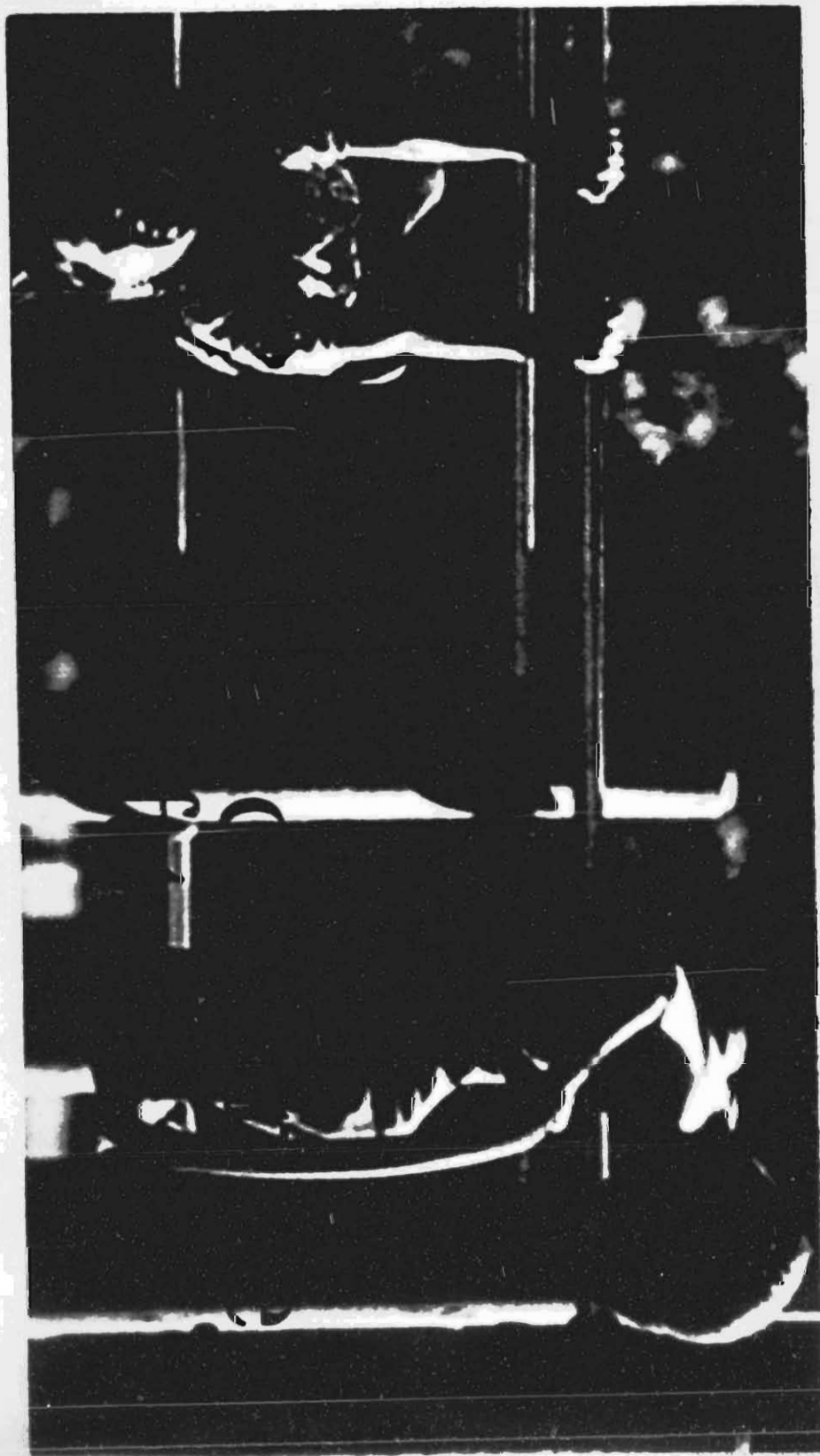
A commuter Congressman: when Congress isn't in session you'll find Bill Lipinski back home: at work in the 3rd Congressional District: A typical day - morning mass, a call or visit to his 80 year old mother who lives in Berwyn, then on to his Congressional office for a full days work. You see, Bill Lipinski is a full time public servant. Someone who's never forgotten where he comes from or who he represents.

A simple thing - but something that's all too rare in today's Congress.

Reason after Reason to keep
BILL LIPINSKI
working for us.

Affidavit Item No. 10
Back Side

9504372751



Affidavit Item No. 11
Page 1

96043772752

Madigan, Viverito, and Lipinski are fighting to keep their future bright.

Fighting for our safety.

Mike Madigan, Lou Viverito and Bill Lipinski are committed to protecting our neighborhood from drugs and crime. Madigan, Viverito, and Lipinski have introduced, passed and supported:

- Increasing the number of police officers patrolling our neighborhoods.
- Truth In Sentencing laws to require prisoners to serve at least 85% of their sentence.
- The Death Penalty.

Fighting for our children.

Mike Madigan, Lou Viverito and Bill Lipinski are dedicated to giving our children the best education possible. Madigan, Viverito, and Lipinski have introduced, passed and supported:

- Increased state funding coupled with property tax relief.
- Private School Transportation Reimbursement.
- Tuition vouchers to help pay the cost of tuition at parochial schools.

Fighting for homeowners.

Mike Madigan, Lou Viverito and Bill Lipinski are committed to providing property tax relief. Madigan, Viverito, and Lipinski have introduced, passed and supported:

- Reducing property taxes by increasing both the general and senior citizen homestead exemptions.
- Freezing property tax assessments for senior citizens, over the age of 65, whose annual household income is less than \$35,000.

Elect The Team That Fights For Us.
Vote Democratic • Punch 28

**Elect The Team That Fights For Us.
Vote Democratic • Punch 28**

Committeeman

State Senator

Congressman

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Madigan, Viverito and Lipinski are cracking down on crime!

Protecting Our Streets

- Mike Madigan introduced a measure giving local law enforcement agencies more than \$200 million to help them hire more police officers.
- Lou Viverito supports allowing the Metropolitan Enforcement Groups of the State Police to investigate gang activity.
- Bill Lipinski supported the Federal "Crime Bill" which, among other things, increased funding for police officers—resulting in more funding for Illinois law enforcement agencies.

Protecting Our Families

- Mike Madigan supported "Truth-In-Sentencing" legislation to stop the practice of releasing criminals from jail early.
- Lou Viverito supports "Three Strikes You're Out" legislation allowing mandatory life sentences for habitual offenders.
- Bill Lipinski successfully demanded the removal of language in the Federal "Crime Bill" that could have led to racial quotas in death penalty cases. If the language had remained it could have ended the use of the death penalty in most jurisdictions.

Protecting Our Neighborhoods

- Mike Madigan has successfully combatted gang influence by initiating a local graffiti removal program.
- Lou Viverito supports a comprehensive statewide ban on assault weapons.
- Bill Lipinski helped secure funding to build more prisons, addressing the problem of prison overcrowding and curbing the revolving door penal system.

**Elect The Team
That Fights For Us.
Vote Democratic
Punch 28**

State Representative

State Senator

Congressman

State Representative

State Senator

Congressman

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BILL LIPINSKI

Congressman - 3rd District



"It's not easy to say no when the President calls -
but Bill Lipinski said NO to President Clinton's call
for a tax hike - and he opposed the President again
by voting for the balanced budget amendment -
why? ... because of you."

HERE'S WHAT NEWSPAPER EDITORIALS HAVE TO SAY

Daily **Southtown**

3rd District (Southwest Side and suburbs from Berwyn to Tinley Park). Bill Lipinski is a moderate Democrat who has effectively represented the views of his constituents. He has been a productive congressman, having brought home federal money for projects such as the Southwest Rapid Transit Line. He has scored important points with his suburban constituents by helping defeat plans for an expanded sewer reservoir in McCook. His challenger, Republican Jim Nalepa, recently moved into the district. We endorse Lipinski.

Daily Southtown Economist
October 23, 1994

Chicago Sun-Times

The Chicago Sun-Times endorses Bill Lipinski for Congress.

Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator who is good for the region. Lipinski has represented the interests of his district well, as evidenced by his leadership in opposing the expansion of the McCook Reservoir.

Chicago Sun-Times
October 16, 1994

Chicago Tribune

The Chicago Tribune endorses Bill Lipinski for Congress.

In representing a largely suburban district, Bill Lipinski has worked hard to learn the needs of those communities and he's one of the most effective members of the Illinois delegation. Suburbanites saw just how effective when he led the successful fight to stop the ill-advised expansion of the McCook quarry.

With Illinois' influence waning with the retirement of House Minority Leader Bob Michel, and the legal troubles of Rep. Dan Rostenkowski, it is tough to cast out someone who truly knows how to work Washington for his state and his constituents.

Chicago Tribune
October 25, 1994

WEDNESDAY **JOURNAL**

"Republican James ..."

Affidavit Item No. 13
Page 1

Washington

Wednesday Journal
October 26, 1994

PUNCH 81

AREA OFFICIALS AGREE "WE NEED BILL LIPINSKI"

"No one is more involved in local matters - no one has fought harder to protect homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski has proved accessible, sensitive and very helpful to our areas concerns. He has used his ability and influence to our definite advantage."

Mayor Bonnie Strack - Palos Heights

"He answered our call, he led the fight - he won for us. With the defeat of the proposed expanded McCook Reservoir - we don't have to worry about declining property values or increased health threats. And the 2500 people who won't lose their jobs at the Electro-Motive plant are pretty happy too."

Mayor Emil Sergo - McCook

"He deserves our support."

Mayor Gene Siegel - Chicago Ridge

"His constituent service offices are the best. Responsive, professional, understanding, they help people and local elected officials cut through bureaucratic red tape."

