



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1868

Date Filmed 5/7/85 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

- 1) 12 Day Report and Comments
- 2) Routing Slips
- 3) Memos from Docket
- 4) Notifications of circulation

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

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| <input checked="" type="checkbox"/> (2) Internal rules and practices | <input type="checkbox"/> (7) Investigatory files |
| <input type="checkbox"/> (3) Exempted by other statute | <input type="checkbox"/> (8) Banking Information |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents | |

Signed

date

Jonathan Levin
4/30/85

FEC 9-21-77

85040523368

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Lewis E. Lehrman) MUR 1868
New Yorkers for Lew Lehrman)
Citizens for the Republic)
Arthur S. Dellinger, Jr.,)
as treasurer)
Sullivan for Senate)
Joseph M. Sussillo,)
as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 22, 1985, the Commission decided by a vote of 5-0 to take the following actions in MUR 1868:

1. Find no reason to believe that Lewis E. Lehrman or New Yorkers for Lew Lehrman violated 2 U.S.C. § 441a(a)(1)(A).
2. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441a(f).
3. Find no reason to believe that Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, violated 11 C.F.R. § 110.6(e).
4. Find no reason to believe that Lewis E. Lehrman, New Yorkers for Lew Lehrman, Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, or Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441f.

(Continued)

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5. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. §§ 434(b)(3) and 434(b)(4).
6. Find no reason to believe that New Yorkers for Lew Lehrman violated 2 U.S.C. §§ 433(a) and 434(a).
7. Close the file.
8. Approve the letters attached to the General Counsel's Report signed March 19, 1985.

Commissioners Aikens, Elliott, Harris, McDonald and McGarry voted affirmatively in this matter; Commissioner Reiche did not cast a vote.

Attest:

3-25-85

Date

Jody C. Ransom
for Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

3-20-85, 12:53
3-20-85, 4:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 12, 1985

Whitney North Seymour, Jr.
100 Park Avenue, Room 2606
New York, New York 10017

Re: MUR 1868

Dear Mr. Seymour:

Enclosed please find the General Counsel's Report which was inadvertently omitted from our letter of March 29, 1985. I apologize for any inconvenience this may have caused.

If you have any questions, please contact Jonathan Levin, the attorney assigned to the matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name.

By: Kenneth A. Gross
Associate General Counsel

Enclosure

85040523371

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lewis E. Lehrman

New Yorkers for Lew Lehrman

Citizens for the Republic

Arthur S. Dellinger, Jr., as treasurer

Sullivan for Senate

Joseph M. Sussillo, as treasurer

01 MAR 27 712: 54

MUR 1868

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 20, 1984, the Office of the General Counsel received a complaint from Muriel F. Siebert and Whitney North Seymour, Jr., two unsuccessful candidates for the New York Republican Senatorial nomination in 1982, against Lewis E. Lehrman and New Yorkers for Lew Lehrman, Mr. Lehrman's 1982 gubernatorial campaign committee. The complaint centers around an allegation that "respondents caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters (sic) in New York State to be made available as an in-kind contribution" to Sullivan for Senate ("the Sullivan Committee") in violation of the § 441a limits. Complainants also claim that "in order to conceal the true source and value of such in-kind contribution," Lehrman's committee contributed the labels through a conduit, Citizens for the Republic ("CFTR"), a California-based multicandidate committee, "in violation of the provisions of 11 C.F.R. § 110.6." Complainants allege that such violations were knowing and willful.

Complainants enclosed documents which they allege "give rise to complainants' belief" in the truth of their claims. These

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documents include: (1) a "Lehrman Governor Campaign Report" describing efforts by Lehrman volunteers to complete a statewide voter list known as a "Prime Voters List" by July 15, 1982; (2) a May, 1982, price list from Election Computer Services, Inc. containing a listing for "Prime Voter Lists" at \$31 per thousand; (3) a number of newspaper articles referring to the Sullivan campaign's mailing list, including an article referring to a mailing to "more than 427,000 Republicans around the state;" (4) Conservative Party pre-primary literature displaying Lehrman's endorsement of Sullivan; (5) copies of mailing panels from both the Sullivan campaign and the Lehrman campaign showing the similarity in the composition of the labels; and (6) schedules A and B of the Sullivan for Senate Pre-Primary Report disclosing a \$3,368.85 in-kind contribution of mailing labels from CFTR to Sullivan for Senate on August 20, 1984. A review by this Office of CFTR's September, 1982, Report also disclosed an in-kind contribution from CFTR to the Sullivan Committee on August 20, 1982.

A response from counsel for CFTR was received on January 23, 1985. A reply from counsel for Mr. Lehrman and the Lehrman Committee was received on January 28. No reply was received from the Sullivan Committee.

CFTR denies ever participating as a conduit for contributions to Sullivan for Senate. It further denies ever making a "transfer to any group or committee, including the Sullivan for Senate Committee, at the request of Lewis E. Lehrman or New Yorkers for Lew Lehrman."

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CFTR contends that the complainants have drawn invalid conclusions from the documents and newspaper articles used as a basis for their complaint.

CFTR states that the \$3,368.85 in-kind contribution of mailing labels which Sullivan for Senate reported receiving came from CFTR. This contribution, according to CFTR, consisted of "22,459 pre-printed '4-up Cheshire Labels' valued at \$150 per thousand." CFTR asserts that the labels were "developed solely by CFTR" and were tendered to the Sullivan for Senate committee as an in-kind contribution and were accompanied by CFTR's standard tender agreement." According to the affidavit of Paul M. Foley, CFTR's Assistant Director and the person in charge of the committee's direct mail operations, this contribution "was not made at the suggestion of Lewis E. Lehrman or New Yorkers for Lew Lehrman, but rather was made in the normal course of CFTR's activities as a multi-candidate political committee." Mr. Foley states that CFTR received nothing of value from Mr. Lehrman or his committee prior to or during 1982. */ Mr. Foley states that CFTR's records do indicate a receipt of a \$5,000 contribution from Mr. Lehrman on July 27, 1983, but that this was "in no way related" to CFTR's contribution to the Sullivan committee. Finally, Mr. Foley asserts that he has examined the mailing labels attached to the complaint and has concluded "that such

*/ A computerized run of a G index by the Data Division for 1982 revealed no contributions by Mr. Lehrman to CFTR.

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labels were not part of the 22,459 labels contributed to Sullivan for Senate, and moreover, none of the names set forth on those exhibits is contained in CFTR's mailing lists."

Counsel for Mr. Lehrman and New Yorkers for Law Lehrman responded by discussing the three "allegations" contained in the complaint and by addressing the issue of the probative value of each exhibit. Counsel states that the Lehrman committee "may have had ownership of a list of voters who voted in Republican primaries, but made no contribution of any such list or labels reflective of such list directly or indirectly to the Sullivan campaign." Counsel states that his clients would have no knowledge or information as to the "second" allegation, i.e., that the value of the labels exceeded \$1,000. Based upon the denial that any such contribution was made, counsel denies the "third" allegation, i.e., that his clients attempted to conceal the source and value of the contribution through the use of CFTR.

Counsel proceeds to analyze each exhibit chronologically. The first exhibit to appear chronologically was the price list from Election Computer Services, Inc. Counsel presumes that this list was exhibited to establish what complainants considered to be the "fair market value" of the list in question. Counsel contends that, assuming this was the same list used by the Lehrman Committee, it does not take into account the likely diminution in value of this type of "time-sensitive" list offered four months before the alleged contribution and five months before the primary. Counsel also states that this exhibit does show "that as early as May, 1982 - several months before even the

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partial completion of any primary voters list to be developed by Respondent-New Yorkers for Lew Lehrman-a Prime Voters List was available from at least one private label-list vendor to those willing to purchase it," and that this list was purchasable by anyone. (Emphasis included).

Counsel discusses the newspaper article exhibits, stating that they make references to a substantial statewide mailing list in the possession of the Sullivan campaign. Counsel states that these articles assert nothing relevant to the Lehrman campaign. Counsel further notes that, while one of the articles refers to the Sullivan mailing list as a list of 563,253 Republicans who voted in the party's 1980 Senate primary, the New Yorkers for Lew Lehrman list was not merely a list of Republican voters in the 1980 Senate primary.

In referring to the Conservative Party pre-primary literature, counsel states that there was "no nexus shown, or even intimated between this exhibit and Respondents." Counsel further states that his clients "deny knowledge or information sufficient to form a belief as to the existence or distribution of the flyer."

Counsel discusses the exhibit displaying the mailing labels by stating that the labels "were similar -- but in no case identical." Counsel points out that the complaint ignores a number of possibilities, i.e., that the labels could have been bought from the same vendor, that they could have been bought from vendors with similar software programs or hardware for

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generating labels, or that the labels looked similar because there are only a limited number of ways to type a name and address on a label.

II. LEGAL ANALYSIS

The complaint alleges violations of a number of sections of the Act and Regulations. By alleging that the true source of the contribution to the Sullivan Committee was Lewis E. Lehrman and/or New Yorkers for Lew Lehrman, complainants are asserting that Mr. Lehrman or the Lehrman committee violated 2 U.S.C. § 441a(a)(1)(A) which prohibits a person from contributing over \$1,000 per election to a candidate or his or her committee. The complainants are also asserting that the Sullivan Committee violated 2 U.S.C. § 441a(f) which prohibits knowing acceptance of contributions made in violation of the provisions of 2 U.S.C. § 441a.

Complainants' allegations against CFTR are intended to pertain to the duty of an intermediary or conduit of an earmarked contribution under 11 C.F.R. § 110.6(e) to report the original source and intended recipient. The allegations address a situation involving an in-kind contribution, rather than a deposit of a check with one committee which then transmits the check to the intended recipient. The situation alleged in this matter appears more closely akin to a contribution by Mr. Lehrman or his committee in the name of CFTR, a contribution in violation of 2 U.S.C. § 441f which prohibits making a contribution in the

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name of another, knowingly permitting one's name to be used to effect such a contribution, and knowingly accepting such a contribution.

Complainants' allegations also apply to the Act's registration and reporting requirements. According to the complaint, Sullivan for Senate failed to report the real contributor of the mailing labels and, therefore, would be in violation of the reporting requirements of 2 U.S.C. § 434(b)(3) and (4). Additionally, New Yorkers for Lew Lehrman, by making a contribution in excess of \$1,000 would be required to register and report as a political committee. Its failure to do so, if such a contribution were made, would be a violation of 2 U.S.C. §§ 433(a) and 434(a).

A review of the complaint, the exhibits attached to the complaint, and the replies to the complaint indicate that there is no convincing evidence that the contribution described by the complaint took place. Complainants have taken a number of newspaper articles discussing either Lehrman campaign lists or Sullivan campaign lists, a number of mailing labels bearing some similarity to each other, the use of what can be assumed to be a common name, i.e., "Prime Voters List," the fact that Mr. Lehrman endorsed Mrs. Sullivan and a report of a contribution of mailing labels by CFTR to Sullivan for Senate and have developed a scenario for an excessive in-kind contribution made surreptitiously.

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The newspaper articles reveal only that each campaign had sizeable and presumably valuable lists. The explanation from Mr. Lehrman's counsel as to the labels is logical and the labels are not particularly probative as evidence. Respondents have based their allegation as to the number of Republicans contacted, i.e., 427,000, upon a reference to a Sullivan campaign mailing in a newspaper article printed on the day after the Republican primary election, rather than upon any primary source. No source is apparent for the allegation that there were 361,000 labels for these mailings. The price list from Election Computer Services, Inc. issued in May, 1982, was enclosed apparently to prove that the in-kind contribution was undervalued. There appears to be no evidence, however, linking the company's "Prime Voter Lists" with the Lehrman campaign's "Prime Voters List" compilation project which was still in progress in July, 1982.

Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission find no reason to believe that any provision of the Act or Regulations was violated.

III. RECOMMENDATIONS

1. Find no reason to believe that Lewis E. Lehrman or New Yorkers for Lew Lehrman violated 2 U.S.C. § 441a(a)(1)(A).
2. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find no reason to believe that Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, violated 11 C.F.R.

§ 110.6(e).

4. Find no reason to believe that Lewis E. Lehrman, New Yorkers for Lew Lehrman, Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, or Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441f.

5. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. §§ 434(b)(3) and 434(b)(4).

6. Find no reason to believe that New Yorkers for Lew Lehrman violated 2 U.S.C. §§ 433(a) and 434(a).

7. Close the file.

8. Approve the attached letters.

Charles N. Steele
General Counsel

March 19, 1985

Date

By:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Reply from counsel from CFTR, received on January 23, 1985
2. Reply from counsel for Lewis E. Lehrman and New Yorkers for Lew Lehrman, received on January 28, 1985
3. Proposed letters to respondents
4. Proposed letters to complainants

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 29, 1985

Frank Trotta, Jr., Esquire
24 North Avenue
New Rochelle, New York 10805

Re: MUR 1868
Lewis E. Lehrman
New Yorkers for Lew Lehrman

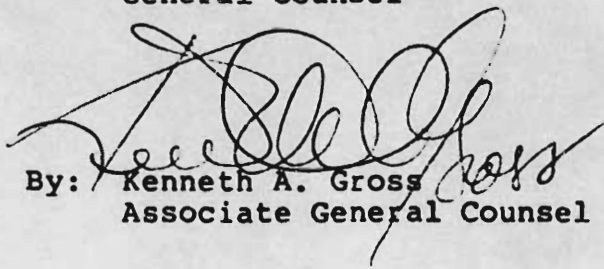
Dear Mr. Trotta:

On December 31, 1984, the Commission notified your clients, Lewis E. Lehrman and New Yorkers for Lew Lehrman, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March 22, 1985, determined that, on the basis of the information in the complaint and information provided by the respondents and you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 29, 1985

Ronald E. Robertson, Esquire
440 First Street, N.W.
Washington, D.C. 20001

Re: MUR 1868
Citizens for the Republic ("CFTR")

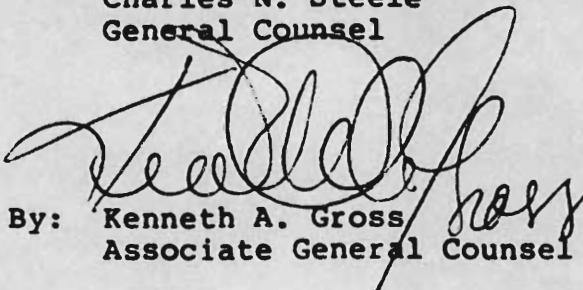
Dear Mr. Robertson:

On December 31, 1984, the Commission notified your client, CFTR, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March 22, 1985, determined that, on the basis of the information in the complaint and information provided by the respondents and you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

85040523382



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 29, 1985

Joseph M. Sussillo, Treasurer
Sullivan for Senate
437 Bay Ridge Parkway
Brooklyn, New York 11209

Re: MUR 1868
Sullivan for Senate
Joseph M. Sussillo, Treasurer

Dear Mr. Sussillo:

On December 31, 1984, the Commission notified Sullivan for Senate and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March 22, 1985, determined that, on the basis of the information in the complaint and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

85040523383



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 29, 1985

Muriel F. Siebert
435 East 52nd Street
New York, New York 10028

Re: MUR 1868


Dear Ms. Siebert:

The Federal Election Commission has reviewed the allegations of your complaint dated December 20, 1984, and determined that, on the basis of the information provided in your complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040523384



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 29, 1985

Whitney North Seymour, Jr.
100 Park Avenue, Room 2606
New York, New York 10017

Re: MUR 1868


Dear Mr. Seymour:

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The Federal Election Commission has reviewed the allegations of your complaint dated December 20, 1984, and determined that, on the basis of the information provided in your complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Frank Trotta, Jr., Esquire
24 North Avenue
New Rochelle, New York 10805

Re: MUR 1868
Lewis E. Lehrman
New Yorkers for Lew Lehrman

27
3/27/85

Dear Mr. Trotta:

On December 31, 1984, the Commission notified your clients, Lewis E. Lehrman and New Yorkers for Lew Lehrman, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1985, determined that, on the basis of the information in the complaint and information provided by the respondents and you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

85040523386



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Ronald E. Robertson, Esquire
440 First Street, N.W.
Washington, D.C. 20001

Re: MUR 1868
Citizens for the Republic ("CFTR")

87
3/27/85

Dear Mr. Robertson:

On December 31, 1984, the Commission notified your client, CFTR, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1985, determined that, on the basis of the information in the complaint and information provided by the respondents and you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

85040523387



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Joseph M. Sussillo, Treasurer
Sullivan for Senate
437 Bay Ridge Parkway
Brooklyn, New York 11209

Re: MUR 1868
Sullivan for Senate
Joseph M. Sussillo, Treasurer

JJ 3/27/85

Dear Mr. Sussillo:

On December 31, 1984, the Commission notified Sullivan for Senate and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1985, determined that, on the basis of the information in the complaint and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

85040523388



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Muriel F. Siebert
435 East 52nd Street
New York, New York 10028

Re: MUR 1868

JI 3/27/83

Dear Ms. Siebert:

The Federal Election Commission has reviewed the allegations of your complaint dated December 20, 1984, and determined that, on the basis of the information provided in your complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040523389



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Whitney North Seymour, Jr.
100 Park Avenue, Room 2606
New York, New York 10017

Re: MUR 1868

jj 3/27/85

Dear Mr. Seymour:

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

85040523390

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lewis E. Lehrman

New Yorkers for Lew Lehrman

Citizens for the Republic

Arthur S. Dellinger, Jr., as treasurer

Sullivan for Senate

Joseph M. Sussillo, as treasurer

MUR 1868

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 20, 1984, the Office of the General Counsel received a complaint from Muriel F. Siebert and Whitney North Seymour, Jr., two unsuccessful candidates for the New York Republican Senatorial nomination in 1982, against Lewis E. Lehrman and New Yorkers for Lew Lehrman, Mr. Lehrman's 1982 gubernatorial campaign committee. The complaint centers around an allegation that "respondents caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters (sic) in New York State to be made available as an in-kind contribution" to Sullivan for Senate ("the Sullivan Committee") in violation of the § 441a limits. Complainants also claim that "in order to conceal the true source and value of such in-kind contribution," Lehrman's committee contributed the labels through a conduit, Citizens for the Republic ("CFTR"), a California-based multicandidate committee, "in violation of the provisions of 11 C.F.R. § 110.6." Complainants allege that such violations were knowing and willful.

Complainants enclosed documents which they allege "give rise to complainants' belief" in the truth of their claims. These

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documents include: (1) a "Lehrman Governor Campaign Report" describing efforts by Lehrman volunteers to complete a statewide voter list known as a "Prime Voters List" by July 15, 1982; (2) a May, 1982, price list from Election Computer Services, Inc. containing a listing for "Prime Voter Lists" at \$31 per thousand; (3) a number of newspaper articles referring to the Sullivan campaign's mailing list, including an article referring to a mailing to "more than 427,000 Republicans around the state;" (4) Conservative Party pre-primary literature displaying Lehrman's endorsement of Sullivan; (5) copies of mailing panels from both the Sullivan campaign and the Lehrman campaign showing the similarity in the composition of the labels; and (6) schedules A and B of the Sullivan for Senate Pre-Primary Report disclosing a \$3,368.85 in-kind contribution of mailing labels from CFTR to Sullivan for Senate on August 20, 1984. A review by this Office of CFTR's September, 1982, Report also disclosed an in-kind contribution from CFTR to the Sullivan Committee on August 20, 1982.

