79-3014

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

FEDERAL ELECTION COMMISSION,

Plaintiff,

v.

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

Defendants,

JOHN W. ROBBINS,

Intervenor-counterclaiming defendant.

Proceeding on Order Certifying Constitutional Questions by the United States District Court for the Eastern District of New York

REPLY BRIEF FOR PLAINTIFF

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REPLY BRIEF FOR PLAINTIFF

The Commission relies primarily upon the argument set forth in its opening brief to sustain the constitutionality of 2 U.S.C. §§ 434(e), 441d. In response to opening briefs filed by the defendants and the intervenor, and in response to the amicus brief, the Commission submits the following.

I. THE REPORTING REQUIREMENTS OF 2 U.S.C. § 434(e) HAVE BEEN HELD CONSTITUTIONAL BY THE SUPREME COURT.

The Supreme Court in Buckley v. Valeo, 424 U.S. 1 (1976), recognized that

> ...§ 434(e) as construed imposes independent reporting requirements on individuals and groups that are not

> candidates or political committees...when they make expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate.

Id. at 80. The Court did not hold, as defendants/intervenor urge, that the limited disclosure requirements of § 434(e) could not be applied to certain groups, i.e., "non-partisan, issue-oriented groups," CLITRIM Br. at 30, 32, 46, TRIM Br. at 8, 30, 42; nor that § 434(e) reporting requirements could not apply to any issue-oriented materials directed at candidates, i.e., voting charts. CLITRIM Br. at 50, TRIM Br. at 33, 36, Amicus Br. at 10. Section 434(e) applies to expenditures for communications which expressly advocate the election or defeat of clearly identified federal candidates whether those communications be made by groups which identify themselves as "non-partisan, issue oriented" or whether those communications be in the form of a voting chart which expressly advocates the election or defeat of federal candidates. United States v. Lewis Foods Company, Inc., 366 F.2d 710 (9th Cir. 1966).

Buckley specifically held that "...it is not fatal that § 434(e) encompasses purely independent expenditures uncoordinated with a particular candidate or his agent." 424 U.S. at 81. The Court further noted:

> The corruption potential of these expenditures may be significantly different, but the informational interest can be as strong as it is in coordinated spending for disclosure helps voters to define more of the candidates' constituencies.

Id. Thus the Court understood that the reach of § 434(e) would extend to independent expenditures made by groups and individuals

such as defendants/intervenor herein and upheld § 434(e) against constitutional attack.[1/]

Neither Congress nor the Court has exempted groups from reporting independent expenditures solely on the basis of their affiliation or nonaffiliation with a political party or candidate. To the contrary, the challenged provisions of FECA were specifically directed toward extending reporting to those entities which were "ostensibly separate" but whose activities in fact aided federal campaigns. H.R. Rep. No. 94-917, 94th Cong., 2d Sess. 5 (1976). Therefore, the determinative factor is not whether groups are in some manner related to a political party or candidate but whether the expenditures of these "special interest, issue-oriented groups" are for communications which are "unambiguously related to federal elections," Buckley, 424 U.S. at 80, and which expressly advocate the election or defeat of a clearly identified candidate. The Commission by this action seeks to enforce the disclosure provisions against those TRIM activities which expressly advocated the election

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1/ Neither Buckley nor the Commission's enforcement in this case are contrary to this court's decision in United States v. National Committee for Impeachment, 469 F.2d 1135 (2d Cir. 1972) (limiting the application of FECA's overall reporting requirements for political committees); nor to American Civil Liberties Union v. Jennings, 366 F. Supp. 1041 (D.D.C. 1973) (three-judge court) (limiting the application of § 104(b) of the FECA of 1971, since repealed); vacated as moot sub nom., Staats v. American Civil Liberties Union, 422 U.S. 1030 (1975). The Commission in this case seeks only to apply the intermediate reporting and disclosure provisions of §§ 434(e), 441d, not the overall reporting responsibilities of political committees.

of federal candidates, i.e. those "programmed", "election blitz" activities, Finding No. 5 at 44, which were designed to "get or beat" clearly identified federal candidates, Finding No. 8 at 38. The "bulk" of TRIM's activities if they are, as TRIM avers, purely educational in scope, would necessarily fall outside the FEC's jurisdiction and the purview of FECA.[2/] See Comm. Br. at 42.