Mayor Ernie Kolb - Oak Lawn

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

SOME THINGS YOU SHOULD KNOW ABOUT THE OPPONENT - JIM NALEPA

SUCCESSFUL BUSINESSMAN?

That's what his literature says. He's disclosed to the U.S. House of Representatives that he owns stock worth between \$500,000.00 and \$1 million. But he told a court that he could only afford to pay the legal minimum in child support - \$250.00 a month (that's \$8.33 a day) - and to get that on time - the court was forced to issue an order of withholding from his paycheck.

TERM LIMITS?

Term limits are supposed to mean 6 years and get out, but the Chicago Sun-Times reports "despite his support for limits, Nalepa could (if he wins) wind up in Washington for a long time. Nalepa pledged to leave office only if Congress passes a constitutional amendment limiting House members to three terms and the amendment is ratified by the states.

That promise is different than pledging to only serve six years. The 27th amendment to the U.S. Constitution took 203 years to ratify!

COMMUNITY INVOLVEMENT?

Jim Nalepa isn't from here and as a result he doesn't know much about the people or the problems of our community.

Born in Puerto Rico, raised in Massachusetts, he's only lived in Illinois for a few years. He didn't even move into the district until last August - weeks before announcing for Congress.

Lipinski for Congress
5255 S. Linder Ave.
Chicago, IL 60638

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Let's Keep
BILL LIPINSKI
working for us!
Punch 81

Affidavit Item No. 13

Page 2

Paid for by LIPINSKI for Congress

Let's Keep The 23rd Ward Strong!!

Dear Friend,

I am writing to express my appreciation for the many kindnesses you, the people of the 23rd Ward community, have shown to me.

I also wish to express my "thank you" to you for voting for me through the years I have served you in the Chicago City Council and the U.S. House of Representatives.

In that time, I have tried to represent our values, our hopes, our aspirations, and our concerns.

I believe I have done this not only by the votes I have cast on your behalf in Congress, but by the community improvements I have obtained - some of which are - the Orange Line, noise reduction programs for schools and churches, economic development and job creation because of improvements at Midway Airport, constituent services, and by fighting and defeating groups that have tried to ring the 23rd Ward with incinerators.

I have also tried to make the 23rd Ward a special and unique community by sponsoring Patriots and Great Pumpkin Parades, senior citizen programs, and educational, cultural and athletic events for our youth, along with a number of other programs.

I am once again involved in a tight political campaign - my opponent, a suburbanite, is anti-Chicago. Consequently, once again, I turn to the source of my political strength - you, my neighbors.

I am asking for your vote on Tuesday, November 8, 1994.

Please punch 81.

Your Neighbor,



Bill Lipinski

Affidavit Item No. 14

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MORE LOCAL OPINION

Lipinski in 3rd District

Voters in the 3rd Congressional District should re-elect William O. Lipinski, the incumbent, to his seat in Congress.

Lipinski, a Chicago Democrat, has served his district well since 1992 when it took on a more suburban cast because of reapportionment. Lipinski is not in lockstep with the House Democratic leadership. He has a more independent streak that serves the district well. He voted for the crime bill, but opposed military intervention in Haiti.

He has been a force in helping keep the Lake Street El open, and in securing federal funds for its rehab. He should be returned to Congress.

The Oak Leaves
A Pioneer Press Newspaper
October 26, 1994

"Republican James Nalepa, truly is frightening."

Wednesday Journal Editorial
October 26, 1994

"Bill Lipinski is a friend to Oak Park. He helped convince the CTA to rebuild the Lake Street El, instead of shutting it and he kept it running through last Christmas to help Oak Park residents and merchants."

Phil Rock



Bill & Rose Marie Lipinski have been married 32 years and are the proud parents of two children.

Reason after reason
to keep
Bill Lipinski
working for us
Punch 81

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Front Side

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"He came last week for our endorsement. Fat Chance."

"Imagine my surprise...to find the fraud-fearful Nalepa's name in the Sun-Times connected to a story of allegations that he had bribed a small newspaper..."

Wednesday Journal October 24, 1994

Nalepa follows Reagan's lead, trades cash for coverage

There he was. Sitting at the end of our conference table. Upright. Proving he was a vertebrate. Jim Nalepa. Mammal. Candidate for the U.S. Congress from the 3rd Congressional District, a district which includes a portion of South Oak Park and a portion of just about everything else, too.

Jim Nalepa. Republican. Candidate with the looks and the manner of a small-market TV anchorman just going to seed.

Jim Nalepa. The man I credit with convincing me that I'm not just another middle aged white guy going conservative.

Thank you, Jim.

He came last week for our endorsement. Fat chance. Here's a guy who wants to freeze any further cuts in military spending—over. Wants to cut \$143 million, or, maybe it was billion, in social programs. All except Social Security, which he wants to protect. Except, on further consideration, for the drunks and drug addicts who collect Social Security disability benefits and who should be tossed off because "it's self-inflicted."

The National Endowment for the Arts should be eliminated so that the arts can compete and flourish in a free market economy, says Candidate Jim Nalepa. And this is not just some anti-arts guy talking, he hastens to add. "I used to be on the stage," he says. Say something that surprises us, Candidate Jim Nalepa.

He does, in fact, surprise us, when, in the next breath he demands that both the honey bee subsidies and the Small Business Administration be abolished. Saying I'd never heard a "Newt Gingrich Republican" seek to end any government program which included the word "business" in it, he said his decision was based on the fact that never in his enormous experience had he met a person who had received a Small Business Admini-



DAN HALEY

I didn't have the guts to ask him how many drug addicted Social Security moochers he'd met, but I was reassured when he returned to the script and declared that the solution to urban economic woes was the creation of enterprise zones.

Candidate Jim Nalepa was entirely back on track when he revealed that he is a big fan of Midway Airport. That is another major surprise since the airport sits directly in the middle of the congressional district he is trying to win from current Congressman, and fellow vertebrate, William Lipinski. Well, says Candidate Jim Nalepa, not only does he like the airport, but he is an especial fan of its Number 1 airline. That would be Southwest.

Government should support efforts like Southwest Airlines, says the candidate, puffing up as if Southwest honcho Herb Kelleher's millions might rub off on him.

Why government should support Southwest but leave the arts competing in a free market economy is seemingly a trick question put to Candidate Jim Nalepa by an editorial board he senses is turning ugly on him.

Seeing as how the editorial board, or, at least, certain members of the editorial board, had never heard of Candidate Jim Nalepa until just moments before he presented his credentials, it seemed reasonable to ask him just how this campaign was progressing against the incumbent Democrat Lipinski.

Wacko Reagan Republican in South Oak Park who might like to vote for Candidate Jim Nalepa will be glad to hear that the campaign is "going very well." The district has been "targeted," he said with the relish of a Reaganaut picturing cruise missiles aimed at the Kremlin. The Republican National Committee has promised \$5,000 in services to the Nalepa campaign. Sounds like chump change to me. Can I hold my tongue, in the event this man somehow gets to Congress and I need to buy his vote.

Speaking of buying votes, Candidate Jim Nalepa is very concerned about vote fraud on election day. He shares this insight,

this alleged, potential, affront to democracy in a hushed tone to indicate both its seriousness and its potential as a scoop for the newshounds gathered around the table. Then he tells us that Channel 5 is set to break a story of William Lipinski's purported evil-doing at 3 p.m., some 15 minutes hence. Some scoop, Candidate Jim.

But no one need worry about vote fraud when Jim Nalepa, West Point graduate, is the candidate. The "troops" will be out on election day, 200 strong, he says. No one will steal this man's election to the U.S. Congress.

Imagine my surprise the following morning, by which time I was certain that I had eradicated Candidate Jim Nalepa's Reaganesque world view from my memory bank, to find the fraud-fearful Nalepa's name in the Sun-Times connected to a story of allegations that he had bribed a small newspaper, the Midway News on the Southwest Side, in exchange for a positive story.

Say it ain't so, Candidate Jim Nalepa!

Of course, he did say it ain't so. He said the \$5,000 he handed over to the small, struggling and suddenly defunct newspaper—only days before it ran a flattering page one article—was nothing like a bribe. It was a loan, he said. He wanted to keep the small, struggling Midway News in business, he said. The guy's a regular Small Business Administration, I thought to myself.

Who needs the SBA when Candidate Jim Nalepa's got the checkbook open. I wonder if he is handing out checks to small, struggling honey bee tanners or small, struggling artists.

(And what do you suppose Candidate Jim Nalepa thought when he saw in Monday's Sun-Times that the now defunct, soon to file bankruptcy Midway News was controlled by a Chicago alderman who is a Lipinski crony?)

Candidate Jim Nalepa told our editorial board that he had proudly traveled to Washington, D.C., our nation's capitol, recently to sign the Republican's "Contract With America." Kind of makes you wonder what collateral he had to back up that contract.

"never...had he met a person who had received a Small Business Administration loan."

"The district has been targeted," he said with the relish of a Reaganaut picturing cruise missile aimed at the Kremlin.

HE TOLD THE COURT ... he could only afford \$8.23 a day for child support!

...But he's come up with \$25,000 in cash out of his own pocket to run for Congress!

That's Republican, JIM NALEPA

Here are the SHOCKING Facts...

- 1 According to his divorce records, Jim Nalepa agreed only to pay "the minimum sum of \$250.00 per month" in child support. That's \$8.23 a day!**
- 1 According to his campaign disclosure reports ... Jim Nalepa personally loaned his campaign \$25,000 in cash. That's almost 10 times what he spends a year on child support!**
- 1 According to his own personal financial disclosure he states that his stock holdings are worth between \$500,000 and ONE MILLION DOLLARS. All that money and he can only find \$250.00 a month for child support?**
- 1 To get even that small amount of money for child support the court had to issue an ORDER OF WITHHOLDING.**

Makes you wonder about Jim Nalepa's priorities and values!