A response from counsel for CFTR was received on January 23, 1985. A reply from counsel for Mr. Lehrman and the Lehrman Committee was received on January 28. No reply was received from the Sullivan Committee.

CFTR denies ever participating as a conduit for contributions to Sullivan for Senate. It further denies ever making a "transfer to any group or committee, including the Sullivan for Senate Committee, at the request of Lewis E. Lehrman or New Yorkers for Lew Lehrman."

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CFTR contends that the complainants have drawn invalid conclusions from the documents and newspaper articles used as a basis for their complaint.

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*/ A computerized run of a G index by the Data Division for 1982 revealed no contributions by Mr. Lehrman to CFTR.

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labels were not part of the 22,459 labels contributed to Sullivan for Senate, and moreover, none of the names set forth on those exhibits is contained in CFTR's mailing lists."

Counsel for Mr. Lehrman and New Yorkers for Lew Lehrman responded by discussing the three "allegations" contained in the complaint and by addressing the issue of the probative value of each exhibit. Counsel states that the Lehrman committee "may have had ownership of a list of voters who voted in Republican primaries, but made no contribution of any such list or labels reflective of such list directly or indirectly to the Sullivan campaign." Counsel states that his clients would have no knowledge or information as to the "second" allegation, i.e., that the value of the labels exceeded \$1,000. Based upon the denial that any such contribution was made, counsel denies the "third" allegation, i.e., that his clients attempted to conceal the source and value of the contribution through the use of CFTR.

Counsel proceeds to analyze each exhibit chronologically. The first exhibit to appear chronologically was the price list from Election Computer Services, Inc. Counsel presumes that this list was exhibited to establish what complainants considered to be the "fair market value" of the list in question. Counsel contends that, assuming this was the same list used by the Lehrman Committee, it does not take into account the likely diminution in value of this type of "time-sensitive" list offered four months before the alleged contribution and five months before the primary. Counsel also states that this exhibit does show "that as early as May, 1982 - several months before even the

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partial completion of any primary voters list to be developed by Respondent-New Yorkers for Lew Lehrman-a Prime Voters List was available from at least one private label-list vendor to those willing to purchase it," and that this list was purchasable by anyone. (Emphasis included).

Counsel discusses the newspaper article exhibits, stating that they make references to a substantial statewide mailing list in the possession of the Sullivan campaign. Counsel states that these articles assert nothing relevant to the Lehrman campaign. Counsel further notes that, while one of the articles refers to the Sullivan mailing list as a list of 563,253 Republicans who voted in the party's 1980 Senate primary, the New Yorkers for Lew Lehrman list was not merely a list of Republican voters in the 1980 Senate primary.

In referring to the Conservative Party pre-primary literature, counsel states that there was "no nexus shown, or even intimated between this exhibit and Respondents." Counsel further states that his clients "deny knowledge or information sufficient to form a belief as to the existence or distribution of the flyer."

Counsel discusses the exhibit displaying the mailing labels by stating that the labels "were similar -- but in no case identical." Counsel points out that the complaint ignores a number of possibilities, i.e., that the labels could have been bought from the same vendor, that they could have been bought from vendors with similar software programs or hardware for

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generating labels, or that the labels looked similar because there are only a limited number of ways to type a name and address on a label.

II. LEGAL ANALYSIS

The complaint alleges violations of a number of sections of the Act and Regulations. By alleging that the true source of the contribution to the Sullivan Committee was Lewis E. Lehrman and/or New Yorkers for Lew Lehrman, complainants are asserting that Mr. Lehrman or the Lehrman committee violated 2 U.S.C. § 441a(a)(1)(A) which prohibits a person from contributing over \$1,000 per election to a candidate or his or her committee. The complainants are also asserting that the Sullivan Committee violated 2 U.S.C. § 441a(f) which prohibits knowing acceptance of contributions made in violation of the provisions of 2 U.S.C. § 441a.

Complainants' allegations against CFTR are intended to pertain to the duty of an intermediary or conduit of an earmarked contribution under 11 C.F.R. § 110.6(e) to report the original source and intended recipient. The allegations address a situation involving an in-kind contribution, rather than a deposit of a check with one committee which then transmits the check to the intended recipient. The situation alleged in this matter appears more closely akin to a contribution by Mr. Lehrman or his committee in the name of CFTR, a contribution in violation of 2 U.S.C. § 441f which prohibits making a contribution in the

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name of another, knowingly permitting one's name to be used to effect such a contribution, and knowingly accepting such a contribution.

Complainants' allegations also apply to the Act's registration and reporting requirements. According to the complaint, Sullivan for Senate failed to report the real contributor of the mailing labels and, therefore, would be in violation of the reporting requirements of 2 U.S.C. § 434(b)(3) and (4). Additionally, New Yorkers for Lew Lehrman, by making a contribution in excess of \$1,000 would be required to register and report as a political committee. Its failure to do so, if such a contribution were made, would be a violation of 2 U.S.C. §§ 433(a) and 434(a).

A review of the complaint, the exhibits attached to the complaint, and the replies to the complaint indicate that there is no convincing evidence that the contribution described by the complaint took place. Complainants have taken a number of newspaper articles discussing either Lehrman campaign lists or Sullivan campaign lists, a number of mailing labels bearing some similarity to each other, the use of what can be assumed to be a common name, i.e., "Prime Voters List," the fact that Mr. Lehrman endorsed Mrs. Sullivan and a report of a contribution of mailing labels by CFTR to Sullivan for Senate and have developed a scenario for an excessive in-kind contribution made surreptitiously.

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The newspaper articles reveal only that each campaign had sizeable and presumably valuable lists. The explanation from Mr. Lehrman's counsel as to the labels is logical and the labels are not particularly probative as evidence. Respondents have based their allegation as to the number of Republicans contacted, i.e., 427,000, upon a reference to a Sullivan campaign mailing in a newspaper article printed on the day after the Republican primary election, rather than upon any primary source. No source is apparent for the allegation that there were 361,000 labels for these mailings. The price list from Election Computer Services, Inc. issued in May, 1982, was enclosed apparently to prove that the in-kind contribution was undervalued. There appears to be no evidence, however, linking the company's "Prime Voter Lists" with the Lehrman campaign's "Prime Voters List" compilation project which was still in progress in July, 1982.

Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission find no reason to believe that any provision of the Act or Regulations was violated.

III. RECOMMENDATIONS

1. Find no reason to believe that Lewis E. Lehrman or New Yorkers for Lew Lehrman violated 2 U.S.C. § 441a(a)(1)(A).
2. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find no reason to believe that Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, violated 11 C.F.R. § 110.6(e).
4. Find no reason to believe that Lewis E. Lehrman, New Yorkers for Lew Lehrman, Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, or Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441f.
5. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. §§ 434(b)(3) and 434(b)(4).
6. Find no reason to believe that New Yorkers for Lew Lehrman violated 2 U.S.C. §§ 433(a) and 434(a).
7. Close the file.
8. Approve the attached letters.

Charles N. Steele
General Counsel

March 19, 1985
Date

By:

Kenneth A. Gross
Associate General Counsel

Attachments

1. Reply from counsel from CFTR, received on January 23, 1985
2. Reply from counsel for Lewis E. Lehrman and New Yorkers for Lew Lehrman, received on January 28, 1985
3. Proposed letters to respondents
4. Proposed letters to complainants

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

In the Matter of
Lewis E. Lehrman
New Yorkers for Lew Lehrman
Citizens for the Republic
Arthur S. Dellinger, Jr., as treasurer
Sullivan for Senate
Joseph M. Sussillo, as treasurer

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GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 20, 1984, the Office of the General Counsel received a complaint from Muriel F. Siebert and Whitney North Seymour, Jr., two unsuccessful candidates for the New York Republican Senatorial nomination in 1982, against Lewis E. Lehrman and New Yorkers for Lew Lehrman, Mr. Lehrman's 1982 gubernatorial campaign committee. The complaint centers around an allegation that "respondents caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters (sic) in New York State to be made available as an in-kind contribution" to Sullivan for Senate ("the Sullivan Committee") in violation of the § 441a limits. Complainants also claim that "in order to conceal the true source and value of such in-kind contribution," Lehrman's committee contributed the labels through a conduit, Citizens for the Republic ("CFTR"), a California-based multicandidate committee, "in violation of the provisions of 11 C.F.R. § 110.6." Complainants allege that such violations were knowing and willful.

Complainants enclosed documents which they allege "give rise to complainants' belief" in the truth of their claims. These

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Documents include: (1) a "Lehrman Governor Campaign Report" describing efforts by Lehrman volunteers to complete a statewide voter list known as a "Prime Voters List" by July 15, 1982; (2) a May, 1982, price list from Election Computer Services, Inc. containing a listing for "Prime Voter Lists" at \$31 per thousand; (3) a number of newspaper articles referring to the Sullivan campaign's mailing list, including an article referring to a mailing to "more than 427,000 Republicans around the state;" (4) Conservative Party pre-primary literature displaying Lehrman's endorsement of Sullivan; (5) copies of mailing panels from both the Sullivan campaign and the Lehrman campaign showing the similarity in the composition of the labels; and (6) schedules A and B of the Sullivan for Senate Pre-Primary Report disclosing a \$3,368.85 in-kind contribution of mailing labels from CFTR to Sullivan for Senate on August 20, 1984. A review by this Office of CFTR's September, 1982, Report also disclosed an in-kind contribution from CFTR to the Sullivan Committee on August 20, 1982.

A response from counsel for CFTR was received on January 23, 1985. A reply from counsel for Mr. Lehrman and the Lehrman Committee was received on January 28. No reply was received from the Sullivan Committee.

CFTR denies ever participating as a conduit for contributions to Sullivan for Senate. It further denies ever making a "transfer to any group or committee, including the Sullivan for Senate Committee, at the request of Lewis E. Lehrman or New Yorkers for Lew Lehrman."

CFTR contends that the complainants have drawn invalid conclusions from the documents and newspaper articles used as a basis for their complaint.

CFTR states that the \$3,368.85 in-kind contribution of mailing labels which Sullivan for Senate reported receiving came from CFTR. This contribution, according to CFTR, consisted of "22,459 pre-printed '4-up Cheshire Labels' valued at \$150 per thousand." CFTR asserts that the labels were "developed solely by CFTR" and were tendered to the Sullivan for Senate committee as an in-kind contribution and were accompanied by CFTR's standard tender agreement." According to the affidavit of Paul M. Foley, CFTR's Assistant Director and the person in charge of the committee's direct mail operations, this contribution "was not made at the suggestion of Lewis E. Lehrman or New Yorkers for Lew Lehrman, but rather was made in the normal course of CFTR's activities as a multi-candidate political committee." Mr. Foley states that CFTR received nothing of value from Mr. Lehrman or his committee prior to or during 1982. */ Mr. Foley states that CFTR's records do indicate a receipt of a \$5,000 contribution from Mr. Lehrman on July 27, 1983, but that this was "in no way related" to CFTR's contribution to the Sullivan committee. Finally, Mr. Foley asserts that he has examined the mailing labels attached to the complaint and has concluded "that such

*/ A computerized run of a G index by the Data Division for 1982 revealed no contributions by Mr. Lehrman to CFTR.

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labels were not part of the 22,459 labels contributed to Sullivan for Senate, and moreover, none of the names set forth on those exhibits is contained in CFTR's mailing lists."

Counsel for Mr. Lehrman and New Yorkers for Lew Lehrman responded by discussing the three "allegations" contained in the complaint and by addressing the issue of the probative value of each exhibit. Counsel states that the Lehrman committee "may have had ownership of a list of voters who voted in Republican primaries, but made no contribution of any such list or labels reflective of such list directly or indirectly to the Sullivan campaign." Counsel states that his clients would have no knowledge or information as to the "second" allegation, i.e., that the value of the labels exceeded \$1,000. Based upon the denial that any such contribution was made, counsel denies the "third" allegation, i.e., that his clients attempted to conceal the source and value of the contribution through the use of CFTR.

Counsel proceeds to analyze each exhibit chronologically. The first exhibit to appear chronologically was the price list from Election Computer Services, Inc. Counsel presumes that this list was exhibited to establish what complainants considered to be the "fair market value" of the list in question. Counsel contends that, assuming this was the same list used by the Lehrman Committee, it does not take into account the likely diminution in value of this type of "time-sensitive" list offered four months before the alleged contribution and five months before the primary. Counsel also states that this exhibit does show "that as early as May, 1982 - several months before even the

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partial completion of any primary voters list to be developed by Respondent-New Yorkers for Lew Lehrman-a Prime Voters List was available from at least one private label-list vendor to those willing to purchase it," and that this list was purchasable by anyone. (Emphasis included).

Counsel discusses the newspaper article exhibits, stating that they make references to a substantial statewide mailing list in the possession of the Sullivan campaign. Counsel states that these articles assert nothing relevant to the Lehrman campaign. Counsel further notes that, while one of the articles refers to the Sullivan mailing list as a list of 563,253 Republicans who voted in the party's 1980 Senate primary, the New Yorkers for Lew Lehrman list was not merely a list of Republican voters in the 1980 Senate primary.

In referring to the Conservative Party pre-primary literature, counsel states that there was "no nexus shown, or even intimated between this exhibit and Respondents." Counsel further states that his clients "deny knowledge or information sufficient to form a belief as to the existence or distribution of the flyer."

Counsel discusses the exhibit displaying the mailing labels by stating that the labels "were similar -- but in no case identical." Counsel points out that the complaint ignores a number of possibilities, i.e., that the labels could have been bought from the same vendor, that they could have been bought from vendors with similar software programs or hardware for

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generating labels, or that the labels looked similar because there are only a limited number of ways to type a name and address on a label.

II. LEGAL ANALYSIS

The complaint alleges violations of a number of sections of the Act and Regulations. By alleging that the true source of the contribution to the Sullivan Committee was Lewis E. Lehrman and/or New Yorkers for Lew Lehrman, complainants are asserting that Mr. Lehrman or the Lehrman committee violated 2 U.S.C. § 441a(a)(1)(A) which prohibits a person from contributing over \$1,000 per election to a candidate or his or her committee. The complainants are also asserting that the Sullivan Committee violated 2 U.S.C. § 441a(f) which prohibits knowing acceptance of contributions made in violation of the provisions of 2 U.S.C. § 441a.

Complainants' allegations against CFTR are intended to pertain to the duty of an intermediary or conduit of an earmarked contribution under 11 C.F.R. § 110.6(e) to report the original source and intended recipient. The allegations address a situation involving an in-kind contribution, rather than a deposit of a check with one committee which then transmits the check to the intended recipient. The situation alleged in this matter appears more closely akin to a contribution by Mr. Lehrman or his committee in the name of CFTR, a contribution in violation of 2 U.S.C. § 441f which prohibits making a contribution in the

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name of another, knowingly permitting one's name to be used to effect such a contribution, and knowingly accepting such a contribution.

Complainants' allegations also apply to the Act's registration and reporting requirements. According to the complaint, Sullivan for Senate failed to report the real contributor of the mailing labels and, therefore, would be in violation of the reporting requirements of 2 U.S.C. § 434(b) (3) and (4). Additionally, New Yorkers for Lew Lehrman, by making a contribution in excess of \$1,000 would be required to register and report as a political committee. Its failure to do so, if such a contribution were made, would be a violation of 2 U.S.C. §§ 433(a) and 434(a).

A review of the complaint, the exhibits attached to the complaint, and the replies to the complaint indicate that there is no convincing evidence that the contribution described by the complaint took place. Complainants have taken a number of newspaper articles discussing either Lehrman campaign lists or Sullivan campaign lists, a number of mailing labels bearing some similarity to each other, the use of what can be assumed to be a common name, i.e., "Prime Voters List," the fact that Mr. Lehrman endorsed Mrs. Sullivan and a report of a contribution of mailing labels by CFTR to Sullivan for Senate and have developed a scenario for an excessive in-kind contribution made surreptitiously.

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The newspaper articles reveal only that each campaign had sizeable and presumably valuable lists. The explanation from Mr. Lehrman's counsel as to the labels is logical and the labels are not particularly probative as evidence. Respondents have based their allegation as to the number of Republicans contacted, i.e., 427,000, upon a reference to a Sullivan campaign mailing in a newspaper article printed on the day after the Republican primary election, rather than upon any primary source. No source is apparent for the allegation that there were 361,000 labels for these mailings. The price list from Election Computer Services, Inc. issued in May, 1982, was enclosed apparently to prove that the in-kind contribution was undervalued. There appears to be no evidence, however, linking the company's "Prime Voter Lists" with the Lehrman campaign's "Prime Voters List" compilation project which was still in progress in July, 1982.

Based on the foregoing analysis, the Office of the General Counsel recommends that the Commission find no reason to believe that any provision of the Act or Regulations was violated.

III. RECOMMENDATIONS

1. Find no reason to believe that Lewis E. Lehrman or New Yorkers for Lew Lehrman violated 2 U.S.C. § 441a(a)(1)(A).
2. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find no reason to believe that Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, violated 11 C.F.R. § 110.6(a).
4. Find no reason to believe that Lewis E. Lehrman, New Yorkers for Lew Lehrman, Citizens for the Republic and Arthur S. Dellinger, Jr., as treasurer, or Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. § 441f.
5. Find no reason to believe that Sullivan for Senate and Joseph M. Sussillo, as treasurer, violated 2 U.S.C. §§ 434(b)(3) and 434(b)(4).
6. Find no reason to believe that New Yorkers for Lew Lehrman violated 2 U.S.C. §§ 433(a) and 434(a).
7. Close the file.
8. Approve the attached letters.

Charles N. Steele
General Counsel

March 19, 1985
Date

By:

Kenneth A. Gross
Associate General Counsel

Attachments

1. Reply from Counsel from CFTR, received on January 23, 1985
2. Reply from Counsel for Lewis E. Lehrman and New Yorkers for Lew Lehrman, received on January 28, 1985
3. Proposed letters to respondents
4. Proposed letters to complainants

85040523408

BEFORE THE
FEDERAL ELECTION COMMISSION

MURIEL F. SIEBERT and
WHITNEY NORTH SEYMOUR, JR.

Petitioners,

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v.

LEWIS E. LEHRMAN,
NEW YORKERS FOR LEW LEHRMAN,

RESPONSE OF CITIZENS FOR
THE REPUBLIC AND ITS
TREASURER, ARTHUR J.
DELLINGER, JR.

Respondents.

On December 20, 1984, Petitioners, Muriel F. Siebert and Whitney North Seymour, Jr., filed a complaint with the Federal Election Commission ("Commission") in which they alleged that Lewis E. Lehrman and New Yorkers for Lew Lehrman ("Named Respondents") violated 2 U.S.C. Section 441a by making contributions to the "Sullivan for Senate" campaign committee in excess of the proscribed limits. Petitioners also alleged that the named Respondents attempted to conceal said contributions by making them through a conduit, namely Citizens for the Republic ("CFTR"), a California based multi-candidate political committee registered with the Commission. Although Petitioners did not name CFTR as a party Respondent, the Commission, nevertheless, on December 31, 1984, forwarded a copy of the complaint to CFTR for response.

