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March 31, 1998

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Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

RE: Federal Election Complaint Against Rick Hill For Congress Committee (1996),
Triad Management Services, Inc., Citizens for Reform, and Citizens for the Republic
Education Fund

Dear Commissioners:

This letter is a formal complaint by the Montana Democratic Party against the 1996 Rick Hill for Congress Committee, Helena, Montana, Triad Management Services, Inc., Manassas, Virginia and Citizens for Reform, and Citizens for the Republic Education Fund, Manassas, Virginia.

We, the Montana Democratic Party, further request that the Federal Election Commission expedite this investigation and determination of these allegations because of their critical importance to the citizens of Montana and the United States. The 1996 election cycle saw the emergence of a new hybrid, third party election activity which makes a mockery of federal election law. If this type of activity is left unchecked by the Federal Election Commission, we can only expect it to dramatically increase in the future.

Information gained from investigations by the U.S. Senate Committee examining alleged election law violations in the 1996 elections documents the creation of a new type of organization funded by a handful of wealthy interests to circumvent election laws. The minority report from that Senate Committee documents the activities of Triad Management Services and how it created two shell organizations, Citizens for Reform and Citizens for the Republic Education Fund, to spend between three and four million dollars in 29 House and Senate races and circumvent election laws.

The Montana U.S. House race between Democratic nominee Bill Yellowtail and Republican nominee Rick Hill was one of those 29 races. We contend our complaint is particularly significant both because it involves the activities of Triad and its two front groups in the 1996 congressional race and because it also reveals active cooperation and coordination between Triad, its two front groups and the Rick Hill campaign.

The Montana Democratic Party has no quarrel with legitimate organizations freely participating in the electoral process as long as they abide by federal and state election laws.



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During the 1996 Montana election, numerous organizations of different political persuasions legally made their viewpoints known to Montana voters. Their activities were within the confines of election law and fully reported. While we may agree or disagree with their positions on key issues of the day, as long as their activities fall within the law, it is their right to participate in the public debate of policy issues.

It is our contention that the activities of Triad and their organizations, Citizens for Reform and Citizens for the Republic Education Fund in coordination with the Rick Hill for Congress Committee moved far beyond what is legally permitted and were in violation of established election law.

Without decisive and swift action by the Commission, we fear inaction will be taken as a signal that third-party special interests can operate with total impunity. This can only lead to further public cynicism and reduced participation in the election process. We believe this is a case in which disregard for election laws was so blatant that to do nothing is to give license to those who place themselves above the law.

The Montana Democratic Party contends the following specific violations of campaign law were committed:

- 1) The Rick Hill for Congress Committee, Triad Management Services, Inc. (Triad) and Citizens for Reform/Citizens for the Republic Education Fund illegally coordinated and participated in a "third-party independent expenditure campaign" to defeat Democratic congressional candidate Bill Yellowtail in the 1996 election.
- 2) Triad and their committees, Citizens for Reform/Citizens for the Republic Education Fund, failed to file with the Federal Election Commission as political committees and report expenditures and contributors, even though the organizations spent more than \$125,000 for television advertising, paid phone banks, staff and organizational resources to defeat Democratic congressional candidate Bill Yellowtail.
- 3) The Rick Hill for Congress Committee, Citizens for Reform and Citizens for the Republic Education Fund failed to report in-kind contributions to the Hill campaign in excess of \$125,000. Furthermore, the contributions were in excess of the \$5000 contribution limit per election cycle by political committees to federal committees.
- 4) Triad Management Services, a registered for-profit corporation, and Citizens for Reform/Citizens for the Republic Education Fund, registered non-profit corporations, shared staff and were in reality "branches" of the same organization. As corporations, Triad and Citizens for Reform/Citizens for the Republic Education Fund violated federal election laws that prohibit corporations from expending resources for the election or defeat of federal candidates.

The basis for these allegations are contained within this complaint. Reference is made to specific documents throughout and those documents are herein contained as exhibits.

Violation 1: The Rick Hill for Congress Committee, Triad Management Services, Inc. (Triad) and Citizens for Reform/Citizens for the Republic Education Fund illegally coordinated and participated in a "third-party independent expenditure campaign" to defeat Democratic congressional candidate Bill Yellowtail in the 1996 election.