Reason after reason to keep BILL LIPINSKI working for us ... PUNCH 81

Newspapers Agree ... Lipinski for Congress

Star Newspaper

Bill Lipinski can get things done. And U.S. Rep. William O. Lipinski, D-Chicago, surely knows the people of the 3rd Congressional District far better than his Nov. 8 challenger, who's only a year out of South Barrington. ... Lipinski knows the territory and should be returned to office.

Press Publications

We solidly endorse BILL LIPINSKI. Lipinski has worked hard to support the interests of the district. He is a knowledgeable and influential member of Congress. Lipinski is not even the stereotypical Democrat that Nalepa attacks. He is more socially conservative ...

The Landmark Newspapers

Nalepa is sharp, but a bit too slick for us. The Republican transplant from Barrington won't be in the neighborhood long, he's looking for a one-way ticket to D.C. Face it, he can't compare to Lipinski in political know-how and will never relate to the vast silent masses like Bill does. In addition, Lipinski has always been his own boss and he's worked hard for his constituents.

Paid for by Lipinski for Congress, 5255 S. Linder Dr., Chicago, IL 60638

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DANIEL J. KUBASIAK

August 16, 1996

Via Facsimile and Federal Express

Mr. Stephan Kline
Federal Election Commission
999 E. Street - Northwest
Washington, D.C. 20463

RE: MUR 4121, Lipinski for Congress and John Mooney, as Treasurer

Dear Mr. Kline:

On behalf of my client in the above referenced matter, I request that you send the following documents to my attention:

1. A transcript of the Commission's official proceedings on July 25, 1996 at which time the Commission reviewed and denied the Committee's Renewed Motion to Dismiss, including all discussions on the matter along with the recorded vote of the members of the Commission.
2. An transcript of the Commission's official proceedings of July 25, 1996 at which time the Commission considered and rejected the Committee's Pre-probable Cause Conciliation Agreement, including all discussions regarding the proposed Conciliation Agreement and the recorded vote of the members of the Commission.
3. A copy of the General Counsel's report delivered to the Commission prior to its July 25, 1996 deliberation which placed before the Commission the Committee's Renewed Motion to Dismiss and proposed Pre-probable Cause Conciliation Agreement.

In your letter of July 31, 1996 addressed to me, you confirmed the Commission's receipt of my letter dated May 15, 1996 and the Renewed Motion to Dismiss. However, in addition to that letter, I forwarded to Ms. Elliott a letter on July 3, 1996 which, not only presented a proposed Conciliation Agreement, but also raised certain legal arguments and also questions concerning the Commission's consideration of this matter. In that letter, I quoted from the General Counsel's Report and Recommendations dated February 6, 1996, regarding a number of matters before the

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Mr. Stephan Kline

August 16, 1996

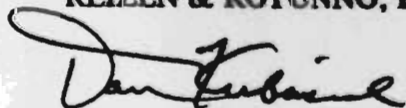
Page 2

Commission including MUR 4095. In the General Counsel's Report, he recommended that action not be pursued on certain cases "based on staleness". Since the General Counsel's report states that cases are "evaluated objectively" and considering "the amount of time that has elapsed" I would appreciate a response to the issue which I posed to Ms. Elliott regarding the Commission's and General Counsel's objective criteria followed for consideration of a matter and the standards and criteria used to determine "staleness".

If you have any questions or comments in regard to this request, please contact me.

Very truly yours,

KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.



Daniel J. Kubasiak

DJK/ir

96043772766

LAW OFFICES

KUBASIAK, CREMIEUX, FYLSTRA,

REIZEN & ROTUNNO

PROFESSIONAL CORPORATION

30 NORTH LA SALLE STREET

SUITE 2700

CHICAGO, ILLINOIS 60602-2505

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

NOV 19 10 18 AM '96

Telephone

(312) 630-9600

Facsimile

(312) 630-7939

DANIEL J. KUBASIAK

August 16, 1996

Mr. Stephan Kline
Federal Election Commission
999 E. Street - Northwest
Washington, D.C. 20463

RE: MUR 4121, Lipinski for Congress and John Mooney, as Treasurer

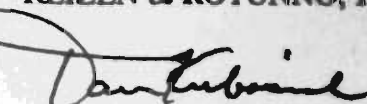
Dear Mr. Kline:

In response to your telephone call this morning, I am sending to your attention clean copies of Affidavit Item Nos. 7, 13 and 14 which clearly show the statement "Paid for by Lipinski for Congress". Please substitute these pages for the same items included in my letter to you dated August 15, 1996.

If you have any questions or comments in regard to this information, please contact me.

Very truly yours,

KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.



Daniel J. Kubasiak

DJK/ir
Enclosures

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Staying in touch

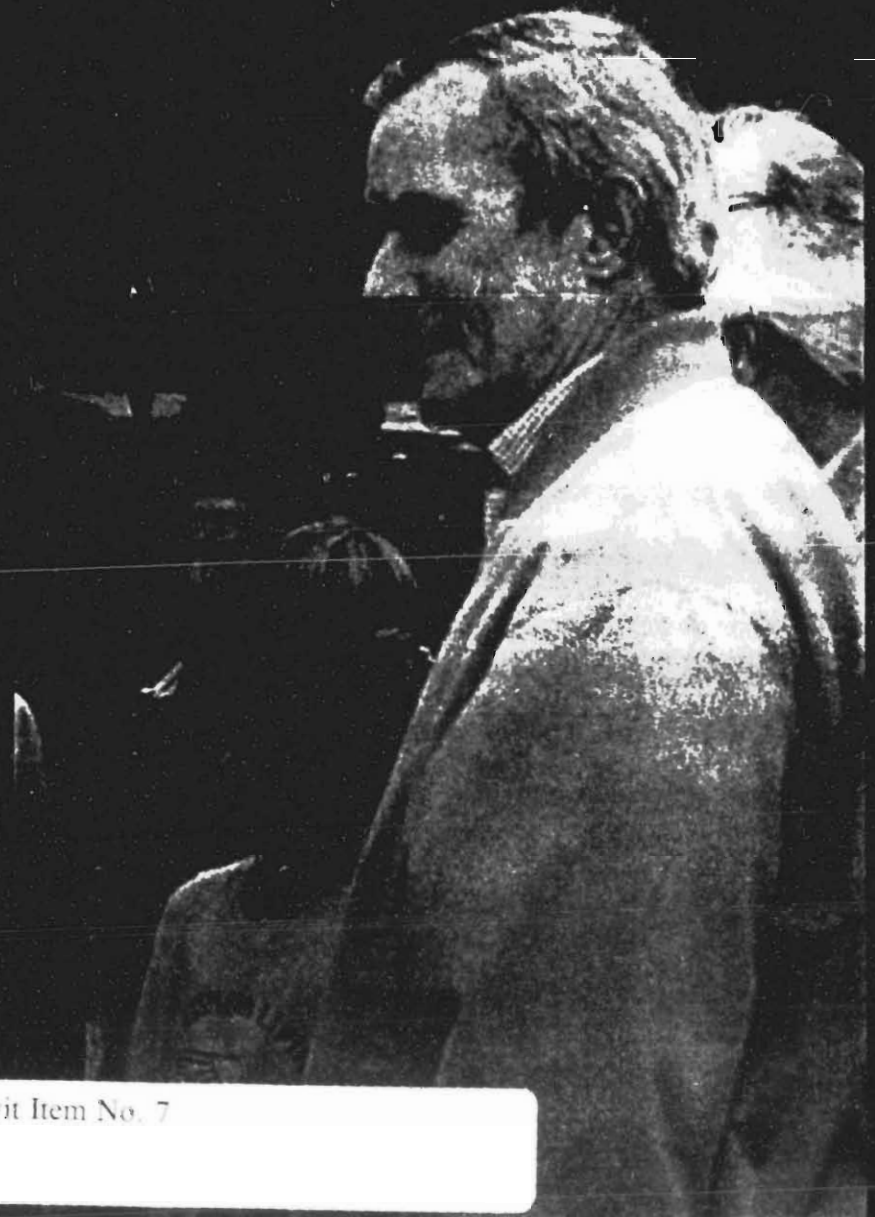
Protecting our pocketbooks

Saving and creating good jobs

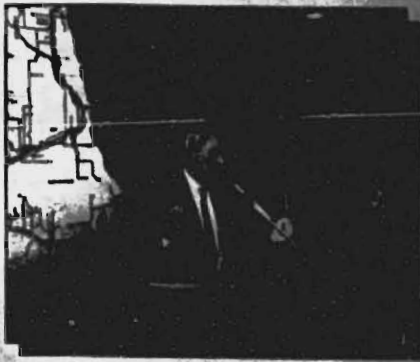
getting things done . . . for us

That's
Bill
Lipinski

Affidavit Item No. 7
Page 1



- no one is more involved in local affairs



He led the fight against the proposed expanded McCook Reservoir project...a project some have called "the world's biggest toilet."



Lipinski has carried out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects."