CFTR and its Treasurer, Arthur J. Dellinger, Jr., submit this response pursuant to 2 U.S.C. Section 437g(a)(1) and 11 CFR 111.6(a) and for the reasons set forth below respectfully request

Attachment 1- p. 1 of 11

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that this Commission find that there is no reason to believe that CFIR or its Treasurer violated any provision of the Federal Election Campaign Act of 1971, as amended ("FECA"). Specifically, the complaint, to the extent that it purports to involve CFIR in improper conduct, must be dismissed forthwith for two reasons. First, as to CFIR the complaint fails to comport with the minimum procedural requirements specified in the Commission's Regulations. And second, any contributions that were made by CFIR to the Sullivan for Senate committee were made in the normal course of CFIR's political activities, were completely legal and proper, and did not, in any way, involve Lewis E. Lehrman, New Yorkers for Lew Lehrman, or any other group or committee. Moreover, CFIR did not in this instance nor at any other time act as a conduit for either of the named Respondents. Consequently, there is no basis either in fact or in law to support a "Reason to Believe" finding with respect to CFIR and thus, the complaint, as it relates to CFIR, must be dismissed.

Facts

This complaint was instituted by two unsuccessful candidates for the Republican Party nomination for United States Senate in New York. The primary election in question was held on September 23, 1982. The complaint alleges that the Sullivan for Senate committee, which was the committee of the prevailing candidate, received excessive in-kind contributions from the named Respondents, namely Lewis E. Lehrman, an individual, and New Yorkers for Lew Lehrman, a non-federal political committee.

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Specifically, the Petitioners allege that the named Respondents "caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters in New York State to be made available as an in-kind contribution to the SULLIVAN FOR SENATE committee for use in a direct mail campaign in support of the candidacy of FLORENCE M. SULLIVAN. . " See, Complaint, Paragraph 1 [caps in original]. Petitioners further allege that the value of said in-kind contributions exceeded the \$1,000 limit set forth in 2 U.S.C. Section 441a. Complaint, Paragraph 2.

Petitioners also allege that the named Respondents attempted to conceal the source and value of the alleged in-kind contributions by causing "the mailing labels to be contributed to the Sullivan campaign through a conduit, to wit, CITIZENS FOR THE REPUBLIC . . .in violation of the provisions of 11 CFR Section 110.6." See, Complaint, Paragraph 3 [caps in original].

In support of their claims, Petitioners attached an array of newspaper clippings, mailing labels and pages from an FEC Report of Receipts and Disbursements for the Sullivan for Senate committee dated September 10, 1982. However, in all of the documentation so provided, the only mention of Citizens for the Republic, appears on the FEC filings of the Sullivan for Senate committee which properly indicate that CFTR made an in-kind contribution of mailing labels having a value of \$3,368.85.

Argument

I. THE COMPLAINT MUST BE DISMISSED BECAUSE IT FAILS TO COMPORT WITH THIS COMMISSIONS' PROCEDURAL REQUIREMENTS.

The joining of CFTR as a party to this matter is procedurally defective for two reasons. First, the complaint

only names two party Respondents, i.e., Lewis E. Lehrman and New Yorkers for Lew Lehrman. Inasmuch as CFIR was not so named, it is improper for the Office of General Counsel to amend, sua sponte, Petitioners' complaint by joining CFIR without the approval of the Commission. And second, with respect to CFIR, the complaint contains no evidence, inferential or otherwise, sufficient to satisfy the documentation requirements set forth in this Commission's Regulations.

A. The Complaint Must be Dismissed as to CFIR, Because Petitioners Did Not Name CFIR as a Respondent in Said Complaint.

The FECA and the Regulations created and recognize two distinct forms of compliance actions: (1) Matters externally initiated by complaint, and (2) Matters internally generated from information ascertained by the Commission. Different procedures apply to each type of action. See, 11 CFR 111.3. The current matter before the Commission was externally generated by a complaint and thus, the procedural rules governing such matters pertain. Specifically, in a complaint-generated matter, the petitioner must "clearly identify as a respondent each person or entity who is alleged to have committed a violation." 11 CFR 111.4(d)(1) [Emphasis supplied]. Here, neither CFIR nor its Treasurer was identified in the complaint as a Respondent. Quite to the contrary, the Petitioners took care to specifically identify as "Respondents" those persons or entities against whom they wished the Commission to proceed, namely: (1) Lewis E. Lehrman and (2) New Yorkers for Lew Lehrman. Neither CFIR nor its Treasurer was ever identified in the complaint as a Respondent and as such, neither is a proper party to this action.

CFIR and its Treasurer recognize that Petitioners, can if they wish, amend the instant complaint or file a new complaint, naming CFIR and its Treasurer as party-respondents. However, under the complaint as filed, the Office of General Counsel is powerless to act on its own initiative to amend this complaint and institute proceedings against CFIR. To permit the General Counsel to do so would be to subvert the highly restrictive provisions of this Commission's Regulations which require that internally generated matters must first be approved by the Commission itself. See 11 CFR 111.8-111.9.

B. The Complaint As to CFIR Must be Dismissed Because it Fails to Incorporate or Otherwise Set Forth Any of the Required Supporting Information or Documentation.

The drafters of the FECA and its Regulations recognized only too well that political campaigns can breed resentment and that unless the compliance process were properly monitored, it might well turn into a font for disgruntled candidates and supporters. Consequently, in order to preserve the integrity of the administrative process and to prevent the Commission from becoming hopelessly embroiled in petty partisan bickering, the Regulations attempt to ensure that only those grievances supported by appropriate evidence and documentation would qualify for treatment as a valid "complaint." Specifically, the Regulations require that statements in a complaint which are not based on personal knowledge "should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements." 11 CFR 111.4(d)(2). In the case sub judice, nothing in the complaint

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is based on the personal knowledge of the Petitioners. Indeed, the Petitioners explicitly acknowledge that everything in the complaint is based merely on "information and belief." See, Complaint, Page 2, lines 1-2. Inasmuch as nothing in the complaint is based on personal knowledge, the Petitioners were obligated to delineate the sources of their information supporting the allegations of wrongdoing. However, nothing either set forth in the complaint nor attached to it as an Exhibit, supports, either inferentially or otherwise, the bald-faced assertion contained in paragraph 3 of the Complaint that CFTR was acting as a conduit for the named Respondents. Moreover, Petitioners have totally failed to provide any insight into the source of the information supporting their assertion that CFTR acted as a conduit. In short, since the complaint contains a purely conclusory statement, unsupported or unattributed, it falls woefully short of even meeting the minimum adequacy standards set forth in 11 CFR 111.4(d)(2) and thus, should be dismissed forthwith.

II. CITIZENS FOR THE REPUBLIC DID NOT ACT, AND NEVER HAS ACTED, AS A CONDUIT FOR CONTRIBUTIONS TO SULLIVAN FOR SENATE.

The gist of Petitioners' complaint seems to be that (1) since the Sullivan for Senate committee sent mailings to 427,000 Republicans [Petitioners' Exhibit E] and (2) since a Lehrman newsletter indicated that Lehrman volunteers were compiling a "Prime Voters List" for all 62 counties of New State [Petitioners' Exhibit A] and (3) since CFTR reported having made an in-kind contribution of mailing labels to the Sullivan for Senate committee, then CFTR must have acted as a conduit between

the named Respondents and Sullivan for Senate for the purpose of concealing the source and value of lists and labels provided to the latter by the former. The position of the Petitioners defies both logic and rational reasoning. Simply stated and as demonstrated below, CFIR has never, for any purpose, acted as a conduit for Lewis E. Lehrman, New Yorkers for Lew Lehrman, or for any group or organization associated with either.

Citizens for the Republic is a multi-candidate political committee registered with this Commission (ID # C000 75390). As the attached affidavit of Paul M. Foley, Assistant Director of CFIR, clearly demonstrates, CFIR has never made a transfer of any kind to Lewis E. Lehrman or New Yorkers for Lew Lehrman, nor has CFIR ever made a transfer to any group or committee, including the Sullivan for Senate Committee, at the bequest of Lewis E. Lehrman or New Yorkers for Lew Lehrman. More importantly, the in-kind contribution to the Sullivan for Senate committee evidenced in the Reports of Receipts and Disbursements filed by both the Sullivan for Senate committee and CFIR, which consisted of 22,459 pre-printed "4-Up Cheshire Labels" valued at \$150.00 per thousand, was made in the normal course of CFIR's political activities. Specifically, CFIR, as part of its normal operations, either leases or contributes, as the case may be, pre-printed mailing labels to certain candidates for federal office. The labels, which were developed solely by CFIR, were tendered to the Sullivan for Senate committee as an in-kind contribution and were accompanied by CFIR's standard tender agreement which sets forth the value of \$150.00 per thousand

pre-printed labels. Clearly, this in-kind contribution of mailing labels was entirely consistent with both CFIR's normal operating procedures and the applicable provisions of FECA and its Regulations.

A scenerio which attempts to transform this reported transfer of 22,459 labels into an earmarked transfer of over 400,000 labels is clearly without any basis in fact. In order to constitute an earmarked contribution under the Regulations, the contributor must transfer something of value to the conduit with instructions to that conduit which results in the conduit transferring something of value to a clearly identifiable candidate for federal office. See 11 CFR 110.6(b). In short, in order for CFIR to be viewed as a conduit, CFIR must have received something of value from a "contributor," in this case Lewis E. Lehrman or New Yorkers for Lew Lehrman. As the attached affidavit of Paul M. Foley demonstrates, CFIR never received anything of value from New Yorkers for Lew Lehrman. And the only thing of value ever received by CFIR from Lewis E. Lehrman was a \$5,000.00 contribution, made on July 27, 1983, approximately eleven months after CFIR's in-kind contribution to the Sullivan for Senate committee. That contribution was made in Mr. Lehrman's capacity as an individual contributor. These averments are supported by CFIR's Reports of Receipts and Disbursements which are on file with this Commission. Furthermore, the mailing labels attached as Exhibts G, H, and I to the Petitioners' complaint were not CFIR mailing labels, did not contain the names of individuals on CFIR's mailing lists and were not transferred to the Sullivan for Senate committee by

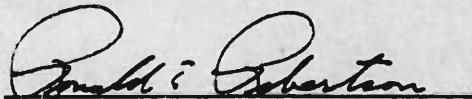
CFIR.

In short, the in-kind contribution attacked by Petitioners in their complaint was entirely proper, was made in the normal course of CFIR's political activities, was not made at the suggestion or request of Lewis E. Lehrman or New Yorkers for Law and Justice, was within the proscribed limits and was dutifully reported to the Commission by both CFIR and the Sullivan for Senate committee. As the Affidavit of Paul Foley demonstrates, there is no evidence to support the proposition that CFIR was acting as a conduit for either of the named Respondents nor for any other person or committee.

Conclusion

For the foregoing reasons CFIR respectfully requests that the Commission find "No Reason to Believe" that it violated any provision of the FECA and that the complaint be dismissed.

Respectfully submitted,



Ronald E. Robertson
Attorney for Citizens for the
Republic

1- p. 9 of 11

85040523418

AFFIDAVIT OF PAUL FOLEY

I, Paul Foley, being duly sworn, depose and say:

1. That I am, and at all times relevant herein have been, the Assistant Director of Citizens for the Republic ("CFIR"); and

2. That in my capacity as Assistant Director I have primary responsibility for overseeing the organization's direct mail effort and also discharge, under the authority of the Executive Director, such administrative functions as may be necessary; and

3. That I have reviewed the complaint and attached exhibits in MUR 1868 including the mailing labels; and

4. That CFIR in the course of its normal political activities did in fact on August 20, 1982, make an in-kind contributions of 22,459 "4-Up Cheshire Mailing Labels" to the federal committee Sullivan for Senate (FEC ID # C001 58097); and

5. That the above referenced in-kind contribution was not made at the suggestion of Lewis E. Lehrman or New Yorkers for Lew Lehrman, but rather was made in the normal course of CFIR's activities as a multi-candidate political committee; and

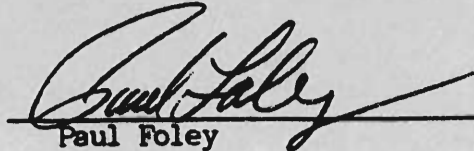
6. That at no time during 1982 or at any time prior thereto did CFIR receive any contribution or other thing of value, including mailing lists or labels, from Lewis E. Lehrman or New Yorkers for Lew Lehrman. CFIR's records do indicate that on July 27, 1983, it received a \$5,000.00 personal contribution from Lewis Lehrman. That contribution was in no way related to the in-kind contribution made eleven months earlier by CFIR to Sullivan for Senate; and

7. That the mailing labels contributed to Sullivan for Senate by CFIR were in fact the property of CFIR; were compiled by CFIR; and further, those labels had a fair market value of \$150 per thousand; and

8. That I have examined the mailing labels attached to the complaint in this MUR and conclude that such labels were not part of the 22,459 labels contributed to Sullivan for Senate and moreover, none of the names set forth on those exhibits is contained in CFIR's mailing lists; and

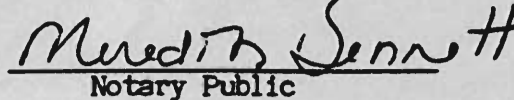
1- p. 10 of 11

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4 9. That the above referenced in-kind contribution to
5 Sullivan for Senate was a bone fide contribution by CFIR to
6 Sullivan for Senate and that in so making the contribution
7 CFIR did not act as an agent or conduit for any person or
8 group.

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Paul Foley

DISTRICT OF COLUMBIA: ss

Subscribed and sworn before me this 18th day of January, 1985.


Meredith Bennett
Notary Public

SEAL

My Commission Expires: March 14, 1989.

1 - p. 11 of 11

Frank Trotta, Jr.
ATTORNEY AT LAW

2000 # 6577
HAND DELIVERED

05 JAN 22 09:55

TWENTY-FOUR NORTH AVENUE
NEW ROCHELLE, NEW YORK 10805
TELEPHONE: (914) 932-7089

MUR 1868
J. LEVIN

35 JAN 28 11:12

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

January 23, 1985

Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463
Attention: Jonathan Levin, Esq.

RE: MUR 1868

(Complaint of Muriel F. Siebert and Whitney N. Seymour, Jr.)

Ladies and Gentlemen:

This letter is in response to your letter and enclosures in the above-captioned matter, dated December 31, 1984 but received by Respondents on or about January 11, 1985. (Please note that Respondents are not located at the address indicated on your records. All future correspondence should be sent to my attention at the above address.) I am the attorney representing all Respondents in this matter. However, my appearance herein in no way waives any rights of any of the Respondents relating to jurisdiction or other procedural matters.

In the above-captioned complaint, it is alleged that Respondents "knowingly and wilfully violated the contribution restrictions and limits" set forth in the Federal Election Campaign Act, "in relation to the Primary Election in New York State for the Republican Party Nomination for United States Senator, held on September 23, 1982." Respondents unequivocally deny this allegation.

Further, Respondents urge that the complaint be dismissed for failing to comply substantially with the requirements of the Federal Election Commission's Regulations, inasmuch as complaint fails to identify any source of information which gives rise to Complainants' belief in the truth of the allegations made against Respondents. The exhibits offered in substantiation of these allegations are clearly irrelevant and do not relate to "the source of information" which gave rise to any of the allegations set forth against Respondents, nor do they give any indication of any violation of the law.

Attachment 2 - p. 1 of 9

85040523420

FIRST ALLEGATION

The Complainants set forth three allegations. First, they charge that "on or about August 20, 1982, Respondents caused approximately 361,000 mailing labels addressed to 427,000 [sic] Republican Primary Voters in New York State to be made available as an in-kind contribution to the SULLIVAN FOR SENATE political committee for use in a direct mail campaign in support of the candidacy of FLORENCE M. SULLIVAN for the Republican Party nomination for United States Senator in New York in the Primary Election held on September 23, 1982." Respondents specifically deny this allegation.

A careful review of the records of each Respondent reflects no such contribution. Respondents Lehman and Carey had no personal possession of any such labels.

Respondent "New Yorkers for Lew Lehman" [hereinafter "Committee"] may have had ownership of a list of voters who voted in Republican primaries, but made no contribution of any such list or labels reflective of such list directly or indirectly to the Sullivan campaign. This is substantiated by affirmation of Respondent Timothy S. Carey, Treasurer of New Yorkers for Lew Lehman, which affirmation is annexed hereto and made a part hereof.

The Committee is a New York State political committee, and as such is required to account, in a verified form, to the New York State Board of Elections. Under New York Law (Article 14 of New York's Election Law), the Committee is required to disclose to the Board of Elections all expenditures made by the Committee, as well as all transfers to other political committees. A detailed examination of the Committee's records shows no such transactions. If the Federal Election Commission finds it helpful, Respondents are willing to attempt to obtain from the New York State Board of Elections, a certified copy of the Committee's sworn financial disclosure statements for the time period in question, (assuming such dated records are presently retained by the State Board of Elections).

SECOND ALLEGATION

The second allegation in the complaint alleges that "the fair market value of such mailing labels far exceeded" \$1000. Respondents deny knowledge or information sufficient to form a belief as to this allegation. Further, Respondents deny knowledge of even the existence of "such mailing labels" to which this allegation refers.

THIRD ALLEGATION

The third allegation is two-fold. The first part of the allegation is that Respondents attempted "to conceal the true source and value of such in-kind contribution." Respondents deny that any contribution was made and accordingly, deny that any attempt was made to conceal the true source or value of this non-existent in-kind contribution.

The second part of the allegation is that the vehicle used in this alleged concealment "plot" was President Reagan's political action committee, "Citizens For the Republic." Based upon Respondents' denial to the first part of this allegation, the second part is denied a fortiori. Further, the Respondents, upon information and belief, deny that any such labels were given to "Citizens For the Republic" by the Respondents.

COMPLAINANTS' EXHIBITS

Complainants' Exhibits provide no reasonable grounds for any of Complainants' allegations. Each of complainants' exhibits is discussed at length below. For the sake of logic, the exhibits are discussed below in chronological rather than alphabetical order.

EXHIBIT B

The first exhibit, chronologically, is Exhibit B: a price list from a label and list vendor, dated May 1982, showing the cost of purchasing a "Prime Voters List" in that month. Presumably, this is in support of establishing the fair market value of a prime voters list. (Allegation Two.) In actuality, Exhibit B merely shows the cost of such a list, some four months before the alleged contribution and some five months before the Primary in question. It fails to take into consideration the rapid diminution of the value of this type of time-sensitive list as the Primary approaches.

Exhibit B does demonstrate, however, that as early as May 1982 — several months before even the partial completion of any primary voters list to be developed by Respondent-New Yorkers for Lew Lehman (see Exhibit A) — a Prime Voters List was available from at least one private label-list vendor to those willing to purchase it. Presumably even Complainants were at liberty to purchase such a list.