II. VOTING CHARTS WHICH EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF FEDERAL CANDIDATES ARE SUBJECT TO FECA.

The Chamber of Commerce in its amicus brief asserts:

> (A) that voting charts "are commonly used to inform the voting public about the official conduct of their government officials;"

Amicus Br. at 4. Clearly not all voting charts are so neutral. The TRIM bulletins at issue here were not disseminated for such a limited purpose since TRIM officials claimed that their "efforts in 'educating' the 'taxpayers'" have resulted in the defeat of an "incumbent Congressman", Finding No. 8 at 41; that "when voters... are able to connect the representative's name and face with his voting record," local TRIM affiliates "will have gone a long way toward...unseating a liberal representative [and] unseating...a moderate representative," Finding No. 19 at 21; that "where TRIM Bulletins [were] heavily distributed, 'big spenders' had a tough time getting re-elected and some didn't make it," Finding No. 25

2/ TRIM and the John Birch Society refused to disclose any budget figures in the district court proceedings in this case; these averments are thus unsupported by the parties making them.

at 24, that the TRIM Committees gained "election experience," Id., and that the "hard hitting educational campaign throughout each district...[the educational approach] should lay the groundwork to ensure that a good conservative candidate wins a spot on the ballot in the primary," Id.[3/]

> (B) that "the District Court in this case has established that voting records do not expressly advocate the election or defeat of candidates;"

Amicus Br. at 9. The district court makes no such broad finding that expression of dislike for a voting record cannot be express advocacy. The Court found only that the "TRIM Bulletin at issue in this proceeding does not contain any 'express words of advocacy of election or defeat' such as appear in Buckley v. Valeo, 424 U.S. 1 at 44 fn.52 (the 'Buckley List')" and that "[d]efendant National TRIM does not use words such as appear in the Buckley List in any voting record publication." Findings No. 31 at 25, 32 at 26.

> (C) that "the publication of voting records is protected under the first amendment as an expression of free speech;"

Amicus Br. at 6. From this broad statement, the Chamber argues that FECA's limited disclosure provisions challenged here,

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3/ The district court also found that "TRIM Bulletins...were targeted at counties where the incumbent Congressman was heavily favored." Finding No. 6 at 41. See also Findings No. 4 at 43, 7 at 44.

§§ 434(e), 441d, cannot constitutionally be applied to any voting charts or records. Clearly, Buckley held to the contrary. Voting charts or records, if they expressly advocate the election or defeat of clearly identified federal candidates, are subject to FECA as are express advocacy communications in other formats.

In short, not all "voting charts" are non-partisan, educational materials:

> A jury could find that the "Notice to Voters" was not intended to give an objective report on the voting record of public office holders. It sets forth only Lewis' appraisal of their undisclosed voting record, expressed in the form of percentage ratings. The "Notice to Voters" also makes it plain that, in Lewis' opinion, those office holders who are given low ratings on their votes "in favor of constitutional principles" should not be re-elected.

United States v. Lewis Foods Company, Inc., 366 F.2d at 712.[4/]

> (D) that the Commission's advisory opinion, and earlier informational letter, applying FECA to the Chamber's distribution of its "voting records" "makes manifest" the unconstitutionality of the challenged provisions herein;

Amicus Br. at 15. Neither the Commission's Advisory Opinion to the Chamber of Commerce, AO 1978-18, nor the earlier informational

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4/ The Internal Revenue Service has recognized that some voting charts/records are educational activity and some are political activity within the meaning of 26 U.S.C. § 501(c)(3). See I.R.S. Rev. Rul. 78-248 (1978), Stand. Fed. Tax Rep. (CCH) ¶ 3033.417. (voting guides which are prepared from candidate responses and distributed during an election campaign and voting guides which emphasize one area of concern are not non-partisan voter education).

letter, O/R #790, support this argument. Initially, the Chamber is a corporation subject to the prohibitions of FECA against any corporate contributions or expenditures in connection with federal elections. 2 U.S.C. § 441b.[5/] The Chamber of Commerce is thus not in the same position as either the defendants or the intervenor in this case. In fact, the informational letter based its analysis of FECA as applied to the Chamber's "How They Voted" on the fact that the chart

> offers an analysis of Federal officeholders-- many of whom are Federal candidates-- based upon votes taken on selected issues. The votes are not merely recorded, however, but are interpreted as "right" or "wrong" (with "right" votes in color for easy distinction), depending on agreement or lack of agreement with the Chamber's position on the issues. The rating's introduction reminds the reader that the selected votes affect the reader personally, refers to a discernable "voting pattern," offers a test enabling the reader to determine how "right" or "wrong" his Congressman has been on the issues, and concludes with the question, "How well are your representatives in Congress representing you?"