*Southtown Economist
5/4/93*



Bill's opposition to his party's tax hikes and social programs hasn't hurt his ability to deliver for our district.

representing our values, our beliefs

His votes: against government funded abortions, against gays in the military, against death penalty quotas, against funding obscene art. For: allowing prayer in our schools, for money for church based day care, for an amendment to prohibit flag burning, for making English our official language. These votes, combined with his opposition to the 1991 Civil Rights Act over it's call for quotas, led the Congressional Quarterly to describe Bill Lipinski as "a persistent and emotional spokesman for conservative values".

saving jobs / creating jobs

He saved hundreds of jobs at the American Bank Note Company in Bedford Park by forcing the government to drop plans to shift printing contracts overseas...the President of Brad-Foote Gear Works in Cicero says Bill's intervention with the Commerce Department kept his people working...the revitalization of Midway Airport, due in part to legislation written by Bill Lipinski, has created hundreds of new private sector jobs...Governor Edgar's administration gives credit to Bill for securing billions for Illinois highway and mass transit projects, and that means jobs...his visionary plan to rebuild the American Merchant Marine industry by taxing foreign operators has just passed the House.

protecting communities and property values

He defeated plans for a 27 billion gallon rainwater and raw sewage reservoir in McCook...he blocked plans to build an incinerator in Stickney...he helped convince the CTA to rebuild the Lake Street El instead of shutting it and kept it running through last Christmas to help local merchants...he's working to block a waste incinerator from being built in Summit...he acts quickly on requests from area residents and local elected officials.

fighting tax hikes and useless government programs

The Concord Coalition called it President Clinton's deficit reduction plan, but Bill Lipinski saw it for what it was, the largest tax hike in U.S. history - he voted NO! He's voted for the tough balanced budget amendment. He's proposed over \$60 billion in specific cuts in government spending, and each year his office solves hundreds of problems constituents are having with Social Security, the Veterans Administration, and other unresponsive government agencies.

Affidavit Item No. 7

The Agenda

ending welfare as a permanent handout

Many experts believe that our current welfare system heavily subsidizes illegitimacy, divorce and non-work. Bill Lipinski believes welfare reform shouldn't cost money, it should save us money. For example, those on welfare who get their medical treatment free use the system a lot more than those who have to pay for insurance. They go to their doctors 3.6 times as much as people with insurance and they go to the hospital 4.5 times as much. We can cut spending there. Other proposals to be considered: denying additional benefits to welfare recipients who continue to have babies out of wedlock . . . increasing efforts to establish the paternity of illegitimate babies and forcing the father to contribute to the cost of raising the child . . . and limiting the amount of time a person capable of working can receive welfare checks.



"Bill Lipinski stands up for small businesses. He fought to keep our Company working and our people employed." Steward Wurd, the President of Brad - Foote Gear Works, in Cicero.

The Opponent

The Republican candidate for Congress isn't from here and doesn't know much about the people and the problems of the 3rd District.

Born in Puerto Rico, raised in Massachusetts, he moved to Illinois after serving a minimum period in the U.S. Army.

He only moved into the 3rd District last August - weeks before announcing for Congress.

Before that, he lived in one of Chicago's wealthiest suburbs - South Barrington - where he served as a Village Trustee.

His votes while in office? Ignoring vocal opposition from homeowners concerned about their property values on July 11, 1991, Jim Nalepa voted in favor of building the controversial Bartlett Garbage Dump. (He now says he's against such projects).

On July 12, 1990, he voted to increase the Village's line item budget 10% across the board. (He now says he wants governments to cut spending).

On November 8, 1990, he voted to increase the property tax levy. (Now he wants tax cuts.)

On March 12, 1992, he hosted a dinner honoring Congressman Phil Crane - almost a quarter of a century of service in Washington. (He now says Congressmen shouldn't serve that long).



"Jim Nalepa, the G.O.P. challenger", (seen here modeling two Soviet assault weapons), cites his combat experience in his campaign literature. His resume notes his participation in the Grenada invasion - though the only fighting he did was with the media. Nalepa was a public information officer."

Republican Congressional candidates are offering you a "contract."

if you are concerned about the deficit

DON'T SIGN

"Read the fine print! The promises were chosen because they were popular. The price tag is huge."

*Southtown Economist Editorial
October 3, 1994*

"This jerry built contract is little more than the voodoo economics of the Reagan 80's."

*New York Times
October 9, 1994*

"Despite the high blown rhetoric, the Republicans are offering more of the same - tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

*Wall Street Journal
September 22, 1994*

if you are concerned about Social Security and Medicare

DON'T SIGN

This contract is an "economic suicide pact" that would "rob millions of senior citizens of their Social Security and Medicare benefits they depend on."

National Council of Senior Citizens

"This bundle of promises isn't mere rhetoric, it threatens Medicare."

*The Bangor Daily News
September 30, 1994*

And what do the Congressman who wrote the contract Jim Nalepa signed have to say about Social Security?

In 1986 Congressman Newt Gingrich proposed abolishing Social Security and

Congressman Dick Armey said in a C-SPAN interview last week, "I never would have created Social Security".

Lipinski for Congress
5255 S. Linder Ave.
Chicago, IL 60638

BULK RATE
U.S. POSTAGE
PAID
PERMIT NO. 168
ADDISON, IL
CAR-RT SORT

**Reason after reason
to keep**

Bill Lipinski

working for us

Affidavit Item No. 7
Page 4

BILL LIPINSKI

Congressman - 3rd District



"It's not easy to say no when the President calls - but Bill Lipinski said NO to President Clinton's call for a tax hike - and he opposed the President again by voting for the balanced budget amendment - why? . . . because of you."

HERE'S WHAT NEWSPAPER EDITORIALS HAVE TO SAY

Daily Southtown

3rd District (Southwest Side and suburbs from Berwyn to Tinley Park). Bill Lipinski is a moderate Democrat who has effectively represented the views of his constituents. He has been a productive congressman, having brought home federal money for projects such as the Southwest Rapid Transit Line. He has scored important points with his suburban constituents by helping defeat plans for an expanded sewer reservoir in McCook. His challenger, Republican Jim Nalepa, recently moved into the district. We endorse Lipinski.

Daily Southtown Economist
October 23, 1994

Chicago Sun-Times

The Chicago Sun-Times endorses Bill Lipinski for Congress.

Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator who is good for the region. Lipinski has represented the interests of his district well, as evidenced by his leadership in opposing the expansion of the McCook Reservoir.

Chicago Sun-Times
October 16, 1994

Chicago Tribune

The Chicago Tribune endorses Bill Lipinski for Congress.

In representing a largely suburban district, Bill Lipinski has worked hard to learn the needs of those communities and he's one of the most effective members of the Illinois delegation. Suburbanites saw just how effective when he led the successful fight to stop the ill-advised expansion of the McCook quarry.

With Illinois' influence waning with the retirement of House Minority Leader Bob Michel, and the legal troubles of Rep. Dan Rostenkowski, it is tough to cast out someone who truly knows how to work Washington for his state and his constituents.

Chicago Tribune
October 25, 1994

WEDNESDAY JOURNAL

"Republican James Nalepa, truly is frightening"

Wednesday Journal
October 26, 1994

PUNCH 81

AREA OFFICIALS AGREE "WE NEED BILL LIPINSKI"

"No one is more involved in local matters - no one has fought harder to protect homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski has proved accessible, sensitive and very helpful to our areas concerns. He has used his ability and influence to our definite advantage."

Mayor Bonnie Strack - Palos Heights

"He answered our call, he led the fight - he won for us. With the defeat of the proposed expanded McCook Reservoir - we don't have to worry about declining property values or increased health threats. And the 2500 people who won't lose their jobs at the Electro-Motive plant are pretty happy too."

Mayor Emil Sergo - McCook

"He deserves our support."

Mayor Gene Siegel - Chicago Ridge

"His constituent service offices are the best. Responsive, polite, understanding, they help people and local elected officials cut through bureaucratic red tape."

Mayor Ernie Kolb - Oak Lawn

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

Let's Keep
BILL LIPINSKI
working for us!
Punch 81

SOME THINGS YOU SHOULD KNOW ABOUT THE OPPONENT - JIM NALEPA

SUCCESSFUL BUSINESSMAN?

That's what his literature says. He's disclosed to the U.S. House of Representatives that he owns stock worth between \$500,000.00 and \$1 million. But he told a court that he could only afford to pay the legal minimum in child support - \$250.00 a month (that's \$8.33 a day) - and to get that on time - the court was forced to issue an order of withholding from his paycheck.

TERM LIMITS?

Term limits are supposed to mean 6 years and get out, but the Chicago Sun-Times reports "despite his support for limits, Nalepa could (if he wins) wind up in Washington for a long time. Nalepa pledged to leave office only if Congress passes a constitutional amendment limiting House members to three terms and the amendment is ratified by the states.

That promise is different than pledging to only serve six years. The 27th amendment to the U.S. Constitution took 203 years to ratify!

COMMUNITY INVOLVEMENT?

Jim Nalepa isn't from here and as a result he doesn't know much about the people or the problems of our community.

Born in Puerto Rico, raised in Massachusetts, he's only lived in Illinois for a few years. He didn't even move into the district until last August - weeks before announcing for Congress.

Lipinski for Congress
5255 S. Linder Ave.
Chicago, IL 60638

Bulk Rate
US Postage
PAID
B.P. Mailing
Service

Carroll Sort

Affidavit Item No. 13
Page 2

Let's Keep The 23rd Ward Strong!!

Dear Friend,

I am writing to express my appreciation for the many kindnesses you, the people of the 23rd Ward community, have shown to me.

I also wish to express my "thank you" to you for voting for me through the years I have served you in the Chicago City Council and the U.S. House of Representatives.

In that time, I have tried to represent our values, our hopes, our aspirations, and our concerns.

I believe I have done this not only by the votes I have cast on your behalf in Congress, but by the community improvements I have obtained - some of which are - the Orange Line, noise reduction programs for schools and churches, economic development and job creation because of improvements at Midway Airport, constituent services, and by fighting and defeating groups that have tried to ring the 23rd Ward with incinerators.

I have also tried to make the 23rd Ward a special and unique community by sponsoring Patriots and Great Pumpkin Parades, senior citizen programs, and educational, cultural and athletic events for our youth, along with a number of other programs.