Further, Complainant attempts to place a monetary value on the volunteer man-hours expended in developing such a list by their explanatory comment that the price shown does "not include the actual labor costs and expenses for compiling the raw data" used in such a list. Certainly Complainant cannot be implying that time spend by campaign volunteers can be translated into a dollar figure. At what rate? Minimum wage? A negotiated price? The implications of Complainants' explanation of Exhibit B not only are unthinkable but are totally irrelevant to the issue at hand.

EXHIBIT A

Exhibit A, an excerpt from a New Yorkers for Lew Lehman newsletter, dated July 1, 1982, reports that at that point in time the Committee, through the manpower of its volunteers, had compiled approximately three-fourths of a statewide Republican primary voters list. The list was to be used in Lew Lehman's Republican primary for Governor of New York State, which was held on the same date as the Sullivan Primary for Senate. Respondents have no reason to believe that the newsletter is inaccurate. However, the excerpt demonstrates merely the probable existence of three-quarters of a Republican primary voters list being compiled by Lehman volunteers in the Summer of 1982. It does not show the existence of any labels. It does not show a contribution in any way, shape or form. Moreover, it does not show anything of relevance to the alleged violation of the FECA, for certainly using volunteer manpower to develop a list for potential use in a Gubernatorial primary violated no statute, Federal or State.

EXHIBIT J

Chronologically, the next exhibit (Exhibit J) is a copy of what is purported to be a disclosure to the Federal Election Commission by the Sullivan for Senate committee showing a payment to Citizens for the Republic on August 20, 1982, for mailing labels. There is no indication as to what names and addresses were on said labels. There is no indication that the labels paid for by said expenditure were labels containing the names and address of Republican primary voters. There is no indication that the labels paid for by such expenditure were the same labels shown on Complainants' other exhibits (Exhibits G, H and I)

Further, there is no nexus shown, whatsoever, between the payment to Citizens For the Republic for mailing labels and any prime voters list; or between the mailing labels presumably provided by Citizens For the Republic and any list owned by Respondents; or for that matter, between Citizens For the Republic, and any of the Respondents, in any way.

This Complainants' Exhibit J merely demonstrates that the authorized Sullivan campaign committee paid Citizens For the Republic for some mailing labels of some sort, and lawfully disclosed said fact. Respondents deny knowledge or information sufficient to form a belief as to the existence or accuracy of said FEC disclosure, or as to the nature or existence of said labels.

EXHIBIT D

Complainants' Exhibit D is a copy of a newspaper article dated September 7, 1982. The article states in pertinent part, that the manager for the Sullivan campaign declared that "No candidate running against Florence Sullivan has the list we do." The list mentioned may well have been the labels purchased from Citizens For the Republic, apparently disclosed to the Federal Election Commission some 18 days before the article in question, (as evidenced by Complainants' Exhibit J, and as discussed fully above). Respondents have no knowledge or information sufficient to form a belief as to the existence of or content of the list mentioned in said article.

The September 7th article also states that "the Sullivan campaign is banking heavily on a statewide mailing to likely primary voters." From this one sentence and the campaign manager's quote, Complainants would have the Commission conclude that the list mentioned in the article was one surreptitiously supplied in the form of labels originating with the Respondents and transmitted across the continent twice in a conspiracy with President Reagan's political action committee, ultimately to be used to steal the New York Primary election from the Complainants. It should be noted, incidentally, that all of these alleged machinations were supposed to have occurred during a period when Respondents were embroiled in their own Statewide Primary for the Republican nomination for Governor.

EXHIBIT C

Exhibit C is a copy of a newspaper story published nearly a week after the story evidenced by Exhibit D. Exhibit C reports that Mrs. Sullivan "is hoping to raise enough [money] for a mailing to the 563,253 Republicans who voted in the party's 1980 Senate primary." We fail to understand the significance or relevance of this exhibit to the Complainants' allegations; and we fail to see how this Exhibit provides any basis sufficient to create a belief that Respondents' violated the FECA. However, it should be noted that the New Yorkers for Lew Lehman list discussed above (in reference to Exhibit A) was not merely a list of those "Republicans who voted in the party's 1980 Senate primary" which apparently was the composition of the alleged Sullivan list.

EXHIBIT E

Complainants' Exhibit E is a copy of a September 24, 1982 (post-Primary) article headlined "Sullivan victory confirms GOP's shift to right." Complainants point to a sentence in said article stating that "Sullivan's aides attributed her victory to a mailing that went out over the past week to more than 427,000 [sic] Republicans around the state," as being significant and in some way relevant to the allegations in their complaint. Once again this is an exhibit which has no apparent bearing on the source of information upon which Complainants' allegations are made. Respondents deny knowledge or information sufficient to determine the reason for the Sullivan victory; although even the headline of the article labeled Complainants' Exhibit E suggests an alternative reason for the Sullivan victory.

EXHIBIT F

The remaining exhibits (Exhibits F, G, H, and I) bear no dates. Complainants' Exhibit F is purported to be "a copy of the Sullivan pre-Primary direct mail piece, which was sent out in the name of the New York State Conservative Party State Committee under its Non-Profit Organization permit." Here again, there is absolutely no nexus shown, or even intimated, between this exhibit and Respondents. Respondents deny knowledge or information sufficient to form a belief as to the existence or distribution of the flyer at Exhibit F.

EXHIBITS G, H & I

Complainants' Exhibits G, H, and I, are purported to be "copies of mailing panels on foregoing Sullivan direct mail pieces [Exhibit F] and of contemporaneous direct mail pieces sent out by Respondents, showing the physical similarity in make-up and composition of the mailing labels." This is the crux of the Complainants' foundation for its series of allegations against Respondents. That is, the Complainants base their allegations solely on the contention that the labels found at Exhibits G, H and I (allegedly from three Sullivan flyers out of either some 361,000 or some 427,000 or some 563,253 flyers alleged mailed) were similar -- but in no case identical -- to the four labels found on the Lehman flyers at Exhibits G, H and I. From this we are asked to believe that a "knowing and wilful violation of the [Federal] contribution restrictions and limits" took place.

Complainants simply ignore the possibility that the labels could have been obtained from the same label vendor; or the possibility that the labels could have been obtained from different vendors with the same or similar computer software programs or computer hardware used in generating the labels; or the possibility that the labels just happen to look similar, since there are only a limited number of ways to type a name and address on a label. Instead, Complainants weave a transcontinental conspiracy with a legion of allegations and speculations without basis in fact.

CONCLUSION

In summary, Respondents contend that the complaint is without merit, and fails in form, in addition to failing in substance. Respondents deny any wrong-doing alleged by Complainants, and urge that the Commission dismiss this complaint as it relates to each and every one of the Respondents herein.

Respectfully submitted,


FRANK TROTTA, JR.

FT:bl
encl.

85040523425

Before the Federal Election Commission

MURIEL F. SIEBERT and WHITNEY NORTH SEYMOUR, JR.
Complainants,

- against -

MUR: 1868

NEW YORKERS FOR LEW LEHRMAN; TIMOTHY S. CAREY as
Treasurer of NEW YORKERS FOR LEW LEHRMAN and
individually; and LEWIS LEHRMAN

RESPONDENT'S
AFFIRMATION

Respondents.

I, Timothy S. Carey, Respondent herein, being duly sworn depose and
affirm:

1. That I reside in the Town of Cortlandt, County of Westchester, State
of New York.

2. That at all times since its inception, I was and am the Treasurer of
a New York State political committee, known as "New Yorkers for Lew Lehrman."

3. That said committee is duly registered with the New York State Board
of Elections and has been authorized to support the 1982 candidacy of Lew
Lehrman for Governor of the State of New York.

4. That I make this affirmation in support of Respondents' answer to
Complainants' complaint filed on or about December 20, 1984, and in support of
Respondents' request for dismissal of said complaint.

5. That, as Treasurer of New Yorkers for Lew Lehrman, I have complied
fully with New York's Election Law, and accordingly, have regularly disclosed to
the New York State Board of Elections, all expenditures and transfers made by
said committee, under penalties of perjury.

6. That, upon information and belief, no expenditures or transfers have ever been made by New Yorkers for Lew Lehman in support of or in opposition to the candidacy of any candidate for Federal office.

7. That I have neither made nor caused to be made, either personally or in my capacity as Treasurer of New Yorkers for Lew Lehman, any transfers or contributions in-kind or in cash to United States Senate candidate Florence Sullivan or to her authorized campaign committee at any time in 1982.

8. That I have neither made nor caused to be made, either personally or in my capacity as Treasurer of New Yorkers for Lew Lehman, any transfers or contributions in-kind or in cash to an organization known as "Citizens For the Republic" at any time in 1982.

9. That, upon information and belief, Respondent "New Yorkers for Lew Lehman" has made no transfers or contributions in-kind or in cash to United States Senate candidate Florence Sullivan or to her authorized campaign committee at any time in 1982.

10. That, upon information and belief, Respondent "New Yorkers for Lew Lehman" has made no transfers or contributions in-kind or in cash to an organization known as "Citizens For the Republic" at any time in 1982.

11. That, upon information and belief, Respondent Lewis E. Lehman made no transfers or contributions in-kind or in cash to United States Senate candidate Florence Sullivan or to her authorized campaign committee at any time in 1982.

12. That, upon information and belief, Respondent Lewis E. Lehman made no transfers or contributions in-kind or in cash to an organization known as "Citizens For the Republic" at any time in 1982.

13. That at no time have I ever possessed a set of "approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters in New York State."

14. That at no time did I ever cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

2 - p. 8 of 9

85040523427

15. That at no time did I ever authorize any agent of New Yorkers for Lew Lehman to cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

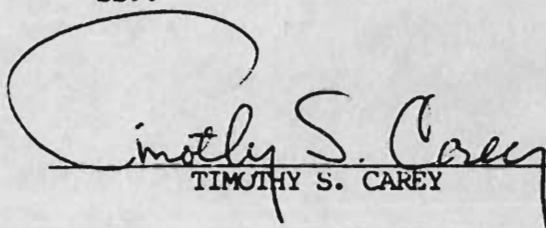
16. That, upon information and belief, at no time was any agent of New Yorkers for Lew Lehman ever authorized to cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

17. That, upon information and belief, at no time did any agent of New Yorkers for Lew Lehman ever cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

18. That, I never attempted to conceal or caused anyone to attempt to conceal the true source and value of any contribution to any Federal candidate.


STATE OF NEW YORK)
COUNTY OF WESTCHESTER)

ss.:


TIMOTHY S. CAREY

Dated: January 26, 1985

Sworn to before me this 26th day
of January, 1985.


FRANK P. TROTTA, JR.

Notary Public, State of New York
Qualified in Westchester County
Commission Expires March 30, 1986

2-p. 9 of 9

85040523428



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Frank Trotta, Jr., Esquire
24 North Avenue
New Rochelle, New York 10805

Re: MUR 1868
Lewis E. Lehrman
New Yorkers for Lew Lehrman

Dear Mr. Trotta:

On December 31, 1984, the Commission notified your clients, Lewis E. Lehrman and New Yorkers for Lew Lehrman, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1985, determined that, on the basis of the information in the complaint and information provided by the respondents and you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Attachment 3 - p. 1 of 3

85040523429



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ronald E. Robertson, Esquire
440 First Street, N.W.
Washington, D.C. 20001

Re: MUR 1868
Citizens for the Republic ("CFTR")

Dear Mr. Robertson:

On December 31, 1984, the Commission notified your client, CFTR, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1985, determined that, on the basis of the information in the complaint and information provided by the respondents and you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

3- p. 2 of 3

85040523430



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Joseph M. Sussillo, Treasurer
Sullivan for Senate
437 Bay Ridge Parkway
Brooklyn, New York 11209

Re: MUR 1868
Sullivan for Senate
Joseph M. Sussillo, Treasurer

Dear Mr. Sussillo:

On December 31, 1984, the Commission notified Sullivan for Senate and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1985, determined that, on the basis of the information in the complaint and information provided by the respondents, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

3- p. 3 of 3

85040523431



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Whitney North Seymour, Jr.
100 Park Avenue, Room 2606
New York, New York 10017

Re: MUR 1868

Dear Mr. Seymour:

The Federal Election Commission has reviewed the allegations of your complaint dated December 20, 1984, and determined that, on the basis of the information provided in your complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

Attachment 4 - p. 1 of 2

85040523432



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Muriel F. Siebert
435 East 52nd Street
New York, New York 10028

Re: MUR 1868

Dear Ms. Siebert:

The Federal Election Commission has reviewed the allegations of your complaint dated December 20, 1984, and determined that, on the basis of the information provided in your complaint and information provided by the respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

4- p. 2 of 2

85040523433

SENSITIVE

FEDERAL ELECTION COMMISSION

1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE REC
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

30 JAN 31 A 9: 59

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 1/31/85 - 10:00

MUR 1868
DATE COMPLAINT RECEIVED
BY OGC December 20, 1984
DATE OF NOTIFICATION TO
RESPONDENT December 31, 1984
STAFF MEMBER J. Levin

COMPLAINANTS' NAMES: Muriel F. Siebert
Whitney North Seymour, Jr.

RESPONDENTS' NAMES: Lewis E. Lehrman

New Yorkers for Lew Lehrman

Citizens for the Republic
Arthur S. Dellinger, Jr., as
treasurer

Sullivan for Senate
Joseph M. Sussillo, as treasurer

**RELEVANT STATUTES AND
REGULATIONS:**

2 U.S.C. § 433(a)
2 U.S.C. § 434(a)
2 U.S.C. § 434(b) (3)
2 U.S.C. § 434(b) (4)
2 U.S.C. § 441a(a) (1) (A)
2 U.S.C. § 441a(f)
2 U.S.C. § 441f
11 C.F.R. § 110.4(b) (1)
11 C.F.R. § 110.6(c)

INTERNAL REPORTS CHECKED: Public Records

FEDERAL REPORTS CHECKED: None

SUMMARY OF ALLEGATIONS

Complainants allege that Lewis E. Lehrman and New Yorkers for Lew Lehrman, ("the Lehrman Committee") made an excessive in-kind contribution of mailing labels to the Sullivan for Senate Committee ("the Sullivan Committee") and concealed the source

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of this contribution by contributing through Citizens for the Republic ("CFTR").

FACTUAL AND LEGAL ANALYSIS

On December 20, 1984, this Office received a complaint from Muriel F. Siebert and Whitney North Seymour, Jr., two unsuccessful candidates for the New York Republican Senatorial nomination in 1982, against Lewis E. Lehrman and New Yorkers for Lew Lehrman, Mr. Lehrman's 1982 gubernatorial campaign committee. The complaint centers around an allegation that "respondents caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters (sic) in New York State to be made available as an in-kind contribution" to the Sullivan Committee in violation of the § 441a limits. Complainants also claim that "in order to conceal the true source and value of such in-kind contribution," Lehrman's committee contributed the labels through a conduit, CFTR, a California-based multicandidate committee, "in violation of the provisions of 11 C.F.R. § 110.6." Complainants allege that such violations were knowing and willful.

Complainants enclosed documents which they allege "give rise to complainants' belief" in the truth of their claims. These documents include: (1) a "Lehrman Governor Campaign Report" describing efforts by Lehrman volunteers to complete a statewide voter list known as a "Prime Voters List" by July 15, 1982; (2) a May, 1982, price list from Election Computer Services, Inc. containing a listing for "Prime Voter Lists" at \$31 per thousand; (3) a number of newspaper articles referring to the Sullivan

85040523435

campaign's mailing list, including an article referring to a mailing to "more than 427,000 Republicans around the state;" (4) Conservative Party pre-primary literature displaying Lehrman's endorsement of Sullivan; (5) copies of mailing panels from both the Sullivan campaign and the Lehrman campaign showing the similarity in the composition of the labels; and (6) schedules A and B of the Sullivan for Senate Pre-Primary Report disclosing a \$3,368.85 in-kind contribution of mailing labels from CFTR to Sullivan for Senate on August 20, 1984. A review by this Office of CFTR's September, 1982 Report also disclosed an in-kind contribution from CFTR to the Sullivan Committee on August 20, 1982.

On January 22, 1985, counsel for Mr. Lehrman and the Lehrman Committee informed this Office that his clients had not received the notification of complaint letter until January 11, due to the fact that the Lehrman Committee had changed addresses. */ The replies of these respondents, therefore, were not due until January 28. A response from Lehrman and the Committee was received on January 28. The reply from counsel for CFTR was received on January 23. The Sullivan Committee has yet to respond.

*/ As New Yorkers for Lew Lehrman is not a registered political committee, this Office had no way of knowing of the change of address.

85040523436

This Office is reviewing the responses received. Upon completion of the review the General Counsel's Office will report to the Commission with the appropriate recommendations.

Charles N. Steele
General Counsel

January 30, 1985
Date

By: *Kenneth A. Gross*
Kenneth A. Gross
Associate General Counsel

85040523437

Ronald E. Robertson

REAGAN-BUSH '84

The President's Authorized Campaign Committee

440 First Street N.W., Washington, D.C. 20001

Paid for by Reagan Bush '84, Paul Laszlo, Chairman; Angela M. Buchanan-Jackson, Treasurer

General Counsel of
Federal Election Commission
c/o Jonathan Levin

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JAN 23 1984
FBI
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20535

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Frank Trolia, Jr.
ATTORNEY - AT - LAW

ACC# 6517
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85 JAN 28 9:55

TWENTY-FOUR NORTH AVENUE
NEW ROCHELLE, NEW YORK 10805
TELEPHONE: (914) ME 2-7088

MUR 1868
J. LEVIN

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

January 23, 1985

Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463
Attention: Jonathan Levin, Esq.

RE: MUR 1868

(Complaint of Muriel F. Siebert and Whitney N. Seymour, Jr.)

Ladies and Gentlemen:

This letter is in response to your letter and enclosures in the above-captioned matter, dated December 31, 1984 but received by Respondents on or about January 11, 1985. (Please note that Respondents are not located at the address indicated on your records. All future correspondence should be sent to my attention at the above address.) I am the attorney representing all Respondents in this matter. However, my appearance herein in no way waives any rights of any of the Respondents relating to jurisdiction or other procedural matters.

In the above-captioned complaint, it is alleged that Respondents "knowingly and wilfully violated the contribution restrictions and limits" set forth in the Federal Election Campaign Act, "in relation to the Primary Election in New York State for the Republican Party Nomination for United States Senator, held on September 23, 1982." Respondents unequivocally deny this allegation.

Further, Respondents urge that the complaint be dismissed for failing to comply substantially with the requirements of the Federal Election Commission's Regulations, inasmuch as complaint fails to identify any source of information which gives rise to Complainants' belief in the truth of the allegations made against Respondents. The exhibits offered in substantiation of these allegations are clearly irrelevant and do not relate to "the source of information" which gave rise to any of the allegations set forth against Respondents, nor do they give any indication of any violation of the law.

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FIRST ALLEGATION

The Complainants set forth three allegations. First, they charge that "on or about August 20, 1982, Respondents caused approximately 361,000 mailing labels addressed to 427,000 [sic] Republican Primary Voters in New York State to be made available as an in-kind contribution to the SULLIVAN FOR SENATE political committee for use in a direct mail campaign in support of the candidacy of FLORENCE M. SULLIVAN for the Republican Party nomination for United States Senator in New York in the Primary Election held on September 23, 1982." Respondents specifically deny this allegation.