O/R #790 at 2. And the Commission's Advisory Opinion, AO 1978-18, allowing limited distribution of "How They Voted" to members of Congress, is clearly based on the assumption that such distribution would not render the communication "in connection with any [federal] election." 2 U.S.C. § 441b.

5/ See United States v. Congress of Industrial Organizations, 335 U.S. 106 (1948); Schwartz v. Romnes, 357 F. Supp. 30 (S.D. N.Y. 1973)(relied on in Amicus Br. at 10, 13), rev'd, 495 F.2d 844, 851 (2d Cir. 1974)(holding only that New York statute did not apply to prohibit corporate contributions in connection with non-partisan referenda).

III. THE FIRST AMENDMENT DOES NOT GUARANTEE THE RIGHT TO SPEAK ANONYMOUSLY IN EXPRESS ADVOCACY COMMUNICATIONS.

Defendants argue that "[a] voter's political preferences are meant to be kept secret," TRIM Br. at 30 and that, therefore, FECA's limited disclosure provisions applied to express advocacy communications, §§ 434(e), 441d, are unconstitutional. Clearly, the Supreme Court held to the contrary when it upheld FECA's disclosure provisions in Buckley v. Valeo, 424 U.S. at 66. The Court specifically distinguished FECA's disclosure provisions from those reviewed in Talley v. California, 362 U.S. 60 (1960) and found FECA's provisions constitutional. Buckley, 424 U.S. at 81. Indeed, the Court has long sustained non-discriminatory statutory requirements for disclosure of identifying information. Thus, in Lewis Publishing Company v. Morgan, 229 U.S. 288 (1913) the Court held constitutional a requirement of the Post Office Appropriations Act of 1912, 39 U.S.C. § 3685, that owners of publications "having periodical publication mail privileges" disclose to the Postal Service and annually within the publication itself

(1) the identity of the editor, managing editor, publishers, and owners;

(2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;

(3) the identity of known bondholders, mortgagees, and other security holders;

(4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and

(5) such other information as the Postal Service may deem necessary to determine whether the publication meets the standards for periodical publication mail privileges.

39 U.S.C. § 3685; Domestic Mail Manual § 461, 44 Fed. Reg. 39,801 (1979) (requiring that additional information for identification purposes be conspicuously disclosed on the publication's masthead or on one of its first five pages). Accord, Branzburg v. Hayes, 408 U.S. 665 (1972) (newspaper reporter may be required, consistent with the first amendment to disclose identities of sources to grand jury); Talley v. California, 362 U.S. at 70 (dissenting opinion of Justice Clark); United States v. Harriss, 347 U.S. 612 (1954); (Congress may require the disclosure of lobbying activities without violating the first amendment); Burroughs and Cannon v. United States, 290 U.S. 534 (1934)(within the power of Congress to require reporting pursuant to the Federal Corrupt Practices Act of 1925); United States v. Scott, 195 F. Supp. 440 (D.N.D. 1961) (district court upheld FECA's disclosure provision, 18 U.S.C. § 612, predecessor to 2 U.S.C. § 441d, as not violative of the first amendment). Since FECA's limited disclosure provisions, 2 U.S.C. §§ 434(e), 441d, apply only to express advocacy communications about candidates, fears that anonymous speech on political issues would be eliminated are unfounded.

IV. THE CLITRIM/TRIM BULLETINS ARE EXAMPLES OF "EXPRESS ADVOCACY" COMMUNICATIONS AS DEFINED BY FECA, BY THE SUPREME COURT IN BUCKLEY, AND BY THE COMMISSION'S REGULATIONS.