I am once again involved in a tight political campaign - my opponent, a suburbanite, is anti-Chicago. Consequently, once again, I turn to the source of my political strength - you, my neighbors.

I am asking for your vote on Tuesday, November 8, 1994.

Please punch 81.

Your Neighbor,


Bill Lipinski

Affidavit Item No. 14



SION

August 19, 1996

sq.
mieux, Flystra & Reizen
Dr. LaSalle Street
2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress and
John Mooney, as treasurer

Dear Mr. Kubasiak:

This letter is to confirm the Federal Election Commission's receipt of your letter dated August 16, 1996, in which you request certain information from the Commission. Pursuant to statute, an on-going Commission investigation remains confidential until the matter is closed. Consequently, Lipinski for Congress and John Mooney, as treasurer, are not entitled to access to reports of the Office of the General Counsel or the votes of the Commissioners. Similarly, tapes and transcripts of the Commission's Executive Sessions are also confidential.

Please be assured that the arguments and concerns that you raised in your letter to Chairman Elliott, dated July 3, 1996, were presented to the Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephan O. Kline", is written over a light-colored background.

Stephan O. Kline
Attorney



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 19, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress and
John Mooney, as treasurer

Dear Mr. Kubasiak:

This letter is to confirm the Federal Election Commission's receipt of your letter dated August 16, 1996, in which you request certain information from the Commission. Pursuant to statute, an on-going Commission investigation remains confidential until the matter is closed. Consequently, Lipinski for Congress and John Mooney, as treasurer, are not entitled to access to reports of the Office of the General Counsel or the votes of the Commissioners. Similarly, tapes and transcripts of the Commission's Executive Sessions are also confidential.

Please be assured that the arguments and concerns that you raised in your letter to Chairman Elliott, dated July 3, 1996, were presented to the Commission.

Sincerely,

Stephan O. Kline
Attorney

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

9604 377 2778

SEP 17 10 09 AM '96

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress and
John Mooney, as Treasurer

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MUR 4121

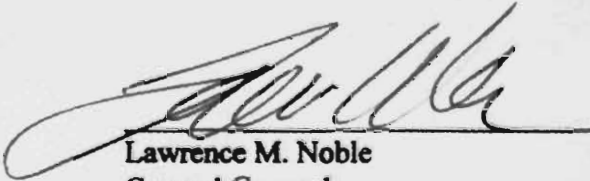
SENSITIVE

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Lipinski for Congress and John Mooney, as treasurer, based on the assessment of the information presently available.

Date

9/16/96


Lawrence M. Noble
General Counsel

9604317276



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 1, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress and
John Mooney, as treasurer

Dear Mr. Kubasiak:

Based on a complaint filed with the Federal Election Commission on November 2, 1994, and information supplied by Lipinski for Congress and John Mooney, as treasurer, the Commission, on April 17, 1996, found that there was reason to believe your clients violated 2 U.S.C. § 441d(a), and instituted an investigation of this matter. After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

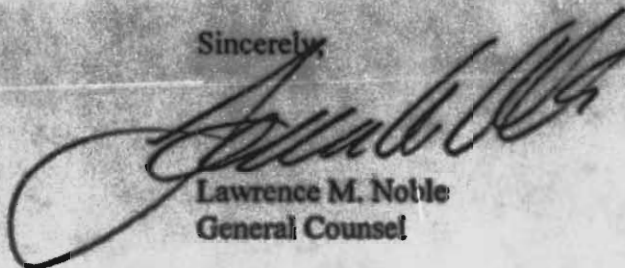
If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

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Should you have any questions, please contact Stephan Kline, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", written over the typed name.

Lawrence M. Noble
General Counsel

Enclosure
Brief

96043778

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress and John Mooney,
as Treasurer

)
)
)
)

MUR 4121

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On April 17, 1996, the Federal Election Commission ("Commission") found that there was reason to believe that Lipinski for Congress and John Mooney, as treasurer, ("Lipinski Committee," "Committee," or "Respondents") violated 2 U.S.C. § 441d(a) of the Federal Election Campaign Act of 1971, as amended ("Act" or "FECA").

II. ANALYSIS

The Act requires that a disclaimer notice be affixed to any communication that expressly advocates the election or defeat of any candidate for federal office or solicits contributions for any candidate for federal office through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing, or any other form of general public advertising. 2 U.S.C. § 441d(a). If paid for and authorized by a candidate or an authorized political committee of a candidate, the communication must clearly state that it was paid for by such candidate or authorized committee. 2 U.S.C. § 441d(a)(1). If paid for by persons other than a candidate or an authorized political committee of a candidate, but authorized by a candidate or his or her committee, it must clearly state that the communication has been paid for by such other persons and authorized by such political committee. 2 U.S.C. § 441d(a)(2). Finally, if the communication is not authorized by the candidate or his or her authorized political committee, it

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must clearly state the name of the person who paid for the communication and that the communication is not authorized by the candidate or the candidate's committee.

2 U.S.C. § 441d(a)(3). The disclaimer must appear in a clear and conspicuous manner, giving the reader adequate notice of the identity of persons who paid for the communication.

11 C.F.R. § 110.11(a)(1). The disclaimer need not appear on the front face or page of a communication, so long as it appears somewhere within the communication. *Id.*

"Express advocacy" was first defined by the U.S. Supreme Court as "communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'"¹⁰ Buckley v. Valeo, 424 U.S. 1, 44 n.52 (1976). Subsequently, in Federal Election Commission v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 249 (1986), the Supreme Court explained further that express advocacy could be "less direct" than the examples given in Buckley so long as the "essential nature" of the communication "goes beyond issue discussion to express electoral advocacy." *Id.* If the message contained an "explicit directive" to vote for or against a candidate, it is express advocacy. *Id.*

The United States Court of Appeals for the Ninth Circuit has stated that "speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." FEC v. Furgatch, 807 F.2d 857 (9th Cir.), cert. denied, 484 U.S. 850 (1987). Under the Ninth Circuit's test, speech is express "if its message is unmistakable and unambiguous, suggestive of only one plausible meaning," and constitutes advocacy only if "it presents a clear plea for

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action," and it is clear what that action is. *Id.* at 864. *But see Faucher v. FEC*, 928 F.2d 468 (1st Cir. 1991), *cert. denied*, 502 U.S. 820 (1991) (limiting express advocacy to the magic words of *Buckley*); *FEC v. Christian Action Network, Inc.*, 894 F. Supp. (W.D. Va. 1995) *aff'd*, 1996 WL 431996 (4th Cir. August 2, 1996) (finding that only actual language contained in a communication, instead of any context, is appropriate in an express advocacy analysis).

In recently enacted regulations which were not in effect at the time this activity occurred, the Commission codified its interpretation of the scope of express advocacy. In its definition, the Commission stated that a communication contains express advocacy if the communication uses specifically listed words and phrases, or if it includes the communication of campaign slogans or individual words which "in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates." 11 C.F.R. § 100.22(a).¹

MUR 4121 was generated by a complaint filed by the Illinois Republican Party alleging that six communications produced by the Lipinski Committee failed to include appropriate disclaimers. Three of these communications remain at issue in the instant matter. Attachment 1. Complainant's Exhibits A, B, and C all are communications expressly advocating the election of Congressman Lipinski. The Lipinski Committee acknowledges paying for and producing all of

¹ Section b of these regulations provides an alternative method of showing express advocacy when taken as a whole and with limited reference to external events, such as the proximity to the election, the communication could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate because the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning. A Maine district court in *Maine Right to Life Committee, Inc. v. FEC*, No. 95 Civ. 261-B (D. Maine, February 13, 1996) (*motion to reconsider denied* March 12, 1996), recently declared section b of the express advocacy regulations invalid, but the words used in the campaign literature at issue here are like the phrases identified in *Buckley* as express advocacy and now described in subpart a.

4

them, and the communications fail to contain the required disclaimer that they were paid for by the Lipinski Committee.

Complainant's Exhibit A is a double-sided flier. Attachment 1 at 1-2. On one side the communication states: "Let's Keep Bill Lipinski working for us. Punch 81." On the second side are six laudatory quotations about Congressman Lipinski under the heading: "Here's what they say about Bill Lipinski." Then the flier makes several critical statements about the Contract with America. The flier concludes with "Reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." According to an affidavit provided by the Lipinski Committee treasurer, the Committee distributed 115,000 copies of this flier, beginning on October 20, 1994. The Committee spent \$2,609 on this flier.

Complainant's Exhibit B is similar. Attachment 1 at 3-4. On one side it states "Bill Lipinski for Congress," followed by a statement that the Congressman opposed President Clinton by opposing a tax hike and voting for the balanced budget amendment. On the other side are eight quotations favoring Congressman Lipinski, one against his Republican opponent, and concludes with: "Reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." The Lipinski Committee distributed 20,000 copies of this flier, beginning on October 5, 1994, and spent \$1,547 on it.

Complainant's Exhibit C is also a double-sided flier. Attachment 1 at 5-6. The front contains the same slogan found on the front of Exhibit A -- "Let's keep Bill Lipinski working for us," although there is no "Punch 81." The other side explains Congressman Lipinski's achievements on welfare reform, saving job and creating jobs, mass transit and better highways, and protecting our pocketbooks and protecting our community. The flier concludes: "Bill

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Lipinski -- A commuter Congressman -- home every weekend -- he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents. Reason after reason to keep our Congressman Bill Lipinski working for us." The Lipinski Committee distributed 100,000 copies of this flier, beginning on September 7, 1994, and spent \$2,152.25 on it.