A careful review of the records of each Respondent reflects no such contribution. Respondents Lehman and Carey had no personal possession of any such labels.

Respondent "New Yorkers for Lew Lehman" [hereinafter "Committee"] may have had ownership of a list of voters who voted in Republican primaries, but made no contribution of any such list or labels reflective of such list directly or indirectly to the Sullivan campaign. This is substantiated by affirmation of Respondent Timothy S. Carey, Treasurer of New Yorkers for Lew Lehman, which affirmation is annexed hereto and made a part hereof.

The Committee is a New York State political committee, and as such is required to account, in a verified form, to the New York State Board of Elections. Under New York Law (Article 14 of New York's Election Law), the Committee is required to disclose to the Board of Elections all expenditures made by the Committee, as well as all transfers to other political committees. A detailed examination of the Committee's records shows no such transactions. If the Federal Election Commission finds it helpful, Respondents are willing to attempt to obtain from the New York State Board of Elections, a certified copy of the Committee's sworn financial disclosure statements for the time period in question, (assuming such dated records are presently retained by the State Board of Elections).

SECOND ALLEGATION

The second allegation in the complaint alleges that "the fair market value of such mailing labels far exceeded" \$1000. Respondents deny knowledge or information sufficient to form a belief as to this allegation. Further, Respondents deny knowledge of even the existence of "such mailing labels" to which this allegation refers.

THIRD ALLEGATION

The third allegation is two-fold. The first part of the allegation is that Respondents attempted "to conceal the true source and value of such in-kind contribution." Respondents deny that any contribution was made and accordingly, deny that any attempt was made to conceal the true source or value of this non-existent in-kind contribution.

The second part of the allegation is that the vehicle used in this alleged concealment "plot" was President Reagan's political action committee, "Citizens For the Republic." Based upon Respondents' denial to the first part of this allegation, the second part is denied fortiori. Further, the Respondents, upon information and belief, deny that any such labels were given to "Citizens For the Republic" by the Respondents.

COMPLAINANTS' EXHIBITS

Complainants' Exhibits provide no reasonable grounds for any of Complainants' allegations. Each of complainants' exhibits is discussed at length below. For the sake of logic, the exhibits are discussed below in chronological rather than alphabetical order.

EXHIBIT B

The first exhibit, chronologically, is Exhibit B: a price list from a label and list vendor, dated May 1982, showing the cost of purchasing a "Prime Voters List" in that month. Presumably, this is in support of establishing the fair market value of a prime voters list. (Allegation Two.) In actuality, Exhibit B merely shows the cost of such a list, some four months before the alleged contribution and some five months before the Primary in question. It fails to take into consideration the rapid diminution of the value of this type of time-sensitive list as the Primary approaches.

Exhibit B does demonstrate, however, that as early as May 1982 — several months before even the partial completion of any primary voters list to be developed by Respondent-New Yorkers for Lew Lehman (see Exhibit A) — a Prime Voters List was available from at least one private label-list vendor to those willing to purchase it. Presumably even Complainants were at liberty to purchase such a list.

Further, Complainant attempts to place a monetary value on the volunteer man-hours expended in developing such a list by their explanatory comment that the price shown does "not include the actual labor costs and expenses for compiling the raw data" used in such a list. Certainly Complainant cannot be implying that time spend by campaign volunteers can be translated into a dollar figure. At what rate? Minimum wage? A negotiated price? The implications of Complainants' explanation of Exhibit B not only are unthinkable but are totally irrelevant to the issue at hand.

EXHIBIT A

Exhibit A, an excerpt from a New Yorkers for Lew Lehman newsletter, dated July 1, 1982, reports that at that point in time the Committee, through the manpower of its volunteers, had compiled approximately three-fourths of a statewide Republican primary voters list. The list was to be used in Lew Lehman's Republican primary for Governor of New York State, which was held on the same date as the Sullivan Primary for Senate. Respondents have no reason to believe that the newsletter is inaccurate. However, the excerpt demonstrates merely the probable existence of three-quarters of a Republican primary voters list being compiled by Lehman volunteers in the Summer of 1982. It does not show the existence of any labels. It does not show a contribution in any way, shape or form. Moreover, it does not show anything of relevance to the alleged violation of the FECA, for certainly using volunteer manpower to develop a list for potential use in a Gubernatorial primary violated no statute, Federal or State.

EXHIBIT J

Chronologically, the next exhibit (Exhibit J) is a copy of what is purported to be a disclosure to the Federal Election Commission by the Sullivan for Senate committee showing a payment to Citizens for the Republic on August 20, 1982, for mailing labels. There is no indication as to what names and addresses were on said labels. There is no indication that the labels paid for by said expenditure were labels containing the names and address of Republican primary voters. There is no indication that the labels paid for by such expenditure were the same labels shown on Complainants' other exhibits (Exhibits G, H and I)

Further, there is no nexus shown, whatsoever, between the payment to Citizens For the Republic for mailing labels and any prime voters list; or between the mailing labels presumably provided by Citizens For the Republic and any list owned by Respondents; or for that matter, between Citizens For the Republic, and any of the Respondents, in any way.

This Complainants' Exhibit J merely demonstrates that the authorized Sullivan campaign committee paid Citizens For the Republic for some mailing labels of some sort, and lawfully disclosed said fact. Respondents deny knowledge or information sufficient to form a belief as to the existence or accuracy of said FEC disclosure, or as to the nature or existence of said labels.

EXHIBIT D

Complainants' Exhibit D is a copy of a newspaper article dated September 7, 1982. The article states in pertinent part, that the manager for the Sullivan campaign declared that "No candidate running against Florence Sullivan has the list we do." The list mentioned may well have been the labels purchased from Citizens For the Republic, apparently disclosed to the Federal Election Commission some 18 days before the article in question, (as evidenced by Complainants' Exhibit J, and as discussed fully above). Respondents have no knowledge or information sufficient to form a belief as to the existence of or content of the list mentioned in said article.

The September 7th article also states that "the Sullivan campaign is banking heavily on a statewide mailing to likely primary voters." From this one sentence and the campaign manager's quote, Complainants would have the Commission conclude that the list mentioned in the article was one surreptitiously supplied in the form of labels originating with the Respondents and transmitted across the continent twice in a conspiracy with President Reagan's political action committee, ultimately to be used to steal the New York Primary election from the Complainants. It should be noted, incidentally, that all of these alleged machinations were supposed to have occurred during a period when Respondents were embroiled in their own Statewide Primary for the Republican nomination for Governor.

EXHIBIT C

Exhibit C is a copy of a newspaper story published nearly a week after the story evidenced by Exhibit D. Exhibit C reports that Mrs. Sullivan "is hoping to raise enough [money] for a mailing to the 563,253 Republicans who voted in the party's 1980 Senate primary." We fail to understand the significance or relevance of this exhibit to the Complainants' allegations; and we fail to see how this Exhibit provides any basis sufficient to create a belief that Respondents' violated the FECA. However, it should be noted that the New Yorkers for Lew Lehman list discussed above (in reference to Exhibit A) was not merely a list of those "Republicans who voted in the party's 1980 Senate primary" which apparently was the composition of the alleged Sullivan list.

EXHIBIT E

Complainants' Exhibit E is a copy of a September 24, 1982 (post-Primary) article headlined "Sullivan victory confirms GOP's shift to right." Complainants point to a sentence in said article stating that "Sullivan's aides attributed her victory to a mailing that went out over the past week to more than 427,000 [sic] Republicans around the state," as being significant and in some way relevant to the allegations in their complaint. Once again this is an exhibit which has no apparent bearing on the source of information upon which Complainants' allegations are made. Respondents deny knowledge or information sufficient to determine the reason for the Sullivan victory; although even the headline of the article labeled Complainants' Exhibit E suggests an alternative reason for the Sullivan victory.

EXHIBIT F

The remaining exhibits (Exhibits F, G, H, and I) bear no dates. Complainants' Exhibit F is purported to be "a copy of the Sullivan pre-Primary direct mail piece, which was sent out in the name of the New York State Conservative Party State Committee under its Non-Profit Organization permit." Here again, there is absolutely no nexus shown, or even intimated, between this exhibit and Respondents. Respondents deny knowledge or information sufficient to form a belief as to the existence or distribution of the flyer at Exhibit F.

EXHIBITS G, H & I

Complainants' Exhibits G, H, and I, are purported to be "copies of mailing panels on foregoing Sullivan direct mail pieces [Exhibit F] and of contemporaneous direct mail pieces sent out by Respondents, showing the physical similarity in make-up and composition of the mailing labels." This is the crux of the Complainants' foundation for its series of allegations against Respondents. That is, the Complainants base their allegations solely on the contention that the labels found at Exhibits G, H and I (allegedly from three Sullivan flyers out of either some 361,000 or some 427,000 or some 563,253 flyers alleged mailed) were similar -- but in no case identical -- to the four labels found on the Lehman flyers at Exhibits G, H and I. From this we are asked to believe that a "knowing and wilful violation of the [Federal] contribution restrictions and limits" took place.

Complainants simply ignore the possibility that the labels could have been obtained from the same label vendor; or the possibility that the labels could have been obtained from different vendors with the same or similar computer software programs or computer hardware used in generating the labels; or the possibility that the labels just happen to look similar, since there are only a limited number of ways to type a name and address on a label. Instead, Complainants weave a transcontinental conspiracy with a legion of allegations and speculations without basis in fact.

CONCLUSION

In summary, Respondents contend that the complaint is without merit, and fails in form, in addition to failing in substance. Respondents deny any wrong-doing alleged by Complainants, and urge that the Commission dismiss this complaint as it relates to each and every one of the Respondents herein.

Respectfully submitted,


FRANK TROTTE, JR

FT:bl
encl.

85040523444

Before the Federal Election Commission

MURIEL F. SIEBERT and WHITNEY NORTH SEYMOUR, JR.

Complainants,

- against -

MUR: 1868

NEW YORKERS FOR LEW LEHRMAN; TIMOTHY S. CAREY as
Treasurer of NEW YORKERS FOR LEW LEHRMAN and
individually; and LEWIS LEHRMAN

RESPONDENT'S
AFFIRMATION

Respondents.

I, Timothy S. Carey, Respondent herein, being duly sworn depose and
affirm:

1. That I reside in the Town of Cortlandt, County of Westchester, State
of New York.

2. That at all times since its inception, I was and am the Treasurer of
a New York State political committee, known as "New Yorkers for Lew Lehman."

3. That said committee is duly registered with the New York State Board
of Elections and has been authorized to support the 1982 candidacy of Lew
Lehman for Governor of the State of New York.

4. That I make this affirmation in support of Respondents' answer to
Complainants' complaint filed on or about December 20, 1984, and in support of
Respondents' request for dismissal of said complaint.

5. That, as Treasurer of New Yorkers for Lew Lehman, I have complied
fully with New York's Election Law, and accordingly, have regularly disclosed to
the New York State Board of Elections, all expenditures and transfers made by
said committee, under penalties of perjury.

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6. That, upon information and belief, no expenditures or transfers have ever been made by New Yorkers for Lew Lehman in support of or in opposition to the candidacy of any candidate for Federal office.

7. That I have neither made nor caused to be made, either personally or in my capacity as Treasurer of New Yorkers for Lew Lehman, any transfers or contributions in-kind or in cash to United States Senate candidate Florence Sullivan or to her authorized campaign committee at any time in 1982.

8. That I have neither made nor caused to be made, either personally or in my capacity as Treasurer of New Yorkers for Lew Lehman, any transfers or contributions in-kind or in cash to an organization known as "Citizens For the Republic" at any time in 1982.

9. That, upon information and belief, Respondent "New Yorkers for Lew Lehman" has made no transfers or contributions in-kind or in cash to United States Senate candidate Florence Sullivan or to her authorized campaign committee at any time in 1982.

10. That, upon information and belief, Respondent "New Yorkers for Lew Lehman" has made no transfers or contributions in-kind or in cash to an organization known as "Citizens For the Republic" at any time in 1982.

11. That, upon information and belief, Respondent Lewis E. Lehman made no transfers or contributions in-kind or in cash to United States Senate candidate Florence Sullivan or to her authorized campaign committee at any time in 1982.

12. That, upon information and belief, Respondent Lewis E. Lehman made no transfers or contributions in-kind or in cash to an organization known as "Citizens For the Republic" at any time in 1982.

13. That at no time have I ever possessed a set of "approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters in New York State."

14. That at no time did I ever cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

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15. That at no time did I ever authorize any agent of New Yorkers for Lew Lehman to cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

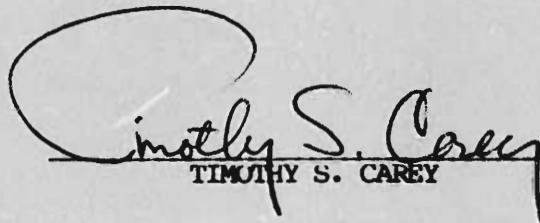
16. That, upon information and belief, at no time was any agent of New Yorkers for Lew Lehman ever authorized to cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

17. That, upon information and belief, at no time did any agent of New Yorkers for Lew Lehman ever cause any such set of labels "to be made available for use in a direct mail campaign in support of the candidacy of Florence M. Sullivan for the Republican nomination for United States Senator in New York in the Primary Election held on September 23, 1982."

18. That, I never attempted to conceal or caused anyone to attempt to conceal the true source and value of any contribution to any Federal candidate.


STATE OF NEW YORK)
COUNTY OF WESTCHESTER)

ss.:


TIMOTHY S. CAREY

Dated: January 26, 1985

Sworn to before me this 26th day
of January, 1985.


FRANK P. TROTTA, JR.
Notary Public, State of New York
Qualified in Westchester County
Commission Expires March 30, 1986

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Federal Elections Commission
Washington DC
20463



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STATEMENT OF DESIGNATION OF COUNSEL

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MUR 1868

MUR 1868
J. Levin

NAME OF COUNSEL: FRANK P. TROTTA, JR.

ADDRESS: 24 North Avenue

New Rochelle, NY 10805-3506

TELEPHONE: 914/632-7069

85 JAN 25 40:10
GENERAL COUNSEL
RECEIVED

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.

1/15/84
Date

Timothy S. Carey
Signature

RESPONDENT'S NAME: Timothy S. Carey, Individually and as Treasurer of New Yorkers
for Lew Lehrman

ADDRESS: c/o New Yorkers for Lew Lehrman
Suite L
24 North Avenue
New Rochelle, NY 10805

HOME PHONE: 914/737-8804

BUSINESS PHONE: 914/285-2800

Mr. Trotta is to serve as counsel both to Mr. Carey and
to the committee.

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Ronald E. Robertson
Attorney at Law
Suite 400
440 First Street, N.W.
Washington, D.C. 20001

January 23, 1985

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MUR 1868
J. LEVIN

By Messenger

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

Attention: Jonathan Levin, Esq.

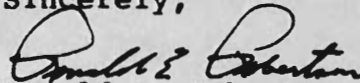
Re: MUR 1868

Dear Mr. Levin:

Pursuant to the General Counsel's letter with enclosures dated December 31, 1984, addressed to Arthur J. Dellinger, Jr., Treasurer of Citizens for the Republic, which was received on January 8, 1985, enclosed please find Statement of Designation of Counsel of Citizens for the Republic.

Also enclosed please find the Response of Citizens for the Republic and its Treasurer, Arthur J. Dellinger, Jr. to the complaint filed with the Commission in the above-captioned matter.

Sincerely,


Ronald E. Robertson
Attorney at Law

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85 JAN 23 P 4:46

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1868

NAME OF COUNSEL: Ronald E. Robertson

ADDRESS: 440 First Street NW
Washington, DC 20001

TELEPHONE: (202) 383-1979

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.

1-8-85
Date

Fiona M. Cochrane
Signature
Fiona M. Cochrane, Assistant Treasurer

COMMITTEE
RESPONDENT'S NAME: Citizens for the Republic

ADDRESS: 1253-7th Street, Ste. 200
Santa Monica, CA 90401

HOME PHONE: (818) 880-4338

BUSINESS PHONE: (213) 451-8548

85040523451

BEFORE THE
FEDERAL ELECTION COMMISSION

MURIEL F. SIEBERT and
WHITNEY NORTH SEYMOUR, JR.

Petitioners,

v.

LEWIS E. LEHRMAN,
NEW YORKERS FOR LEW LEHRMAN,

MUR 1868

RESPONSE OF CITIZENS FOR
THE REPUBLIC AND ITS
TREASURER, ARTHUR J.
DELLINGER, JR.

Respondents.

On December 20, 1984, Petitioners, Muriel F. Siebert and Whitney North Seymour, Jr., filed a complaint with the Federal Election Commission ("Commission") in which they alleged that Lewis E. Lehrman and New Yorkers for Lew Lehrman ("Named Respondents") violated 2 U.S.C. Section 441a by making contributions to the "Sullivan for Senate" campaign committee in excess of the proscribed limits. Petitioners also alleged that the named Respondents attempted to conceal said contributions by making them through a conduit, namely Citizens for the Republic ("CFTR"), a California based multi-candidate political committee registered with the Commission. Although Petitioners did not name CFTR as a party Respondent, the Commission, nevertheless, on December 31, 1984, forwarded a copy of the complaint to CFTR for response.

CFTR and its Treasurer, Arthur J. Dellinger, Jr., submit this response pursuant to 2 U.S.C. Section 437g(a)(1) and 11 CFR 111.6(a) and for the reasons set forth below respectfully request

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that this Commission find that there is no reason to believe that CFIR or its Treasurer violated any provision of the Federal Election Campaign Act of 1971, as amended ("FECA"). Specifically, the complaint, to the extent that it purports to involve CFIR in improper conduct, must be dismissed forthwith for two reasons. First, as to CFIR the complaint fails to comport with the minimum procedural requirements specified in the Commission's Regulations. And second, any contributions that were made by CFIR to the Sullivan for Senate committee were made in the normal course of CFIR's political activities, were completely legal and proper, and did not, in any way, involve Lewis E. Lehrman, New Yorkers for Lew Lehrman, or any other group or committee. Moreover, CFIR did not in this instance nor at any other time act as a conduit for either of the named Respondents. Consequently, there is no basis either in fact or in law to support a "Reason to Believe" finding with respect to CFIR and thus, the complaint, as it relates to CFIR, must be dismissed.

Facts

This complaint was instituted by two unsuccessful candidates for the Republican Party nomination for United States Senate in New York. The primary election in question was held on September 23, 1982. The complaint alleges that the Sullivan for Senate committee, which was the committee of the prevailing candidate, received excessive in-kind contributions from the named Respondents, namely Lewis E. Lehrman, an individual, and New Yorkers for Lew Lehrman, a non-federal political committee.

Specifically, the Petitioners allege that the named Respondents "caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters in New York State to be made available as an in-kind contribution to the SULLIVAN FOR SENATE committee for use in a direct mail campaign in support of the candidacy of FLORENCE M. SULLIVAN. . " See, Complaint, Paragraph 1 [caps in original]. Petitioners further allege that the value of said in-kind contributions exceeded the \$1,000 limit set forth in 2 U.S.C. Section 441a. Complaint, Paragraph 2.