Defendants/Intervenor argue that the bulletins did not expressly advocate the election or defeat of clearly identified federal candidates because they did not contain the precise words of advocacy suggested by the Supreme Court in Buckley. 424 U.S. at 44 n.52. The district court's findings appear also to be based upon this limited reading of Buckley. Finding No. 31 at 25. The Commission submits that the district court's conclusion that the CLITRIM Bulletin was not "express advocacy" is incorrect. Statutory Question No. 1 at 10.

As fully discussed, supra, the fact that the CLITRIM/TRIM bulletins were in the form of voting charts cannot insulate them from the application of FECA. The Commission concluded that these voting charts were not mere compilations of "voting records of candidates for federal office...not active electioneering" but rather in reality were "designed to influence the public at large to vote for or against particular candidates" only after full investigation and discussions with the parties involved. See United States v. Lewis Foods Company, Inc. 366 F.2d at 712. Clearly the election bulletins went beyond mere presentation of voting records to "characterize" the representative's position, to include a "commentary describing the

[Representative's] votes," and to influence the voter in an effort to "unseat...a liberal representative...unseat...a moderate representative or strengthen...a conservative representative." Findings No. 16 at 20, 19 at 34, 19 at 21.

In finding "probable cause to believe" on this factual issue, the Commission reviewed other evidence surrounding the particular circumstances of the case presented for its consideration. Its final determination reflects the belief that the TRIM activity was clearly "unambiguously related to the campaign of a particular federal candidate."[6/] Buckley v. Valeo, 424 U.S. at 80.

V. THE COMMISSION'S INVESTIGATION OF CLITRIM/TRIM IN THIS CASE WAS CONSISTENT WITH FECA AND THE DUE PROCESS REQUIREMENTS OF THE FIFTH AMENDMENT.

Defendants argue that they were deprived of due process of law because the Commission conducted its investigation of this matter without formally naming National TRIM as a respondent.

6/ Under the detailed enforcement mechanism enacted by Congress, 2 U.S.C. § 437g, an investigation of whether or not a particular communication reaches the level of "express advocacy" would only be conducted after an individual filed a notarized complaint with the Commission. Although § 437g permits the Commission to make an investigation based upon "information ascertained in the normal course of carrying out its supervisory responsibilities," communications which may or may not contain "express advocacy" are not routinely disclosed to the Commission to trigger such a "normal course" investigation. In addition, Congress has required that the Commission afford individuals who are notified such investigations "a reasonable opportunity to demonstrate" that no violation has occurred through a three-step investigatory process. 2 U.S.C. § 437g; Comm. Br. at 30.

The Commission, however, as discussed fully in Comm. Br. at 38, did include National TRIM in the investigation and conciliation process outlined by the statute. 2 U.S.C. § 437g.

As a matter of law, given National TRIM's participation during the conciliation process, National TRIM's participation in answering Commission interrogatories and reviewing a proposed conciliation agreement, and National TRIM's close working relationship with CLITRIM and Edward Cozzette during the Commission's investigation, the Commission's decision not to open a new case formally naming TRIM as a respondent, but instead to name the organization as a necessary party pursuant to Rule 19 of the Federal Rules of Civil Procedure was reasonable.

Thus, the Commission contests the district court's conclusion that "[p]rior to the institution of this action, the FEC did not seek conciliation with National TRIM." Finding No. 28 at 25, Comm. Br. at 38. Although the language of the court's finding is identical to a stipulation of fact signed by the parties immediately prior to the hearing in this case in the district court, Court Exhibit II, Stipulations of Fact, No. 22 at 4, the Commission, in the district court proceedings prior to certication, made clear that the signed stipulations were stipulations of fact, not of law, and objected to findings proposed by defendants/intervenor which contained conclusions

of law. See Plaintiff's Opposition to Proposed Findings of Fact No. 8 at 9 (July 11, 1979). The Commission thus interprets the stipulations to reach only the factual issue that TRIM was not formally named as a respondent. The Commission does not contest that it did not formally name National TRIM as a respondent in its administrative investigation of this case. Comm. Br. at 41. What the Commission does contest is that deciding not to name TRIM as a respondent means that, as a matter of law, the Commission "did not seek conciliation with National TRIM."