Besides arguing that these communications do not contain express advocacy, Respondents make several other arguments. The Lipinski Committee asserts that the Act's disclaimer requirements violate the First Amendment and that the United States and Illinois Supreme Courts have invalidated similar provisions in McIntyre v. Ohio Election Commission, 115 S. Ct. 1511 (1995) and Illinois v. White, 506 N.E.2d 1284 (Ill. 1987). Furthermore, Respondents argue that the provision included in 2 U.S.C. § 441d is silent as to the precise words which must be used in a disclaimer on campaign literature to identify the source and that the Committee was merely following community practice in failing to include the disclaimer.

Complainant's Exhibit B contains the language "Bill Lipinski for Congress" on one side and "reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81" on the second side. Complainant's Exhibit A contains very similar language. On one side it states: "Let's keep Bill Lipinski working for us. Punch 81;" the second side again states "reason after reason to keep our Congressman Bill Lipinski working for us. Punch 81." The cited language on both of the pamphlets is exactly the kind of exhortation to vote for Congressman Lipinski that is at the core of express advocacy.

For example, the phrase "Bill Lipinski for Congress" appearing on Exhibit B clearly urges support for Congressman Lipinski's candidacy. Indeed, in Buckley v. Valeo, 424 U.S. 1,

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44, n. 52 (1976), the Court included "Smith for Congress," a virtually identical phrase, in its list of words containing express advocacy.² Similarly the phrase "Punch 81," appearing on both Exhibits A and B, in this context tells the reader to vote for Congressman Lipinski and explains logistically how that can be accomplished -- "81" was Congressman Lipinski's line on the 1994 general election ballot in Illinois' 3rd Congressional district.³ Complainant's Exhibits A, B, and C also all contain either the exact phrase or variations of the phrase: "Let's keep Bill Lipinski working for us." These are other examples of communications expressly advocating the election of a Congressional candidate containing the type of "magic words" described in Buckley. Because of its prominent use by the Lipinski Committee, it is also clear that "Let's keep Bill Lipinski working for us" became the campaign slogan which expressly advocates the election of Congressman Lipinski. The Commission's new regulations at 11 C.F.R. § 100.22(a) codified its position that express advocacy includes a campaign slogan which in context can have no other reasonable meaning than to urge the election of a clearly identified candidate.

Contrary to Respondents' arguments, the Supreme Court's holding in McIntyre v. Ohio, 115 S. Ct. 1511 (1995), did not invalidate 2 U.S.C. § 441d. The Ohio provision at issue in the case was a disclaimer provision prohibiting the distribution of campaign literature for both candidate elections and issue referenda which did not contain the name and address of the person or campaign official issuing the literature. While finding the Ohio provision unconstitutional as a regulation of core political speech that was not narrowly tailored to serve an overriding state

² The list of examples in the Commission's new express advocacy regulations also includes "Smith for Congress." 11 C.F.R. § 100.22(a).

³ An advertisement produced by Congressman Lipinski's 1994 general election opponent requests the reader to "Punch 82." This helps to confirm the Commission's understanding that 81 was Congressman Lipinski's ballot line.

interest, the Court specifically recognized "that a State's enforcement interest might justify a more limited identification requirement, but Ohio has shown scant cause for inhibiting the leafletting at issue here." McIntyre at 1522.

In fact, unlike the statute in McIntyre, the FECA's disclaimer provision is similar to the reporting provision upheld in Buckley, which was narrowly tailored to serve "governmental interests sufficiently important to outweigh the possibility of infringing First Amendment interests], particularly when the 'free functioning of our national institutions' is involved." Buckley, 424 U.S. at 66 (citation omitted). Indeed, the Court in McIntyre, 115 S. Ct. at 1524, went to great lengths to distinguish the federal statute concluding that "Buckley may permit a more narrowly drawn statute" than "Ohio's open-ended provision." 2 U.S.C. § 441d(a) is such a statute. The constitutional importance of the distinction between the Ohio provision and the FECA's disclaimer provision was soon confirmed when, a week after McIntyre, the Court denied certiorari, rather than remanding for reconsideration a case upholding a state disclosure requirement similar to 2 U.S.C. § 441d(a). Griset v. FPPC, 884 P.2d 116 (Cal. 1994), cert. denied, 115 S. Ct. 1794 (1995).

The state supreme court decision in Illinois v. White, 506 N.E.2d 1284 (Ill. 1987), also fails to free the Committee from compliance with FECA disclaimer requirements. In White, the Illinois Supreme Court ruled unconstitutional a state ordinance prohibiting the publication of political literature which did not show the name and address of persons distributing the literature, because the state had not advanced any compelling interest and less restrictive alternatives were available to achieve the state's goals. Although the court ruled the state statute unconstitutional on its face, it did not substitute a requirement that disclaimers must only comply with the

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community standard. Even if a community practice standard resulted from the finding of unconstitutionality, this would not excuse compliance with a separate federal statute governing literature produced and distributed in connection with a federal election. Furthermore, not only did the Illinois statute in White apply to issue advocacy as well as candidacy advocacy, but the court specifically distinguished the Illinois statute from FECA. The Illinois Supreme Court explained that the United States Supreme Court in Buckley v. Valeo held that FECA's disclosure requirements appeared to be the least restrictive alternative for achieving the compelling interest. White at 1291.

Respondents' argument that the state court decision mandates that community practice should prevail and that this excuses compliance with 2 U.S.C. § 441d is also incorrect. The Act and the Commission's regulations are quite specific on what is required in a disclaimer. Under the supremacy clause of the United States Constitution when there is a clear collision or conflict between federal and state law the federal law will prevail. See Hines v. Davidowitz 312 U.S. 52 (1941); Weber v. Heaney 995 F.2d 872 (8th Cir. 1993); and Stern v. General Electric Company, 924 U.S. 472 (2nd Cir. 1991). In addition, the Act specifically states that "the provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office." 2 U.S.C. § 453. The Commission has applied this preemption clause in a number of advisory opinions questioning whether the FECA disclaimer provisions can be preempted or superseded by state law. See AO 1978-24, AO 1980-36, AO 1981-27, and AO 1986-11.

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In this instance, however, there is not even a state law which conflicts with 2 U.S.C. § 441d. Once this state law was struck down, Respondents had even less of an argument for ignoring the FECA disclaimer provisions because there was no remaining state law which even addressed disclaimers. Despite Respondents' contention that 441d is "silent as to the precise manner in which campaign literature is to be attributed to its source," FECA's disclaimer provisions specifically require that communications paid for and authorized by a candidate or his or her committee shall state that such communications have been paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 1110.11(a)(i)(i).

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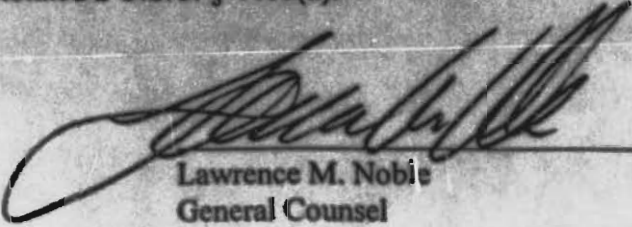
Even if a related state law were held unconstitutional, it is unreasonable to assume that a federal law predicated on different bases would also be unconstitutional and thus could be ignored. Furthermore, not only was it unreasonable for the Respondents to fail to include an appropriate disclaimer because FECA and the Commission's regulations clearly articulate those requirements, but the Lipinski Committee, like all principal campaign committees, would have received the Commission's publication Campaign Guide for Congressional Candidates and Committees which clearly outlines the disclaimer requirements.

The Lipinski Committee paid for, authorized, and distributed 235,000 communications costing \$6,308.75 which expressly advocated the reelection of Congressman William O. Lipinski. The communications did not contain disclaimers stating who paid for them. Based on the foregoing, this Office recommends that the Commission find there is probable cause to believe the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a).

III. RECOMMENDATION

1. Find probable cause to believe that the Lipinski for Congress Committee and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a).

Date

9/30/96
Lawrence M. Noble
General Counsel**Attachment**

1. Complainant's Exhibits A, B, and C

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PUNCH
81●



COMPLAINANTS EXHIBIT A

Here's what they say about Bill Lipinski . . .

"Bill Lipinski deserves to return to Congress. He has proven to be a centrist legislator. He's represented his district well as evidenced by his leadership in opposing the expanded McCook Reservoir."

Chicago Sun-Times 10/16/94

"Bill continues to serve the interests of all of us. He certainly has earned our support for his thoughtful leadership."

Mayor Jim Richmond - Oak Forest

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"No one is more involved in local matters - no one is more protective of homeowners and their investments."

Mayor Tom Shaughnessy - Berwyn

"Bill Lipinski is 'persistent and sometimes emotional spokesman for conservative values.'"

The Congressional Quarterly

"He's responsive to the concerns of small businesses and their employees. He's answered my companies call for help every time."

Stewart Ward

President, Brad-Fonte Gear Works - Chicago

The Republican candidate for Congress is promising you a "Contract"

here's what being written...

"Read the fine print - the price tag is huge!"

Southwest Economic Editorial 10/3/94

"Despite the high-blown rhetoric, the Republicans are offering more of the same-tax cuts for the affluent, budget promises that don't add up - and political reforms they don't mean."

The Wall Street Journal 9/22/94

"This contract is an 'economic suicide pact' that would rob millions of senior citizens of their Social Security and Medicare benefits."

National Council of Senior Citizens 10/2/94

Reason after reason to keep
our Congressman
Bill Lipinski working for us.

Punch 81

ATTACHMENT

9 6 0 4 3 7 7 2 7 0 C

Bill Lipinski

For Congress

"When the President of the United States calls you, it's usually not easy to say no - but Bill Lipinski said *no* to President Clinton's call for a tax hike - and he opposed the President again by voting for the balanced budget amendment. Why? Because of you."

Here's what they say
about Bill Lipinski

"A persistent and sometimes emotional spokesman for conservative ethnic values, he bitterly opposed the 1991 Civil Rights Bill, denouncing its quotas."