Petitioners also allege that the named Respondents attempted to conceal the source and value of the alleged in-kind contributions by causing "the mailing labels to be contributed to the Sullivan campaign through a conduit, to wit, CITIZENS FOR THE REPUBLIC . . .in violation of the provisions of 11 CFR Section 110.6." See, Complaint, Paragraph 3 [caps in original].

In support of their claims, Petitioners attached an array of newspaper clippings, mailing labels and pages from an FEC Report of Receipts and Disbursements for the Sullivan for Senate committee dated September 10, 1982. However, in all of the documentation so provided, the only mention of Citizens for the Republic, appears on the FEC filings of the Sullivan for Senate committee which properly indicate that CFTR made an in-kind contribution of mailing labels having a value of \$3,368.85.

Argument

I. THE COMPLAINT MUST BE DISMISSED BECAUSE IT FAILS TO COMPORT WITH THIS COMMISSIONS' PROCEDURAL REQUIREMENTS.

The joining of CFTR as a party to this matter is procedurally defective for two reasons. First, the complaint

only names two party Respondents, i.e., Lewis E. Lehrman and New Yorkers for Lew Lehrman. Inasmuch as CFIR was not so named, it is improper for the Office of General Counsel to amend, sua sponte, Petitioners' complaint by joining CFIR without the approval of the Commission. And second, with respect to CFIR, the complaint contains no evidence, inferential or otherwise, sufficient to satisfy the documentation requirements set forth in this Commission's Regulations.

A. The Complaint Must be Dismissed as to CFIR, Because Petitioners Did Not Name CFIR as a Respondent in Said Complaint.

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The FECA and the Regulations created and recognize two distinct forms of compliance actions: (1) Matters externally initiated by complaint, and (2) Matters internally generated from information ascertained by the Commission. Different procedures apply to each type of action. See, 11 CFR 111.3. The current matter before the Commission was externally generated by a complaint and thus, the procedural rules governing such matters pertain. Specifically, in a complaint-generated matter, the petitioner must "clearly identify as a respondent each person or entity who is alleged to have committed a violation." 11 CFR 111.4(d)(1) [Emphasis supplied]. Here, neither CFIR nor its Treasurer was identified in the complaint as a Respondent. Quite to the contrary, the Petitioners took care to specifically identify as "Respondents" those persons or entities against whom they wished the Commission to proceed, namely: (1) Lewis E. Lehrman and (2) New Yorkers for Lew Lehrman. Neither CFIR nor its Treasurer was ever identified in the complaint as a Respondent and as such, neither is a proper party to this action.

CFIR and its Treasurer recognize that Petitioners, can if they wish, amend the instant complaint or file a new complaint, naming CFIR and its Treasurer as party-respondents. However, under the complaint as filed, the Office of General Counsel is powerless to act on its own initiative to amend this complaint and institute proceedings against CFIR. To permit the General Counsel to do so would be to subvert the highly restrictive provisions of this Commission's Regulations which require that internally generated matters must first be approved by the Commission itself. See 11 CFR 111.8-111.9.

B. The Complaint As to CFIR Must be Dismissed Because it Fails to Incorporate or Otherwise Set Forth Any of the Required Supporting Information or Documentation.

The drafters of the FECA and its Regulations recognized only too well that political campaigns can breed resentment and that unless the compliance process were properly monitored, it might well turn into a font for disgruntled candidates and supporters. Consequently, in order to preserve the integrity of the administrative process and to prevent the Commission from becoming hopelessly embroiled in petty partisan bickering, the Regulations attempt to ensure that only those grievances supported by appropriate evidence and documentation would qualify for treatment as a valid "complaint." Specifically, the Regulations require that statements in a complaint which are not based on personal knowledge "should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements." 11 CFR 111.4(d)(2). In the case sub judice, nothing in the complaint

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is based on the personal knowledge of the Petitioners. Indeed, the Petitioners explicitly acknowledge that everything in the complaint is based merely on "information and belief." See, Complaint, Page 2, lines 1-2. Inasmuch as nothing in the complaint is based on personal knowledge, the Petitioners were obligated to delineate the sources of their information supporting the allegations of wrongdoing. However, nothing either set forth in the complaint nor attached to it as an Exhibit, supports, either inferentially or otherwise, the bald-faced assertion contained in paragraph 3 of the Complaint that CFTR was acting as a conduit for the named Respondents. Moreover, Petitioners have totally failed to provide any insight into the source of the information supporting their assertion that CFTR acted as a conduit. In short, since the complaint contains a purely conclusory statement, unsupported or unattributed, it falls woefully short of even meeting the minimum adequacy standards set forth in 11 CFR 111.4(d)(2) and thus, should be dismissed forthwith.

II. CITIZENS FOR THE REPUBLIC DID NOT ACT, AND NEVER HAS ACTED, AS A CONDUIT FOR CONTRIBUTIONS TO SULLIVAN FOR SENATE.

The gist of Petitioners' complaint seems to be that (1) since the Sullivan for Senate committee sent mailings to 427,000 Republicans [Petitioners' Exhibit E] and (2) since a Lehrman newsletter indicated that Lehrman volunteers were compiling a "Prime Voters List" for all 62 counties of New State [Petitioners' Exhibit A] and (3) since CFTR reported having made an in-kind contribution of mailing labels to the Sullivan for Senate committee, then CFTR must have acted as a conduit between

the named Respondents and Sullivan for Senate for the purpose of concealing the source and value of lists and labels provided to the latter by the former. The position of the Petitioners defies both logic and rational reasoning. Simply stated and as demonstrated below, CFIR has never, for any purpose, acted as a conduit for Lewis E. Lehrman, New Yorkers for Lew Lehrman, or for any group or organization associated with either.

Citizens for the Republic is a multi-candidate political committee registered with this Commission (ID # C000 75390). As the attached affidavit of Paul M. Foley, Assistant Director of CFIR, clearly demonstrates, CFIR has never made a transfer of any kind to Lewis E. Lehrman or New Yorkers for Lew Lehrman, nor has CFIR ever made a transfer to any group or committee, including the Sullivan for Senate Committee, at the bequest of Lewis E. Lehrman or New Yorkers for Lew Lehrman. More importantly, the in-kind contribution to the Sullivan for Senate committee evidenced in the Reports of Receipts and Disbursements filed by both the Sullivan for Senate committee and CFIR, which consisted of 22,459 pre-printed "4-Up Cheshire Labels" valued at \$150.00 per thousand, was made in the normal course of CFIR's political activities. Specifically, CFIR, as part of its normal operations, either leases or contributes, as the case may be, pre-printed mailing labels to certain candidates for federal office. The labels, which were developed solely by CFIR, were tendered to the Sullivan for Senate committee as an in-kind contribution and were accompanied by CFIR's standard tender agreement which sets forth the value of \$150.00 per thousand

pre-printed labels. Clearly, this in-kind contribution of mailing labels was entirely consistent with both CFIR's normal operating procedures and the applicable provisions of FECA and its Regulations.

A scenerio which attempts to transform this reported transfer of 22,459 labels into an earmarked transfer of over 400,000 labels is clearly without any basis in fact. In order to constitute an earmarked contribution under the Regulations, the contributor must transfer something of value to the conduit with instructions to that conduit which results in the conduit transferring something of value to a clearly identifiable candidate for federal office. See 11 CFR 110.6(b). In short, in order for CFIR to be viewed as a conduit, CFIR must have received something of value from a "contributor," in this case Lewis E. Lehrman or New Yorkers for Lew Lehrman. As the attached affidavit of Paul M. Foley demonstrates, CFIR never received anything of value from New Yorkers for Lew Lehrman. And the only thing of value ever received by CFIR from Lewis E. Lehrman was a \$5,000.00 contribution, made on July 27, 1983, approximately eleven months after CFIR's in-kind contribution to the Sullivan for Senate committee. That contribution was made in Mr. Lehrman's capacity as an individual contributor. These averments are supported by CFIR's Reports of Receipts and Disbursements which are on file with this Commission. Furthermore, the mailing labels attached as Exhibts G, H, and I to the Petitioners' complaint were not CFIR mailing labels, did not contain the names of individuals on CFIR's mailing lists and were not transferred to the Sullivan for Senate committee by

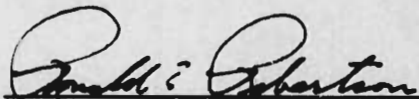
CFIR.

In short, the in-kind contribution attacked by Petitioners in their complaint was entirely proper, was made in the normal course of CFIR's political activities, was not made at the suggestion or request of Lewis E. Lehrman or New Yorkers for Lew Lehrman, was within the proscribed limits and was dutifully reported to the Commission by both CFIR and the Sullivan for Senate committee. As the Affidavit of Paul Foley demonstrates, there is no evidence to support the proposition that CFIR was acting as a conduit for either of the named Respondents nor for any other person or committee.

Conclusion

For the foregoing reasons CFIR respectfully requests that the Commission find "No Reason to Believe" that it violated any provision of the FECA and that the complaint be dismissed.

Respectfully submitted,



Ronald E. Robertson
Attorney for Citizens for the
Republic

85040523460

1
2
3 AFFIDAVIT OF PAUL FOLEY

4 I, Paul Foley, being duly sworn, depose and say:

5 1. That I am, and at all times relevant herein have
6 been, the Assistant Director of Citizens for the Republic
7 ("CFIR"); and

8 2. That in my capacity as Assistant Director I have primary
9 responsibility for overseeing the organization's direct mail
10 effort and also discharge, under the authority of the
11 Executive Director, such administrative functions as may be
12 necessary; and

13 3. That I have reviewed the complaint and attached exhibits
14 in MUR 1868 including the mailing labels; and

15 4. That CFIR in the course of its normal political
16 activities did in fact on August 20, 1982, make an in-kind
17 contributions of 22,459 "4-Up Cheshire Mailing Labels" to
18 the federal committee Sullivan for Senate (FEC ID # C001
19 58097); and

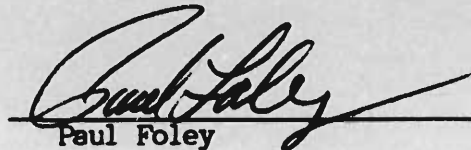
20 5. That the above referenced in-kind contribution was not
21 made at the suggestion of Lewis E. Lehrman or New Yorkers
22 for Lew Lehrman, but rather was made in the normal course of
23 CFIR's activities as a multi-candidate political committee;
24 and

25 6. That at no time during 1982 or at any time prior thereto
26 did CFIR receive any contribution or other thing of value,
including mailing lists or labels, from Lewis E. Lehrman or
New Yorkers for Lew Lehrman. CFIR's records do indicate
that on July 27, 1983, it received a \$5,000.00 personal
contribution from Lewis Lehrman. That contribution was in
no way related to the in-kind contribution made eleven
months earlier by CFIR to Sullivan for Senate; and

7. That the mailing labels contributed to Sullivan for
Senate by CFIR were in fact the property of CFIR; were
compiled by CFIR; and further, those labels had a fair market
value of \$150 per thousand; and

8. That I have examined the mailing labels attached to the
complaint in this MUR and conclude that such labels were not
part of the 22,459 labels contributed to Sullivan for Senate
and moreover, none of the names set forth on those exhibits
is contained in CFIR's mailing lists; and

1
2
3
4 9. That the above referenced in-kind contribution to
5 Sullivan for Senate was a bone fide contribution by CFIR to
6 Sullivan for Senate and that in so making the contribution
7 CFIR did not act as an agent or conduit for any person or
8 group.

9
10
11
12 
13 Paul Foley

14 DISTRICT OF COLUMBIA: ss

15 Subscribed and sworn before me this 18th day of January, 1985.

16
17
18 
19 Notary Public

20 SEAL

21 My Commission Expires: March 14, 1989.
22
23
24
25
26



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1984

Whitney North Seymour, Jr.
100 Park Avenue, Room 2606
New York, New York 10017

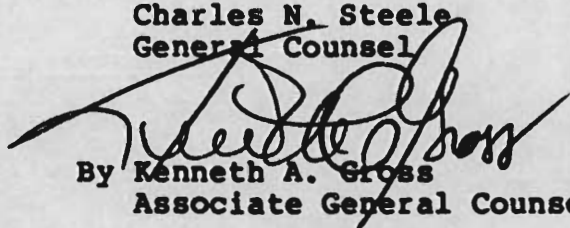
Dear Mr. Seymour:

This letter is to acknowledge receipt of your complaint which we received on December 20, 1984, against Lewis E. Lehrman and New Yorkers for Lew Lehrman, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure

85040523463



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1984

Muriel F. Siebert
435 East 52nd Street
New York, New York 10028

Dear Mr. Siebert:

This letter is to acknowledge receipt of your complaint which we received on December 20, 1984, against Lewis E. Lehrman and New Yorkers for Lew Lehrman, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosure

85040523464



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arthur J. Dellinger, Jr., Treasurer
Citizens for the Republic
1253 7th Street
Suite 200
Santa Monica, CA 90401

Re: MUR 1868

Dear Mr. Dellinger:

This letter is to notify you that on December 20, 1984, the Federal Election Commission received a complaint which alleges that the Citizens for the Republic and you, individually and as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1868. 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, individually as treasurer, in connection with this matter. Your response 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.

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.

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.

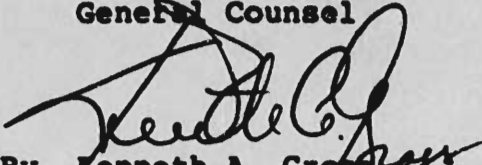
If you and your committee intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040523465

If you have any questions, please contact Jonathan Levin, the staff member assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

85040523466



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lewis E. Lehrman
641 Lexington Avenue
New York, NY 10022

Re: MUR 1868

Dear Mr. Lehrman:

This letter is to notify you that on December 20, 1984, the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1868. 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 connection with this matter. Your response 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.

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.

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.

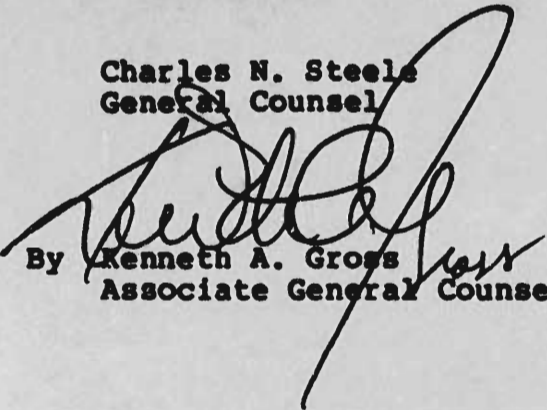
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040523467

If you have any questions, please contact Jonathan Levin, the staff member assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

85040523468



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Timothy S. Carey, Treasurer
New Yorkers for Lew Lehrman
641 Lexington Avenue
New York, New York 10022

Re: MUR 1868

Dear Mr. Carey:

This letter is to notify you that on December 20, 1984, the Federal Election Commission received a complaint which alleges that the New Yorkers for Lew Lehrman and you, individually and as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1868. 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, individually as treasurer, in connection with this matter. Your response 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.

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.

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.

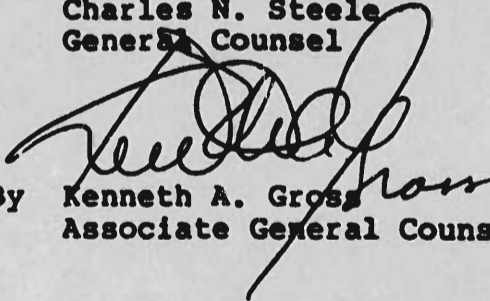
If you and your committee intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040523469

If you have any questions, please contact Jonathan Levin, the staff member assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

85040523470



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 31, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph M. Sussillo, Treasurer
Sullivan for Senate
437 Bay Ridge Parkway
Brooklyn, NY 11209

Re: MUR 1868

Dear Mr. Sussillo:

This letter is to notify you that on December 20, 1984, the Federal Election Commission received a complaint which alleges that the Sullivan for Senate committee and you, individually and as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1868. 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, individually as treasurer, in connection with this matter. Your response 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.

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.

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.

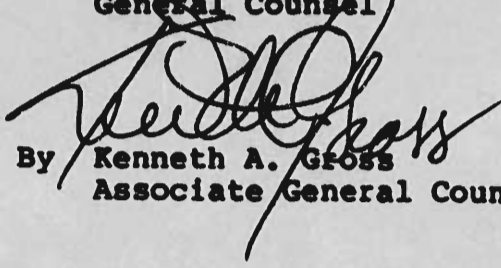
If you and your committee intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040523471

If you have any questions, please contact Jonathan Levin, the staff member assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By Kenneth A. Gross
Associate General Counsel

Enclosures

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

85040523472

Before the Federal Election Commission

GCC#6052

COMPLAINT

(Pursuant to Title 2, U.S.C. § 437g and Title 11, CFR Part 110)

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

mur
1868

COMPLAINANTS:

MURIEL F. SIEBERT
435 East 52nd Street
New York, New York 10028

WHITNEY NORTH SEYMOUR, JR.
100 Park Avenue, Room 2606
New York, New York 10017

RESPONDENTS:

LEWIS E. LEHRMAN
641 Lexington Avenue
New York, New York 10022

NEW YORKERS FOR LEW LEHRMAN
Timothy S. Carey, Treasurer
641 Lexington Avenue
New York, New York 10022

VIOLATION ALLEGED:

Knowing and wilful violation of contribution restrictions and limits under Title 2, United States Code, Section 441a, and Title 11, CFR Part 110, in relation to the Primary Election in New York State for Republican Party Nomination for United States Senator, held on September 23, 1982.

P/2: 40

81 DEC 20 P/2: 03

RECEIVED

85040523473

Complainants MURIEL F. SIEBERT and WHITNEY NORTH SEYMOUR, JR., state on information and belief as follows:

1. On or about August 20, 1982, respondents caused approximately 361,000 mailing labels addressed to 427,000 Republican Primary Voters in New York State to be made available as an in-kind contribution to the SULLIVAN FOR SENATE political committee for use in a direct mail campaign in support of the candidacy of FLORENCE M. SULLIVAN for the Republican Party nomination for United States Senator in New York in the Primary Election held on September 23, 1982.

2. The fair market value of such mailing labels far exceeded the \$1,000 limit which respondents were each allowed to contribute to SULLIVAN FOR SENATE under the provisions of 2 U.S.C. § 441a.

3. In order to conceal the true source and value of such in-kind contribution, respondents caused the mailing labels to be contributed to the Sullivan campaign through a conduit, to wit, CITIZENS FOR THE REPUBLIC, 1253 Seventh Avenue, Santa Monica, California, in violation of the provisions of 11 CFR § 110.6.

4. The sources of the information which give rise to complainants' belief in the truth of the foregoing statements are contained in the following documents marked as exhibits and annexed hereto as follows:

85040523475

Exhibit A: Excerpt from a "Lehrman Governor Campaign Report" newsletter issued by Respondents under date of July 1, 1982, describes efforts of Lehrman volunteers and coordinators to complete a "Prime Voters List" for all 62 counties of New York State by July 15.