VI. SECTIONS 434(e), 441d EXTEND TO INDEPENDENT EXPENDITURES FOR EXPRESS ADVOCACY COMMUNICATIONS EXCEPT WHERE THE THREAT TO THE EXERCISE OF FIRST AMENDMENT RIGHTS IS SO SERIOUS AS TO OVERRIDE THE SUBSTANTIAL GOVERNMENTAL INTEREST IN DISCLOSURE.

Defendants, relying on Talley v. California, supra, and Buckley v. Valeo, supra, argue that "only where the materials are campaign-related, using express words of advocacy, and there is no risk of harassment may disclosure be constitutionally required." TRIM Br. at 32. In their attempt to narrow the applicability of the disclosure requirements, defendants misconstrue the Talley decision and misinterpret the Buckley test for harassment.

First, in Talley, the Court considered an ordinance which "[barred] all handbills under all circumstances anywhere that

[did] not have names and addresses printed on them in the place the ordinance required." Talley, 362 U.S. at 64. (emphasis added). The Court expressly reserved the question of "the validity of an ordinance limited to prevent [fraud, false advertising and libel] or any other supposed evils. Id; and at 66-67 (Harlan, J., concurring). The Supreme Court, in Buckley, held that the FECA disclosure provisions did not suffer the infirmities of overbreadth found in Talley. Buckley, 424 U.S. at 81. FECA, as sought to be enforced by the Commission, is "narrowly limited to those situations where the information sought has a substantial connection with the governmental interest sought to be advanced," i.e., to "stem corruption or its appearance" and to "increase the fund of information to the electorate." 424 U.S. at 81.

Second, the Buckley test of harassment is not whether there is "no risk of harassment." TRIM Br. at 32. Rather, the Court concluded in Buckley that the substantial governmental interest in disclosure can only be outweighed by a "serious" threat, not by "clearly articulated fears" of general harm. 424 U.S. at 71. The Court held that FECA's disclosure provisions "appear to be the least restrictive means of curbing the evils of campaign ignorance and corruption that Congress found to exist." 424 U.S. at 68. Therefore, to "be exempt from such reasonable and minimally restrictive disclosure requirements," defendants must demonstrate that harassment would be a direct consequence

of defendant's compliance with FECA's disclosure provisions and that the degree of harassment will be so serious as to override the substantial governmental interest in disclosure.

The district court's findings of fact in this area merely adopted general statements by defendants and witnesses alleging some degree of unpopularity. These findings are not suported by facts in the record to demonstrate that either TRIM, CLITRIM or the John Birch Society will either be unduly burdened by complying with the Act or that, through disclosure, the organizations will be subject to additional or continued harassment. Comm. Br. at 27. The Court in Buckley explicitly recognized that some inconvenience and even economic loss were not sufficient to render FECA's disclosure provisions unconstitutional:

> At best [appellants] offer the testimony of several minor-party officials that one or two persons refused to make contributions because of the possibility of disclosure.

Buckley, 424 U.S. at 71, 72 (footnote omitted).[7/]

Further, since the John Birch Society, found to be "controversial in many parts of the country," Finding No. 12 at 15, already identifies itself on all TRIM Bulletins, it is difficult to determine how further harassment will result from the addition

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7/ In United States v. Scott, 195 F. Supp at 440, the court held that 18 U.S.C. § 612 did not violate the first amendment, recognizing that "the value to the public of the statute here under attack" cannot be outweighed by the "merely possibility of reprisal." Id. at 443.

of a plain statement indicating that "the publication is financed by TRIM." Certainly complying with § 441d will not affect the "Society's standing policy of maintaining the names and addresses of members and contributors in strict confidentiality." Finding No. 15 at 15. With regard to the § 434(e) requirements, recognizing that the independent disclosure provision is aimed at reaching spending by special interest groups that is unambiguously related to a federal election, even when TRIM or CLITRIM expends funds in excess of $100 to expressly advocate the election of a clearly identified candidate, the only disclosure required of TRIM or CLITRIM is the amounts of such expenditures and payees.[8/] See full discussion in Comm. Br. at 44.