1993 Congressional Quarterly

"He stood with labor in leading the fight against NAFTA - the North American Free Trade Agreement."

The Chicago Federation of Labor

By voting NO on Clinton's tax hike, "Lipinski quickly served notice he's no Clinton Democrat."

The Congressional Quarterly

"Lipinski is right - make taxes fair."

The Chicago Sun-Times

"Bill Lipinski has carved out a reputation as Mr. Planes, Trains and Automobiles by securing funding for area transportation projects."

Southtown Economist

"Lipinski is the workhorse of the Illinois delegation."

Chicago Sun-Times

"The social experiment that began with the Civil Rights Act of 1964 ... has been an abysmal failure."

Bill Lipinski in a speech in Congress

"Bill Lipinski has kept the Southwest Side strong. He deserves our support. I'm voting for him."

Alderman Jim Laski

**Here's what the Republican
candidate for Congress is saying . . .**

after making fun of bungalow owners, he tells suburban Republicans that Chicago residents get too much service. He promises to change that.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

Punch 81

ATTACHMENT 1
2

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9 6 0 4 3 7 7 2 7 9 3

Let's Keep

Bill Lipinski

Working For Us.

ATTACHMENT
1

(COMPLAINANT'S EXHIBIT C)



*"We won't become the main dumping ground for Cook County's raw sewage."
Bill Lipinski leading against the proposed expanded McCook Reservoir*

Bill Lipinski working for us on...

Welfare Reform

Welfare reform shouldn't cost us money - it should save us money! How? By reducing welfare recipients' unnecessary use of ambulances and doctors and hospital visits. By restricting aid to illegal immigrants. By changing a system that many experts believe subsidizes illegitimacy, divorce and non-work. These are the principles Bill Lipinski will demand in any welfare reform legislation.

Saving Jobs - Creating Jobs

He was the one that got plans to print food stamps overseas reversed, saving hundreds of jobs at the American Bank Note Company in Burbank. The President of Brad-Foote Gear Works in Cicero credits Bill's fight against unfair overseas competition for keeping his plant open. He has worked successfully to bring back Midway Airport - which has created hundreds of new jobs.

Mass Transit - Better Highways

He's just got \$15 million towards the building of the proposed Central Avenue Bypass to connect Burbank, Bedford Park and Oak Lawn with the Stevenson Expressway. He's the one personally responsible for getting the Southwest Rapid Transit line built. Bill brings back hundreds of millions of dollars a year for the RTA, PACE and METRA. The Southtown Economist has written that Bill Lipinski "annually brings back into his district more tax dollars than any of his colleagues." The Sun-Times has called him "the workhouse of the Illinois delegation."

Protecting Our Pocketbooks - Protecting Our Community

He voted against President Clinton's tax hike - a tax hike that added 5c a gallon to the price of gas. He successfully fought his own party to get a better crime bill - that means more prisons, more police and tougher sentences. He's led the fight against the building of incinerators and the proposed expanded McCook reservoir project.

Bill Lipinski

A commuter Congressman - home every weekend - he stays in touch. Quiet, effective, he's not a self promoter. You won't find his name associated with scandals. Bill Lipinski has never forgotten where he comes from or who he represents.

**Reason after reason to keep
our Congressman
Bill Lipinski working for us.**

LAW OFFICES

**KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO**

PROFESSIONAL CORPORATION
30 NORTH LA SALLE STREET
SUITE 2700
CHICAGO, ILLINOIS 60602-2505

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL COUNSEL

OCT 22 3 07 PM '96

Telephone
(312) 630-9600
Facsimile
(312) 630-7939

DANIEL J. KUBASIAK

October 18, 1996

Via Facsimile and Regular Mail

Commission Secretary
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

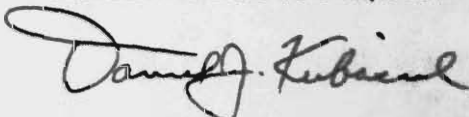
Re: MUR 4121, Lipinski for Congress and John Mooney, as Treasurer

Commission Secretary:

The enclosed letter is sent in response to the October 1, 1996 letter of Lawrence M. Noble (received in this office on October 3, 1996) and its attached General Counsel's Brief (the "General Counsel's Brief") regarding the above-referenced matter. Lipinski for Congress and John Mooney, as Treasurer (the "Committee") files ten copies of the enclosed Response to the General Counsel's Brief as requested by the Commission.

Very truly yours,

**KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.**



Daniel J. Kubasiak

DJK/ir
Enclosure

cc: Lawrence M. Noble, General Counsel (via facsimile w/o enc.)
Stephan Kline, Esq. (via facsimile and regular mail w/enc.)

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FEDERAL ELECTION COMMISSION

Respondents:

**Lipinski for Congress
Committee and
John Mooney, as Treasurer**

MUR 4121

RESPONSE TO GENERAL COUNSEL'S BRIEF

Lipinski for Congress Committee and John Mooney, as Treasurer, respond to the General Counsel's Brief recommending that the Federal Election Commission (the "Commission") Find Probable Cause to Believe a Violation of the Federal Election Campaign Act (the "Act") Occurred as follows:

Background

In correspondence dated April 24, 1996, Respondent was notified that on April 17, 1996 the Commission had found reason to believe that the Respondent violated 2 U.S.C. §441d(a) of the Act. In response to that letter, Respondent filed with the Commission its Renewed Motion to Dismiss and Response to Commission's Finding of Reason to Believe Violation of Federal Election Campaign Act Occurred.

In a letter dated July 31, 1996, Respondent was informed that the Commission reviewed and denied Respondent's Motion to Dismiss on July 25, 1996. Subsequently, the General Counsel's Brief was delivered to the Committee by letter dated October 1, 1996. On October 11, 1996, within 90 days of the Commission's denial of Respondent's Motion to Dismiss

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Analysis

Respondent's position has previously been set forth in its Motion to Dismiss (December, 1994) and its Renewed Motion to Dismiss and Response to Commission's Finding of Reason to Believe Violation of Federal Election Campaign Act Occurred (May, 1996) and Respondent does not choose to re-recite its position in response to the General Counsel's Brief. Respondent does not agree with the conclusions reached in the General Counsel's Brief, does not believe it violated the Act and believes that it acted appropriately at all times. Specifically, Respondent believes that the United States Supreme Court in McIntyre v. Ohio Election Commission, 115 S.Ct. 1511 (1995), decided by the Court subsequent to the complaint being filed, invalidated a similar disclaimer requirement in Ohio election statutes which if applied to the facts of this matter would have similar results regarding provisions of the Act.

At this time, Respondent does not believe that the matter warrants further analysis and discussion. However, Respondent does not waive its right to respond to subsequent findings of the Commission.

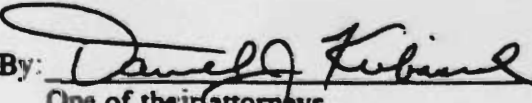
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Conclusion

The Commission should decline to pursue the matter under inquiry and should not act upon the General Counsel's Brief for the reasons stated herein.

Respectfully submitted,

LIPINSKI FOR CONGRESS COMMITTEE and
JOHN MOONEY, as Treasurer

By: 
One of their attorneys.

Daniel J. Kubasiak
Ellen Chapelle
KUBASIAK, CREMIEUX, FYLSTRA,
REIZEN & ROTUNNO, P.C.
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602-2505
(312) 630-9600 (Phone)
(312) 630-7939 (Fax)

Date: October 18, 1996

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress and John Mooney,
as Treasurer

SENSITIVE

MUR 4121

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

On April 17, 1996, the Federal Election Commission ("Commission") found reason to believe that Lipinski for Congress and John Mooney, as treasurer, ("Lipinski Committee," "Committee," or "Respondents") violated 2 U.S.C. § 441d(a) with respect to three communications which contained no disclaimer. By votes of 3-2, the Commission also failed to pass motions to find reason to believe that the Lipinski Committee violated 2 U.S.C. § 441d(a) with respect to two other communications. On April 17 the Commission also denied a Motion to Dismiss filed by Respondents; found no reason to believe that Congressman William O. Lipinski violated 2 U.S.C. § 441d(a) and closed the file as to him; and decided to enter into pre-probable cause conciliation.

On July 25, 1996, the Commission

denied a Renewed Motion to Dismiss filed on behalf of the Committee.

A brief regarding probable cause was forwarded to the Respondents on October 1, 1996.

Respondents responded to the brief on October 18, 1996. Attachment 1. This General Counsel's Report contains a probable cause recommendation.

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II. ANALYSIS

An analysis of the Respondents' violations in this matter is contained in the General Counsel's brief signed on September 30, 1996. The factual and legal analysis set forth in the General Counsel's brief is incorporated as if fully set forth herein.

In their response to the brief, Respondents summarily refer to the arguments they made in their response to the complaint and in their renewed motion to dismiss. As discussed thoroughly in the General Counsel's Report dated July 22, 1996, and again in the probable cause brief, none of Respondents' arguments overcomes the fact that Respondents produced communications which failed to contain required disclaimers. Accordingly, this Office recommends that the Commission find probable cause to believe that Lipinski for Congress and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a).

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

Attached for Commission approval is a proposed conciliation agreement

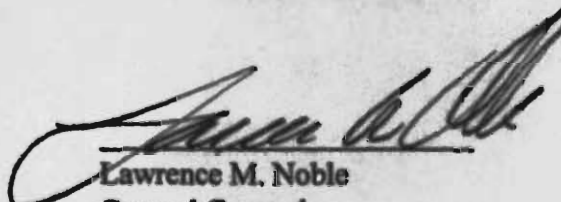
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IV. RECOMMENDATIONS

1. Find probable cause to believe ~~that~~ Lipinski for Congress and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a).
2. Approve the attached conciliation agreement and the appropriate letter.