Exhibit B: A May 1982 price list of Election Computer Services, Inc. states that the fair market value of punching and computer matching Prime Voter Lists in 1982 was \$31.00 per thousand, not including the actual labor costs and expenses for compiling the raw data.

Exhibit C: A New York Times news story of September 13, 1982, reported that Mrs. Sullivan "is hoping to raise enough for a mailing to the 563,253 Republicans who voted in the party's 1980 Senate primary."

Exhibit D: An Ithaca Journal news story of September 7, 1982, stated that the Sullivan campaign "is banking heavily on a statewide mailing to likely primary voters" and quoted Mrs. Sullivan's campaign manager, Michael Long, as stating: "No senate candidate running against Florence Sullivan has the list we do."

Exhibit E: A Poughkeepsie Journal news story of September 24, 1982 (the day after the Primary Election) stated that "Sullivan's aides attributed her victory to a mailing that went out over the past week to more than 427,000 Republicans around the state."

Exhibit F: A copy of the Sullivan pre-Primary

direct mail piece, which was sent out in the name of the New York State Conservative Party State Committee under its Non-Profit Organization permit.

Exhibits G, H and I: Copies of mailing panels on

the foregoing Sullivan direct mail piece and of contemporaneous direct mail pieces sent out by Respondents, showing the physical similarity in make-up and composition of the mailing labels.

Exhibit J: The cover page and Schedule A, Page 1

and Schedule B, Page 2 of the Report of Receipts and Disbursements for SULLIVAN FOR SENATE dated September 10, 1982, which reports an in-kind contribution of mailing labels having a declared value of \$3,368.85 from CITIZENS FOR THE REPUBLIC.

Respondents deliberately circumvented the contribution limits under the Federal Election Laws by using a California-based multi-candidate committee as a conduit for making a contribution of enormous practical value to the Sullivan campaign, to the injury and disadvantage of her opponents.

85040523477

Muriel F. Siebert
MURIEL F. SIEBERT

Sworn to before me this
6th day of December, 1984

Karen M. Muller
Notary Public

KAREN M. MULLEN
NOTARY PUBLIC, State of New York
No. 31-4334686
Qualified in New York County
Commission Expires March 30, 1986

Whitney North Seymour Jr
WHITNEY NORTH SEYMOUR, JR.

Sworn to before me this
21st day of November, 1984

Tom M. Colella
Notary Public

TOM M. COLELLA
Notary Public, State of New York
No. 24-4777122
Qualified in Kings County
Commission Expires March 30, 1986

7/1/82

APPEARANCES:

JUNE 23:
Hempstead, Long Island
Forum Breakfast

JUNE 24:
Buffalo, Buffalo Area
Chamber of Commerce
Luncheon

JUNE 25:
Manhattan, National His-
panic Assembly Dance

JUNE 29:
Guilderland, Breakfast
with Capital District
Volunteers

JUNE 29:
Rochester, Meeting with
Boards of Trustees of Area
Colleges

JUNE 30:
Staten Island, Staten
Island Chamber of Commerce

JULY 1:
Brooklyn, Douglas
MacArthur Republican Club,
39th AD Republican Club,
46th AD Republican Club

JULY 6:
Manhattan, New York Times
Republican Candidates
Debate

UPCOMING APPEARANCES:

JULY 13:
Grossingers, NYS Broad-
casters Republican Cand-
didates Debate

JULY 15:
Manhattan, Leaders For Lew
Lehrman Breakfast

JULY 21:
Albany, NYS Chiefs of
Police Annual Meeting

JULY 21:
Saratoga, Saratoga Area
Friends of Lew Lehrman
Reception

CAMPAIGN INTERN PROGRAM ATTRACTS YOUNG PEOPLE

The Lehrman Campaign's intern program has attracted a group of out-standing young people. Among their many responsi-bilities, interns make press runs and work on the prime voters list.

We would like to welcome the following interns to the campaign and to thank them for their tremendous effort at the convention:

Christine Corey
Heidi Davidson
Tyler Ingham
Eric Leeds
Phil Lipper
Ray Merritt
Christopher Potter
Marco Sulpizi
Ed Unneland

Anyone interested in the campaign's intern program should call Susan Yu at 212-759-8534.

LEHRMAN GOVERNOR CAMPAIGN REPORT

SPOTLIGHT ON CAMPAIGN INTERN PHIL LIPPER

A senior at Eisenhower College in Seneca Falls, New York, Philip Lipper joined the campaign in June as a summer intern. Phil will assist John Steele in all phases of technical op-erations. A Public Policy major and also chairman of the Eisenhower College Republican Club, Phil heard Lew's Commencement Address at Eisenhower College in May and met him afterwards. He commenced working on the campaign shortly there-after, where he's been addressing mail (and people) ever since.

LEHRMAN VOLUNTEERS WRAPPING UP PRIME VOTERS LIST PROJECT

With extraordinary zeal and dedication, Lehrman volunteers throughout the state have completed the prime voters list in 47 of 62 counties. The remaining counties are currently wrapping up their PVL's. We expect virtually all 62 counties to be completed by July 15.

The tremendous volunteer effort on this project shows the size and scope of Lew's support throughout the state.

To everyone who has worked on the PVL project, our heartfelt thanks. We are especially proud of our PVL coordinators and urge anyone interested in get-ting involved in the cam-paign to contact them directly. You can obtain phone numbers by calling Jerry Weil at 212-759-8534.



Election Computer Services, Inc.

PRICE LIST MAY 1982

*Selection - By codes	\$ 1.00M	- Individuals
*Ethnic Selection	\$ 8.00M	- Individuals
*Prime Voter Usage Fee	\$ 23.00M	- Individuals
*Additional Copies - Prime Voters	\$ 11.50M	- Individuals
*Age Selection	\$ 23.00M	- Individuals
*Prime Ages	\$ 34.50M	- Individuals
*Additional Copies - Prime Ages	\$ 17.25M	- Individuals
*Tenant or Private Home Selection	\$ 8.00M	- Individuals
*(plus cost of materials)		

Sort	\$ 1.00M	- Individuals
Carrier Route Sort	\$ 1.00M	- Individuals
Cheshire Labels (Voter Registration File)	\$ 4.00M	
Pressure Sensitive Labels	\$ 8.00M	
Print AD/ED on label	\$.50M	
Canvass Sheets	\$ 6.00M	
Index Cards	\$ 15.00M	
IBM Cards	\$ 15.00M	
**Carbon Copies	\$ 1.75M	

** (Carbons not available on IBM Cards, Index Cards
and Pressure Sensitive Labels)

Set-up Polling Places	\$150.00
Polling Place Labels (Cheshire)	\$ 10.00M
(Pressure Sensitive)	\$ 16.50M

<u>MINIMUM ORDER</u>	\$ 75.00
----------------------	----------

PRIME VOTER LISTS

Punch and Computer Match Prime Voters	\$ 31.00M
---------------------------------------	-----------

SPECIAL ITEMS

Phone Look-up - Computer	\$ 46.00	(net count)
- Manual	\$ 70.00	(gross count)
Random Samples	\$275.00	per county plus cost of materials

575 Lexington Avenue • New York, New York 10022 • (212) 750-8844

333 Jericho Turnpike • Jericho, New York 11753 • (516) 931-7077

EXHIBIT " B "

85040523479

PRICE LIST MAY 1982 (continued)

COMPUTER LETTERS

Mailgraph - (Stock form and Envelope)	\$ 85.00M
Telegrams - (Stock form and Envelope)	\$ 85.00M
Letters - Monarch	Request Price Quote
- 8½ x 11	Request Price Quote

MINIMUM ORDER	\$500.00
---------------	----------

LETTER SHOP COSTS

Affix Cheshire Labels	\$ 6.00M
Insert up to 2 Pieces	\$ 10.50M
Additional Pieces	\$ 1.50M
Tie, Bag (bulk)	\$ 9.50M
(First Class)	\$ 7.50M
Carrier Route Surcharge	\$ 4.50M
Meter	\$ 4.50M
Folding	\$ 2.50 per fold
Affix Postage Stamps	Request Price Quote

MINIMUM ORDER	\$150.00
---------------	----------

ENVELOPES AND PRINTING

Request Price Quote

85040523480

G.O.P. Senate Hopefuls in a Race for Recognition

By JOSH BARBANEL

With march music thundering from a tape recorder in the background, Whitney North Seymour Jr. solemnly shook hands with hundreds of commuters the other day as they bounded onto trains at the Croton-Harmon station in Westchester County.

But despite a flag-bedecked van, cheery red campaign balloons and a sign that said, "Meet Your Next U.S. Senator," many halted by without stopping. And most of those who stopped did not know that Mr. Seymour was one of three Republicans competing for the right to challenge the Democratic nominee in November.

It is a scene that the candidates — Assemblywoman Florence M. Sullivan of Brooklyn, Marjorie Siebert, a former State Banking Superintendent, and Mr. Seymour, a former United States Attorney — say is repeated across the state as they seek to overcome their lack of voter recognition.

As the campaign approaches the final days, the three candidates are lamenting the difficulty of getting their views — or even their names — across to the half-million or so registered Republicans likely to vote in the primary Sept. 22.

A Degree of Familiarity

"The name rang a bell, but I didn't know if he was running for U.S. Senate or the State Senate," said Bill Coleman, a producer of television commercials from Yorktown who was waiting on the station platform.

"I'm not from here. I'm from up in Putnam County," said a man in pin stripes after receiving a crisp handshake and a tired "Hi, how are you?" from the candidate.

In her campaign advertisements, Miss Siebert portrays herself as a "woman who means business" and has succeeded in a "tough man's world." Mr. Seymour argues that as a "two-fronted" trial lawyer and former State Senator, he has broader experience than his opponents. Miss Sullivan, who will appear on the November ballot on the Con-

servative and Right to Life lines even if she does not win the primary, portrays herself as a "mother, teacher, prosecutor and legislator" who is a conservative "Reagan Republican."

But despite a summer of travel across the state, visits to newspaper editorial boards, tours of county fairs and news conferences called at the last opportunity, surveys of voters show that the candidates remain virtually unknown.

Overshadowed by Other Races

The campaign has been overshadowed by the Democratic and Republican primaries for governor and by the probability that the G.O.P. Senate nominee will face a formidable Democratic opponent in November, Senator Daniel Patrick Moynihan, who defeated his Republican opponent six years ago by 12 percentage points. Mr. Moynihan faces a challenge in the Democratic primary from Melvin Klenetsky, a former leader of the U.S. Labor Party, but is expected to win easily.

"All the people in the primary are the underdog," Miss Siebert said of the G.O.P. race, "because we haven't come face to face yet with Mr. Moynihan."

A large part of the problem is money. Despite the Republican Party's reputation as a magnet for large contributors, the candidates all complain that many traditional donors are staying away — at least until the primary battle has ended.

"They have short arms and deep pockets," 24-year-old Mr. Sullivan said as she sat in a coffee shop on 11th Street in the Bay Ridge section of Brooklyn after an hour of campaigning on the street. "Everybody is having a hard time raising money."

Asked about fund-raising, Mr. Seymour shook his tanned and balding head from side to side. "It's murder, murder," he said. "You've got to have a lot of friends or a few friends. The wise guys are not out there."

And Miss Siebert, who has given or lost her campaign \$250,000, is counting on a series of last-minute 15-minute

events. Typically, she said, donors who had promised \$1,000 were sending checks for \$300 instead.

Miss Siebert and Mr. Seymour, who have raised about \$100,000 so far from other people, are planning mailings and modest television campaigns in the final days of the campaign. Mrs. Sullivan has raised less than half that amount and is hoping to raise enough for a mailing to the 563,253 Republicans who voted in the party's 1980 Senate primary. There are 2.4 million registered Republicans in the state.

The candidates agree on many of the issues, especially their dissatisfaction with Mr. Moynihan. Each argues that the economy is the biggest issue of the day and that the Federal deficit must be reduced. Each supports some form of the death penalty and says the criminal-justice system must be strengthened.

Mrs. Sullivan is a 53-year-old widow with three children who returned to college in her 30's and taught in a Roman Catholic high school. She then went to law school, was an assistant district attorney in Brooklyn and has been elected twice to the Legislature.

She hopes to win the primary by portraying her opponents as liberals who will split the same segment of the Republican vote. She is the only candidate to oppose abortion on demand, cuts in defense spending and recent tax increases enacted in Washington.

Her aides have closely studied the 1980 Republican Senate primary in which Alfonse M. D'Amato defeated Senator Jacob K. Javits, and Mrs. Sullivan hopes to win over many of those who voted for Mr. D'Amato.

Mr. Seymour, who prefers to be addressed as "Mike," is 50 years old and a longtime member of New York City's political, social and legal establishment. In addition to his service as a United States Attorney and State Senator, he has been president of the State Bar Association and is a partner in the law firm of Simpson Thacher & Bartlett.

He is the officially designated candidate of the state's Republican Party, and has been endorsed by nine of his former colleagues in the State Senate.

Mr. Seymour says that, during his summer campaign travels around the state, he covered 10,000 miles and shook 125,000 hands. But much of his campaigning was overshadowed by a stop at the Altamont Fair in Albany County, where Mr. Seymour was arrested and charged with disorderly conduct for distributing campaign literature in the fairgrounds. Mr. Seymour said that, at a hearing after the primary, he would argue that the restriction on campaigning was unconstitutional.

Miss Siebert, 53, was the first woman to hold a seat on the New York Stock Exchange, the first to become a partner in a stock exchange firm and the first to be chairman of her own firm.

One of Miss Siebert's commercials shows her getting into a limousine and saying she will "fight to make the government balance its books."

She has been accused by her opponents of being "one-dimensional" — "The U.S. economy is a lot more complicated than a bank," Mr. Seymour says — and she readily agrees.

"Sure I'm one-dimensional," she said. "But isn't the biggest problem in the country jobs, unemployment, interest rates, the deficit of the country? If that's one-dimensional, so be it."

Miss Siebert has also come under attack for a proposal to collect taxes from the "underground economy" — off-the-books transactions in cash. Mrs. Sullivan has interpreted this to mean taxing illegal drug transactions. Mr. Seymour has criticized her for insisting that others pay fair share while her 1981 tax returns show 18 tax shelters. "It impairs her credibility," he said.

Miss Siebert says her tax returns were audited several times and the shelters were found legal and ethical.

She expresses concern that voters will confuse her with Mrs. Sullivan, because their names are similar, but she believes that she has an edge because both of her opponents are lawyers.

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Wide Range of

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On Aug. 25, Mr. Ma than, was shot to death

LOTTERY NUM

Sept. 12, 19 New York Numbers

Sept. 11, 19 New York Lotto — 24; supplementary

GOP Senate hopefuls try to sharpen images while battling apathy

By LOUIS PECK

Senate News Service

SYRACUSE — It was the monthly meeting of the North Republican Club here, and Florence Sullivan — the Archie Barker candidate in this year's race for the U.S. Senate — was making her pitch.

"I'm from a little community known as Bay Ridge in Brooklyn," she said, her nasal twang clearly identifying her home base. "I'm paying off a mortgage. I'm paying off a student loan."

As the audience warmed up, Sullivan — currently a state assemblywoman — went on the attack against the man she hopes to topple in November, Democratic incumbent Daniel Patrick Moynihan.

"He's in an ivory tower," she charged of the former Harvard professor. "He's too busy communical-

ing with the intellectual elitists."

But, to have a viable chance against Moynihan, Sullivan must first get through the Sept. 23 primary — where she faces former U.S. attorney Whitney North Seymour and former state banking superintendent Muriel Siebert. And Sullivan's rhetoric was as much aimed at them as at Moynihan.

Sullivan, with her unpolished speaking style and occasional malapropisms, is attempting to cast herself as the candidate of the rank-and-file against two Manhattan-based opponents who have spent much of their careers on Wall Street.

With less than three weeks to go until the primary, Seymour and Siebert are also busily attempting to construct a clear public image of themselves. But the three GOP senatorial hopefuls are battling more than each other.

They are also fighting for the spotlight with a gubernatorial race that has pre-occupied much of the valley public's attention span. And, finally, Siebert, Seymour and Sullivan are battling public apathy — stemming from a widespread belief that Moynihan is simply not vulnerable this year.

In coming weeks, television

viewers will see an ad in which Whitney North Seymour will be shown carrying his six-foot, six-inch frame across the imposing rotunda of the New York County Courthouse. The purpose of the ad is unmistakable: to portray Seymour as a man of stature and distinction.

Indeed, it is Seymour's resume — state senator, U.S. attorney, president of the New York State Bar Association — that he emphasizes in interviews. If Sullivan is trying to identify with the rank-and-file, Seymour is hoping to impress them.

"I've done all the things the others have done, and a lot more besides," he said. Like Siebert, he has worked on Wall Street. Like Sullivan, he has been a state legislator and a prosecutor.

But the TV ad with Seymour waiting across the courthouse rotunda has another aim as well: to show him as a candidate concerned about crime. It is one of several efforts Seymour is making to play down his past as a Republican liberal — and to rebut charges from Siebert and Sullivan that he is too far to the left of the current Republican stream.

Seymour is well aware that the word "liberal" does not have positive connotations these days, particularly among Republicans. Define liberal as (former Virginia Senator) Carter Glass did — "some one who likes to spend other people's money," he said with a chuckle. "The word 'moderate' is really most accurate for me," he continued. "I certainly don't claim to be a right-wing conservative."

On a wide variety of issues, the 59-year-old Seymour would clearly find at home with moderate-to-liberal Democrats — should he reach the U.S. Senate. He favors cutting federal spending by cutting the defense budget, questioning the need for "big ticket" items. He is against tuition tax in schools, and in support of Medicaid funding for abortions.

But Seymour quickly responds that he also favors the death penalty — and that he is against gun control. Instead, he favors a federal statute that would provide mandatory prison sentences for crimes committed with a gun. He noted such a proposal is favored by the National Rifle Association.

"I'm opposed to the continuing intransigent warfare between the gun control people and the gun manufacturers," he said. "That's a position I don't think either Democrats have the guts to take."

Muriel Siebert is the only woman candidate who has sought office before. "I have been a politician since day one," she said.

with a smile, referring to the day she announced for the senatorial nomination.

Siebert feels there is an advantage to portraying herself as the non-politician in a race against two veteran elected officials. "People have disdain for politicians," she said, adding, "I've never spent one day in the clubhouse. When (State GOP Chairman) George Clark said, 'Send your information to the county chairman,' I said, 'What is a county chairman?'"

Such seeming "naivete" can be charming. But it has also opened Siebert up to questions about her political pedigree, particularly because her last five years were spent as the banking superintendent in the administration of Democratic Gov. Hugh Carey.

"We never let it be known to anyone she was a Republican," charged Florence Sullivan. "Her own friends asked her if she has changed parties. At heart she is a Democrat."

To counter this, Siebert, 53, has waged a campaign staff heavily loaded with veterans of the 1980 Reagan presidential campaign in New York. She also is prepared to spend about \$500,000 in the coming months on a television advertising campaign (Seymour's campaigners say they can't afford to spend more than \$100,000 on television before the primary). The Siebert ads will dwell heavily on crime. She has released a statement in favor of the death penalty.