VII. SECTION 441d IS NOT LIMITED IN ITS APPLICATION TO MASS MEDIA COMMUNICATIONS.

Defendants assert that § 441d applies only to mass communication media and not to "other media of expression like the kind involved in this case." CLITRIM Br. at 52. CLITRIM argues that, because pamphlets, flyers, brochures, leaflets,

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8/ The Commission recognizes that individuals who make contributions, in excess of $100 in any calendar year, to TRIM or CLITRIM for the purpose of making independent expenditures would also be required to file an FEC Form 5. However, the possibility of harassment due to said disclosure seems even more attenuated. In addition, contributions to TRIM or CLITRIM for any other purpose would not be required to be disclosed. Only political committees and candidates need disclose all contributions and expenditures.

handbills, etc. are not specifically listed in section 441d, Congress did not intend them to be covered by the statute.

Congressional concern for disclosure of all express advocacy communications is reflected in the statute itself. After listing certain types of communication, Congress specifically also included "...any other type of general public political advertising." Section 441d was enacted by Congress as part of the FECA Amendments of 1976 to comply with the Supreme Court's holding in Buckley which upheld the governmental interest

> to insure that the voters are fully informed and to achieve through publicity the maximum deterrence to corruption and undue influence possible.

Id. at 76. For the court to delineate the boundaries of § 441d to include only mass media communication, as defendants urge, would be to ignore the intent of Congress.[9/]

Section 441d was a "substantial revision of 18 U.S.C. Section 612", requiring "that any printed or broadcast communication" contain disclosure provisions. S. Rep. No. 94-677, 94th Cong., 2d Sess. 11 (1976)(emphasis added). The importance

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9/ Defendants' reliance on United States v. Insco, 496 F.2d 204 (5th Cir. 1974) is inapposite. There, the court held that 18 U.S.C. § 612, predecessor to 2 U.S.C. § 441d, did not apply to require a disclosure statement on bumper stickers which "served merely to identify a candidate." The court specifically stated:

> We treat here only the extraordinary facts, unlikely of repetition in other contexts, presently before us.

Id. at 209.

of a § 441d disclosure statement on all express advocacy communications was recognized by the House of Representatives. In its report to accompany H.R. 12406 the Committee on House Administration explained the very purpose of this section:

> Both of these provisions [§§ 434(e) and 441d] are designed to provide additional information to the voting public and to do so in a manner which places comparable reporting and disclosure requirements on candidates, and on individuals and groups making independent expenditures.

H. Rep. No. 94-917, 94th Cong. 2d Sess. 5 (1976)(emphasis added).

Clearly, Congress did not intend to limit the amount of information disclosed to the public by exempting all brochures and leaflets from § 441d disclosure. The Chairman of the House Administration Committee summarized § 441d this way:

> Whenever an individual makes an expenditure financing any communication advocating the election or defeat of a candidate for public office, such communication must be clearly identified as authorized by a political candidate or committee, or if not authorized by a candidate or committee, that fact must be clearly identifiable.

122 Cong. Rec. H2533 (daily ed. March 30, 1976)(remarks of Rep. Hays) (emphasis added). And Congressman Brademas explained:

> I believe that these "truth in advertising" requirements for independent expenditures will both help prevent sharp practices and further reduce the corrupting influence of big money in Federal elections.

122 Cong. Rec. H3782 (daily ed. May 3, 1976) (remarks of Rep. Brademas). A plain reading of the statute, supported by its legislative history, compels the conclusion that § 441d applies

to express advocacy communications such as those distributed by CLITRIM/TRIM in this case. Section 441d thus clearly applies to the CLITRIM/TRIM bulletins at issue in this case.

CONCLUSION

For reasons set forth herein, and in the Commission's opening Brief, this court should conclude that FECA's limited disclosure provisions, 2 U.S.C. §§ 434(e), 441d and FECA's enforcement provision, 2 U.S.C. § 437g, are consistent with the requirements of the Constitution of the United States. Although the Commission maintains that the application of these provisions and the application of the Commission's regulation, 11 C.F.R. § 109.1(b)(2), to defendants herein are also constitutional, these questions were not properly certified pursuant to 2 U.S.C. § 437h and therefore should be returned to the district court for determination during the Commission's enforcement action.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that I caused to be served by first-class mail, postage prepaid, on October 25, 1979, two copies of the Federal Election Commission's Reply Brief to the following counsel:

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