10/23/96
Date

Attachments


Lawrence M. Noble
General Counsel

1. Respondents Response
2. Conciliation Agreement
3. Respondents Letter to Commission

Attorney assigned: Stephan O. Kline

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4121
Lipinski for Congress and)
John Mooney, as Treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on November 5, 1996, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 4121:

1. Find probable cause to believe that Lipinski for Congress and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a).
2. Approve the conciliation agreement and the appropriate letter recommended in the General Counsel's October 23, 1996 report.

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

Attest:

11-5-96
Date

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

96043772802



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street, Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress Committee and
John Mooney, as treasurer

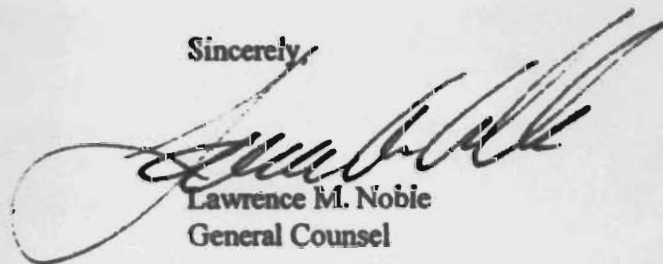
Dear Mr. Kubasiak:

On November 5, 1996, the Federal Election Commission found that there is probable cause to believe Lipinski for Congress Committee and John Mooney, as treasurer, your clients, violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the Lipinski Committee's failure to use disclaimers on certain general election communications.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty. Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make the check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Stephan Kline, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lawrence M. Nobie
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

In the Matter of

Lipinski for Congress and John Mooney,
as Treasurer

Nov 29 11 04 AM '96

MUR 4121

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement submitted by Lipinski for Congress and John Mooney, as treasurer. Attachment 1. A check for the full civil penalty has been received. Attachment 2. The proposed agreement is identical to the agreement previously approved by the Commission on November 5, 1996. This Office recommends that the Commission accept the attached conciliation agreement and close the file.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Lipinski for Congress and John Mooney, as treasurer.
2. Approve the appropriate letter.
3. Close the file.

Lawrence M. Noble
General Counsel

November 27, 1996
Date

BY:

Lois G. Lerner by mab
Lois G. Lerner
Associate General Counsel

Attachments:

1. Conciliation Agreement
2. Copy of Civil Penalty Check

Staff Assigned: Stephan O. Kline

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress and John
Mooney, as Treasurer.

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)

MUR 4121

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 4, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4121:

1. Accept the conciliation agreement with Lipinski for Congress and John Mooney, as treasurer, as recommended in the General Counsel's Report dated November 27, 1996.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated November 27, 1996.
3. Close the file.

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

Attest:

12-4-96
Date

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

Received in the Secretariat: Fri., Nov. 29, 1996 11:03 a.m.
Circulated to the Commission: Fri., Nov. 29, 1996 2:00 p.m.
Deadline for vote: Wed., Dec. 04, 1996 4:00 p.m.

mwd

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 8, 1996

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Harold Smith, Chairman
Patrick J. O'Shea, General Counsel
Illinois Republican Party
188 W. Randolph Street, #627
Chicago, IL 60601

RE: MUR 4121
Lipinski for Congress and
John Mooney, as treasurer

Dear Mr. Smith and Mr. O'Shea:

This is in reference to the complaint you filed with the Federal Election Commission on November 2, 1994, concerning alleged disclaimer violations by the captioned committee.

After conducting an investigation in this matter, the Commission found that there was probable cause to believe Lipinski for Congress and John Mooney, as treasurer, violated 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended, ("Act"). On December 4, 1996, a conciliation agreement signed by the respondent was accepted by the Commission, thereby concluding the matter. Accordingly, the Commission closed the file in this matter on December 4, 1996. A copy of this agreement is enclosed for your information.

I am also enclosing a Statement of Reasons from Commissioners Aikens and Elliott explaining their reason to believe votes on April 17, 1996. This document will be placed on the public record as part of the file of MUR 4121.

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

Sincerely,

Stephen O. Kline
Attorney

Enclosures
Conciliation Agreement
Statement of Reasons

9604372806



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 6, 1996

Daniel Kubasiak, Esq.
Kubasiak, Cremieux, Flystra & Reizen
30 North LaSalle Street
Suite 2700
Chicago, Illinois 60602

RE: MUR 4121
Lipinski for Congress Committee and
John Mooney, as treasurer
Congressman William O. Lipinski

Dear Mr. Kubasiak:

On December 4, 1996, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of the Lipinski for Congress Committee and John Mooney, as treasurer, in settlement of a violation of 2 U.S.C. § 441d(a), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter. I am enclosing a copy of the fully executed conciliation agreement for your files.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt. Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

I am also enclosing a Statement of Reasons from Commissioners Aikens and Elliott explaining their reason to believe votes on April 17, 1996. This document will be placed on the public record as part of the file of MUR 4121. If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Stephan O. Kline
Attorney

Enclosures
Conciliation Agreement
Statement of Reasons

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress and
John Mooney, as Treasurer

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MUR 4121

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by the Illinois Republican Party ("Complainant"). The Federal Election Commission ("Commission") found probable cause to believe that Lipinski for Congress and John Mooney, as treasurer, ("Respondents") violated 2 U.S.C. § 441d(a).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Lipinski for Congress is a political committee within the meaning of 2 U.S.C. § 431(4) and is the principal campaign committee of William O. Lipinski, Member of Congress from Illinois' Third Congressional District.

2. John Mooney is the treasurer of Lipinski for Congress.

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3. Pursuant to 2 U.S.C. § 441d(a), a disclaimer is required for communications that expressly advocate the election or defeat of a clearly identified candidate through any newspaper, direct mailing, or other form of general public political advertising. The disclaimer must clearly identify the person or political committee who paid for and authorized the communication. *Id.* If paid for and authorized by a candidate or the authorized political committee of a candidate, it must clearly state that the communication has been paid for by such authorized political committee. 2 U.S.C. § 441d(a)(1). If paid for by persons other than a candidate or an authorized political committee of a candidate, but authorized by a candidate or his or her committee, it must clearly state that the communication has been paid for by such other persons and authorized by such authorized political committee. 2 U.S.C. § 441d(a)(2). *Cf.* 11 C.F.R. § 109.1(b)(2).

4. Pursuant to 11 C.F.R. § 110.11(a)(1), it is required that the disclaimer appear in a clear and conspicuous manner so that the reader, observer, or listener is given adequate notice of the identity of persons who paid for and authorized the communication. Except on communications that have only a front face, the disclaimer is not required to be on the front face or page of the communication, so long as it is somewhere within the communication. *Id.*

5. Respondents paid for three pamphlets or fliers totaling 235,000 pieces and costing \$6,308.75 which expressly advocated the election of Congressman Lipinski and were distributed to the general public. None of these communications contained the disclaimer required by 2 U.S.C. § 441d(a)(1) stating that the communication was paid for by Lipinski for Congress.

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V. Respondents admit the following:

1. Lipinski for Congress and John Mooney, as treasurer, paid for communications expressly advocating the election of Congressman William O. Lipinski which were publicly distributed and failed to include proper disclaimers, in violation of 2 U.S.C. § 441d(a).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of six thousand dollars (\$6,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. 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.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

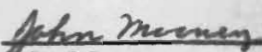
BY:


Lois G. Lerner
Associate General Counsel

Date

12/6/96

FOR THE RESPONDENTS:


John Mooney
Treasurer

Date

11/15/96

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9 6 0 4 3 7 7 2 8 1 3

LIPINSKI FOR CONGRESS COMMITTEE

6242 W. 59TH ST.
CHICAGO, IL 60638

13095

PAY
TO THE
ORDER OF

Federal Election Commission

DATE *Nov. 13* 96 2-7/79

Six Thousand 00 100

\$ *6,000.00*

DOLLARS


American National Bank
and Trust Company of Chicago • Chicago, Illinois 60690

FOR *MUR 4121*

John Mooney

⑈013095⑈ ⑆071000770⑆ 04199448⑈

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lipinski for Congress Committee
John Mooney, as treasurer

Congressman William O. Lipinski

MUR 4121

STATEMENT OF REASONS

The Act requires that a disclaimer appear on every "communication that expressly advocates the election or defeat of a clearly identified candidate." 2 U.S.C. § 441d. At the time the alleged violations occurred, the definition of express advocacy appeared within the context of independent expenditures and defined express advocacy to mean any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or "magic language" such as vote for, elect, support, cast your ballot for, and Smith for Congress, or vote against, defeat, or reject. 11 C.F.R. § 109.1(b)(2). Additionally, a controversial appellate court case noted that express advocacy must, "when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir. 1987).

We find complainant's exhibits D and F to not only lack magic language, but also to be susceptible of other reasonable interpretations. For example, the focus of Exhibit F is defeating a rainwater and raw sewage reservoir proposal, and the call to action is to "Call the Commissioners at the Metropolitan Water Reclamation District before they meet on October 13th and let them know how you feel." While potential voters who were affected by and agreed with Congressman Lipinski's position on this issue might have been motivated to vote for him in an election a month later, in our view such a tenuous connection is a far cry from an exhortation to vote for or against a specific candidate.

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Since we did not find express advocacy with regard to these two exhibits,
we could not find that they required a disclaimer.

5-6-96
Date

Lee Ann Elliott
Lee Ann Elliott
Chairman

5-6-96
Date

Joan D. Aikens
Joan D. Aikens
Commissioner

96043772815



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4121

DATE FILMED 1-8-67 CAMERA NO. 4

CAMERAMAN JMJ

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