In an attempt to stake out a position to the right of Seymour and the left of Sullivan, Siebert had endorsed tuition tax credit and voluntary prayer in public schools — and is adamantly against a ban on abortions. "I just don't think that's any of the government's business," she said, in what amounts to an appeal for the "women's vote" in the primary.

Siebert, a millionaire stockholder who was the first woman admitted to the New York Stock Exchange, emphasizes her financial background — something she says her opponents lack. But she still appears to be getting her sea legs on a variety of other issues.

At a Rochester press conference, Siebert termed the death penalty "an effective deterrent to capital cases." But she quickly backed off the statement under questioning. "I didn't know what it will accomplish until we try it," she said.

Florence Sullivan — former state senator, assistant district attorney (but only by state designation) — believes she's the only "real

Republican" in the race.

"In primaries, people do vote on an ideological basis," she said. "I'm the only one who really represents the Republican philosophy," said Sullivan. Siebert, she noted, contributed to Gov. Carey's re-election fund as recently as December 1981. Seymour, Sullivan added, once called himself a "Lindsay Republican."

"I lost my affiliation with John Lindsay many years ago," Seymour snapped when asked about the controversial former New York City mayor. "When he let opportunities get in the way of good judgment, he lost my support."

With the exception of the recent \$88.3 billion tax increase, Sullivan is a down-the-line supporter of Reagan administration policies. Unlike Siebert and Seymour, she favors the large increase in defense spending that Reagan has sought. On social issues, Sullivan is an archconservative, favoring tuition tax credits and voluntary prayer in the schools, opposing abortions even in the case of rape.

Conservatives do vote in disproportionately high numbers in a Republican primary, and this would

normally work to Sullivan's advantage. Her problem is that she lacks the money to enhance her current name identification around the state.

Siebert expects to spend about \$500,000 before the Sept. 23 primary, and Seymour will spend about \$300,000. The Sullivan campaign hopes to raise \$300,000, and that figure appears to be highly optimistic.

There is no money for TV or radio, and the Sullivan campaign is banking heavily on a statewide mailing to likely primary voters. "No senate candidate running against Florence Sullivan has the list we do," declared Sullivan's campaign manager, Michael Long.

Long also is the Brooklyn chairman of the Conservative Party, which is providing that list. Sullivan is the Senate nominee of the Conservative and Right-to-Life parties, and plans to actively remain in the race even if she loses the Republican nomination.

But, few talk like she can repeat James Buckley's 1970 feat of winning on the Conservative line. "I just don't think the circumstances are there this year," said one Conservative Party leader.

Koch jeered at parade

NEW YORK (AP) — When Mayor Edward Koch strolled up Fifth Avenue in the annual Labor Day parade, he asked a favorite question: "How'm I doin'?" Twice he was answered, "Terrible!"

But Koch said he was not daunted even though his opponent for the Democratic gubernatorial nomination, Lt. Gov. Mario Cuomo, was cheered consistently.

Koch believes he did better than in the parade last year, when he was running for mayor against Assemblyman Frank Barbaro, who, like Cuomo, had the endorsement of labor groups.

Cuomo, who was endorsed by the state AFL-CIO, walked up Fifth Avenue with Michael Mann, regional director of the AFL-CIO, and Harry Vap Aradale Jr., president of the New York City Central Labor Council.

Koch stepped off about a half hour later, marching with the Uniformed Fire Officers Union after leapingfrogging some units to get away from a group of pro-Cuomo supporters.

Spectators applauded politely and called out "Mario" when Cuomo walked by.

There was one strong group of cheers for Koch from people sitting on the steps of St. Patrick's Cathedral, but at other points, many people

shouted greetings to the mayor.

"I think there were more cheers on the sidelines than boo," Koch said after the march Monday.

He said the boos were "part of the drama of New York. I know they love me and I love them."

He complained of rudeness by his opponents for yelling "denunciations against me." The group of marchers directly ahead of him shouted "shame on Koch." They were from Actor's Equity and protested the city's decision to allow three Broadway theaters to be torn down to be replaced by the Portman Hotel.

When somebody shouted out, "We want Mario," Koch replied with a laugh, "You can have him."

Cuomo was greeted with warm applause at the reviewing stand when he issued a proclamation naming this "Shop Stewards Week" and promised an administration of "jobs and justice."

Republican Paul J. Cortese, who also was endorsed in the Labor Day primary for governor, marched to the avenue with the building trades workers.

His opponent, Democratic Louis Lohrman, campaigned in Westchester County.

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Drawing October 4th.



SEP 24 1982

Sullivan victory confirms GOP's shift to right

By Linda Peck
Special News Service

NEW YORK — In a further indication of the N.Y. Republican Party's drift to the right, GOP voters Thursday selected Brooklyn Assemblywoman Florence Sullivan as the GOP candidate for the U.S. Senate.

Sullivan, a virtual political unknown who spent less than \$10,000 in the primary race, easily defeated two more credible opponents — former U.S. Attorney William North Seymour and former state banking superintendent Marjorie Siebert — in a race that attracted little public attention.

The Brooklyn assemblywoman, who already has the nomination of the state's Conservative and Right To Life parties, will face a decidedly uphill race against Democratic incumbent Daniel Patrick Moynihan in November.

Moynihan easily defeated Michael Elmhurst, a personal candidate, to win the nomination to a second term in the Senate. He already has the designation of the state's Liberal Party.

Sullivan's odds attracted her victory to a mailing that went out over the past week to more than 457,000 Republicans around the state.

"That's what did it," said Sullivan's press secretary Robert Ryan.

Sullivan, who claimed that she was the only "real Republican" in the race for the GOP nomination, is expected to campaign in the general election on her hard-line support of the Reagan administration's policies.

Moynihan, meanwhile, is likely to try to preempt the political center by attempting to tie Sullivan to the New Right, from whom she has received some financial support.

From the time they entered the race for the GOP senatorial nomination, in late spring, Seymour, Siebert and Sullivan found themselves competing against far more than each other.

They had to fight for attention with the gubernatorial candidates — who included the colorful, controversial mayor of New York City and a millionaire businessman who spent \$7 million in an effort to make himself a household name. And they had to constantly battle the perception that they were seeking a hollow crown: the right to run against a seemingly unbeatable Moynihan.

The result was that Seymour, Siebert and Sullivan — all of whom lacked statewide identification — had a difficult time just getting their names before the public,

let alone making the voters aware of their qualifications and philosophy.

Adding to their problems was a lack of money. Siebert, a millionaire stockbroker, did put in \$200,000 of her own funds — and had managed to raise \$200,000 by the beginning of this month. Seymour had spent barely \$100,000 by that time, and Sullivan had come up with less than \$50,000.

As recently as March, none could have even guessed that they would be running for the Senate this year.

Former U.S. Rep. Bruce Capote was the acknowledged Republican candidate at that time. Party leaders had conceded him the designation in return for his decision to abandon his senatorial aspirations in 1980 — the year in which Alfonse D'Amato upset incumbent Jacob Javits in the GOP primary, and went on to win the general election.

But Capote's candidacy began to unravel in late winter, when it turned out that he had lied about his military record. Republican and Conservative Party leaders withdrew their support, and he proceeded to abandon his

ambitions to be U.S. Senator for a second — and certainly final — time.

Seymour quickly announced his interest, spurred on by a group of like-minded Republicans from the Rockland area who felt that the Republican Party had slid too far rightward in recent years.

Siebert, after five years in the administration of Democratic Gov. Hugh Carey, thought her financial background would qualify her as state comptroller. But State Comptroller Edward Regan, after a short stint as a gubernatorial candidate, decided to run for re-election after all. Siebert, hit by the electoral bug, decided to run for the senatorial nomination.

Sullivan, the most conservative candidate in the race, was the last one in — announcing her bid after it had become clear that her Brooklyn Assembly seat had become a victim of reapportionment. At times, even she found it hard to believe that she was suddenly running for what has been called the most exclusive club in the world.

Campaigning at the New York State Fair in August, she approached a voter with the greeting: "Hi, Florence Sullivan running for State Senate."

"UNITED States Senate, Florence," whispered a listener also following in her wake. "UNITED States Senate!"

EXHIBIT "E"

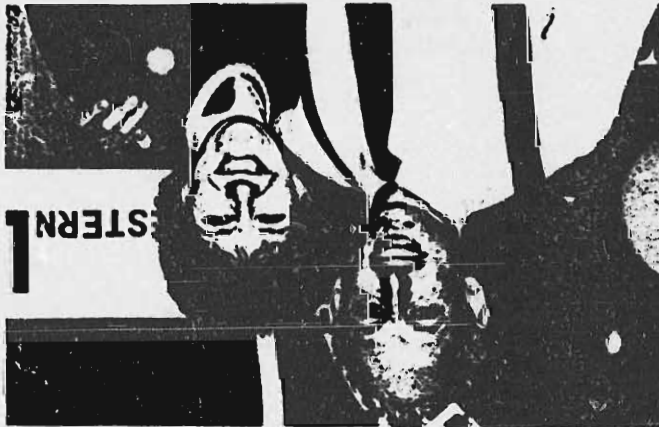
ASSEMBLYWOMAN FLORENCE SULLIVAN HAS BEEN ENDORSED BY THESE REPUBLICAN OFFICIALS:

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- Congressman Gerald B. Solomon
- Senator Christopher M. Weese
- Senator Frank Padavan
- Senator Richard E. Schenck
- Assemblyman Michael J. Hockley, Jr.
- Assemblyman Raymond K. Kassar
- Assemblyman Neil Kellner
- Assemblyman Richard L. Kennedy
- Assemblyman Clarence Lane
- Assemblyman William J. Lentin, Jr.
- Assemblyman Eugene Levy
- Assemblyman John G. Lopresti
- Assemblyman Thomas P. Morahan
- Assemblyman James Nease
- Assemblyman John G. A. O'Neil
- Assemblyman John M. Perone
- Assemblyman Douglas W. Prescott
- Assemblyman Anthony P. Reticella
- Assemblyman Stephen Saland
- Assemblyman Carol A. Sinek
- Assemblyman Nicholas A. Spino
- Assemblyman Frank G. Taormine, Sr.
- Assemblyman Guy J. Velez
- Assemblyman Glen Warren
- Assemblyman John L. Behan
- Assemblyman Gordon W. Burrows
- Assemblyman William Blum
- Assemblyman Anthony J. Casale
- Assemblyman John C. Cochrane
- Assemblyman Arnold D'Amato
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VOTE FOR FLORENCE SULLIVAN ON SEPTEMBER 23rd.



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THERE ARE TWO LIBERALS
AND ONE REAGAN REPUBLICAN RUNNING FOR
UNITED STATES SENATOR.
THE REAGAN REPUBLICAN IS...

EXHIBIT " F "

ASSEMBLYWOMAN FLORENCE SULLIVAN

SHE IS THE ONLY CANDIDATE WHO SUPPORTS PRESIDENT REAGAN ON ALL THESE ISSUES:

- Tax reductions for working Americans.
- A criminal justice system that does not let the John Hinckleys free, and protects law abiding citizens from street criminals.
- United States Military Forces second to none.
- To deny the Soviet Union access to vital American technology.
- Tuition Tax Credits for parents sending their children to private and parochial schools.



Florence Sullivan understands the problems we are all facing. She is the widow of a Korean War veteran, who raised three children, taught Math and English, supported herself through St. John's Law School, served as an Assistant District Attorney and has represented the middle-class community of Bay Ridge for two terms in the New York State Legislature.

"FLORENCE SULLIVAN IS A LIFELONG CONSERVATIVE REPUBLICAN. HER LIBERAL OPPONENTS HAVE FOUGHT AGAINST THE CONSERVATIVE POLICIES OF RONALD REAGAN, AL D'AMATO AND JACK KEMP."

MICHAEL R. LONG
COUNCILMAN-AT-LARGE

Whitney North Seymour, Jr. has described himself as "A John Lindsay Republican."

While serving in the State Senate he voted to weaken the Death Penalty and opposed stiffer penalties for murderers, rapists, and other violent criminals.

Moreover, he opposes President Reagan on tuition tax credits, the Balanced Budget Amendment, voluntary prayers in public places, and improving our defense forces.

Muriel Siebert, Hugh Carey's Superintendent of Banks, contributed to the campaigns of Senator Moynihan and Hugh Carey (her latest contribution was \$1,000 to Carey in December of 1981). During this race Siebert has called herself a "raving liberal" on social issues, she has called for the legalization of illegal drugs, and she has called for reductions in the defense budget.

"FLORENCE SULLIVAN OFFERS REFRESHING OPPOSITION TO LEFT-LEANING REPUBLICAN OPPONENTS LIKE SEYMOUR AND SIEBERT. SHE IS CERTAINLY OUR BEST BET AGAINST MOYNIHAN IN NOVEMBER."

RICHARD E. SCHERMERHORN, SENATOR

"FLORENCE SULLIVAN IS THE ONLY ONE WHO CAN BEAT THE LIBERAL DANIEL MOYNIHAN."

ROBERT HECKMAN
EXECUTIVE DIRECTOR
FUND FOR A CONSERVATIVE MAJORITY

"MOYNIHAN'S LIBERALISM IS NOT WHAT NEW YORKERS WANT OR NEED."

FLORENCE SULLIVAN
ASSEMBLYWOMAN



While Florence Sullivan has repeatedly voted for the Death Penalty, Moynihan twice voted against it in the United States Senate.

While Florence Sullivan believes in the importance of education in neighborhood schools, Moynihan has voted for the busing of school children.

While Florence Sullivan has voted for tax cuts, Moynihan voted against tax reductions for people earning \$25,000 and less.

While Florence Sullivan is a staunch supporter of President Reagan, Moynihan supported Jimmy Carter 75% of the time.

Vote Sullivan on September 23.

5 8 1 2 3 4 5 6 7 8

New Yorkers for Lew Lehrman
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New York, New York 10150

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THE SEYMOUR FAMILY
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MANHATTAN NY 10014

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MANHATTAN NY 10021

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THE REAGAN REPUBLICAN IS...

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NY 12534

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NY 12534

**THERE ARE TWO LIBERALS
AND ONE REAGAN REPUBLICAN RUNNING FOR
UNITED STATES SENATOR.
THE REAGAN REPUBLICAN IS...**

EXHIBIT " I "

5 S3185 NY REP C1522 (Summary Page)

1. Name of Committee (in Full) SULLIVAN FOR SENATE	2. FEC Identification Number C00158097
Address (Number and Street) 437 Bay Ridge Pkwy.	3. Is this Report an Amendment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO D.U.
City, State and ZIP Code Brooklyn, N.Y. 11209	<input type="checkbox"/> Check if address is different than previously reported.

4. TYPE OF REPORT

<input type="checkbox"/> April 15 Quarterly Report	<input checked="" type="checkbox"/> Twelfth day report preceding <u>Primary</u> (Type of Election)
<input type="checkbox"/> July 15 Quarterly Report	election on <u>Sept. 23, 1982</u> in the State of <u>New York</u>
<input type="checkbox"/> October 15 Quarterly Report	<input type="checkbox"/> Thirtieth day report following the General Election
<input type="checkbox"/> January 31 Year End Report	on _____ in the State of _____
<input type="checkbox"/> July 31 Mid Year Report (Non-election Year Only)	<input type="checkbox"/> Termination Report

This report contains activity for — ☒ Primary Election ☐ General Election ☐ Special Election ☐ Runoff Election

SUMMARY		Column A This Period	Column B Calendar Year-to-Date
5. Covering Period	<u>7/1/82</u> Through <u>9/3/82</u>		
6. Net Contributions (other than loans):			
(a) Total Contributions (other than loans) (from Line 11a)	\$ 14,051	\$ 15,044.44	
(b) Total Contribution Refunds (from Line 20d)	\$ -0-	\$ -0-	
(c) Net Contributions (other than loans) (Subtract Line 6b from 6a) . . .	\$ 14,051	\$ 15,044.44	
7. Net Operating Expenditures:			
(a) Total Operating Expenditures (from Line 17).	\$ 8802.90	\$ 9,552.34	
(b) Total Offsets to Operating Expenditures (from Line 14).	\$ -0-	\$ -0-	
(c) Net Operating Expenditures (Subtract Line 7b from 7a).	\$ 8802.90	\$ 9,552.34	
8. Cash on Hand at Close of Reporting Period (from Line 27)	\$ 5492.10		
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C or Schedule D)	\$ -0-		
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C or Schedule D)	\$ 14629.89		

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

For further information, contact:

Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Joseph M. Susillo

Type or Print Name of Treasurer

[Signature]
SIGNATURE OF TREASURER

9/10/82

Date

EXHIBIT " J "

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

All previous versions of FEC FORM 3 and FEC FORM 3a are obsolete and should no longer be used.

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SCHEDULE A

ITEMIZED RECEIPTS

Page 1 of 1 for
LINE NUMBER
 (Use separate schedule(s) for each
 category of the Detailed
 Summary Page)

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

A. Full Name, Mailing Address and ZIP Code Michael Levin 185 East 85th Street New York, New York 10021	Name of Employer Self-employed	Date (month, day, year) 7/21	Amount of Each Receipt this Period \$500.
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
B. Full Name, Mailing Address and ZIP Code Michael Denihan 44 Heighos Road Plandome, New York 11030	Name of Employer Information unobtainable to date will follow	Date (month, day, year) 8/30	Amount of Each Receipt This Period \$500.
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
C. Full Name, Mailing Address and ZIP Code Fund For A Conservative Majority-- 302 5th Street N.E. Washington, D.C.	Name of Employer IN-KIND	Date (month, day, year) 9/3	Amount of Each Receipt This Period \$3300.
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
D. Full Name, Mailing Address and ZIP Code Citizens For The Republic 1253 Seventh Street Santa Monica, California	Name of Employer In-Kind	Date (month, day, year) 8/20	Amount of Each Receipt This Period \$3368.85
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
E. Full Name, Mailing Address and ZIP Code Congress of Conservative Contributors-- 150 Nassau St. New York, New York	Name of Employer In-Kind	Date (month, day, year) 9/3	Amount of Each Receipt This Period \$1000.
Receipt For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Occupation	Aggregate Year-to-Date—\$	
SUBTOTAL of Receipts This Page (optional)			
TOTAL This Period (last page this line number only)			\$8666.

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SCHEDULE B

ITEMIZED DISBURSEMENTS

Page 2 of 2 for
LINE NUMBER _____
 (Use separate schedule(s) for each
 category of the Detailed
 Summary Page)

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full) Sullivan For Senate			
A. Full Name, Mailing Address and ZIP Code Citizens For the Republic 1253 Seventh Street Sanata Monica, California	Purpose of Disbursement Mailing Labels Disbursement for: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year) 8/20	Amount of Each Disbursement This Period \$3368.85
B. Full Name, Mailing Address and ZIP Code Congress of Conservative Contributors-- 150 Nassau Street New York, New York	Purpose of Disbursement Mailings Disbursement for: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year) 9/3	Amount of Each Disbursement This Period \$1000.
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Date (month, day, year)	Amount of Each Disbursement This Period
SUBTOTAL of Disbursements This Page (optional)			\$4369.
TOTAL This Period (last page this line number only)			\$11152.70

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FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20543

THIS IS THE BEGINNING OF RUC # 1868

Date Filmed 5/7/85 Camera No. --- 2

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