The November 3, 1997 issue of Time magazine (EXHIBIT 1) featured an article about a "secret" memo written by staff member Carlos Rodriguez of Triad Management Services. The memo described a meeting between a Triad staff member and representatives of the Rick Hill for Congress Campaign to coordinate campaign activities in violation of Federal election laws.

Following the Time story, Montana Democratic Party Chairman Bob Ream tried unsuccessfully to obtain a copy of the memo from Triad and Congressman Rick Hill.

On December 12, 1997, the Montana Democratic Party and the Bill Yellowtail Campaign were provided with a copy of the "Triad Memo" (EXHIBIT 2) by Montana Lee Newspaper State Bureau reporter Kathleen McLaughlin. The Montana Democratic Party has examined the memo and found it does indeed document the coordination of more than \$125,000 of illegal advertising and other campaign activities for the purpose of defeating Bill Yellowtail and electing Rick Hill to the U.S. House of Representatives.

Federal Election Law speaks clearly to the illegality of candidates' campaigns and "independent" third parties meeting to coordinate activities to elect or defeat a candidate in a federal election. The Federal law, 2 U.S.C. 431(17), defines independent expenditures as:

"Independent expenditure means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with prior consent of, or in consultation with, or at the suggestion of a candidate or any agent or authorized committee of such candidate." - (11 CFR 109.1)

The regulation further defines coordination as:

(I) Means any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be made when it is --

(a) Based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; - (11 CFR 109.1 (4)(I)(A))

The "Triad Memo" demonstrates a deliberate and sustained strategy by candidate Rick Hill, his campaign, Triad and its front groups, Citizens for Reform/Citizens for the Republic Education Fund to defeat and smear the character of Democratic Congressional nominee Bill Yellowtail.

This strategy was actively participated in by candidate Rick Hill, despite his pledge to not engage in personal attack campaigns as reported in the Missoulian, May 31, 1996 (EXHIBIT 3). Exhibit 4 chronicles the history of Congressman Rick Hill's involvement and public statements in this strategy to advance his own political career.

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The following discussion is an overview of how the attached exhibits document both the ties between Triad and Citizens for Reform/Citizens for the Republic Education Fund and the contact between officials of the Rick Hill campaign and Triad.

The "Triad Memo" (EXHIBIT 2) on Page 1, Lines 1-2, establishes the "Date of Visit: September 24, 1996" with the Rick Hill Campaign Committee in Helena, Montana.

The Rapid City Journal (EXHIBIT 5) identifies Carlos Rodriguez as the Triad staff person in contact with congressional campaigns and author of Triad memos outlining their assistance to Republican candidates. In that same article the Journal reported that Carolyn Malenick, President of Triad was also the President of Citizens for the Republic Education Fund in their incorporation papers. (Rapid City Journal, September 20, 1997)

Inside the New Congress (EXHIBIT 6) identifies Carlos Rodriguez as one of three members of the Board of Directors of Citizens for the Republic Education Fund along with Republican activists Lyn Nofziger and Dave Gillard. (Inside the New Congress, November 1, 1996).

U.S. News (EXHIBIT 7) reported that Lyn Nofziger identified Carolyn Malenick, President of Triad, as recruiting him to serve as the "titular" head of Citizens for the Republic Education Fund. (U.S. News, January 8, 1997)

In an interview with Montana Associated Press (EXHIBIT 8), Kathleen McCann, administrative director of Triad, admitted that Triad managed Citizens for Reform. (Montana Standard, October 25, 1996)

Inside the New Congress (EXHIBIT 6) reported that Triad managed both Citizens for Reform and Citizens for the Republic Education Fund. (Inside the New Congress, November 1, 1996).

The minority report by the U.S. Senate Committee investigating alleged campaign violations in the 1996 elections found that:

"(1) The evidence before the Committee suggests that Triad exists for the sole purpose of influencing federal elections. Triad is not a political consulting business: it issues no invoices, charges no fees, and makes no profit. It is a corporate shell funded by a few wealthy conservative Republican activists."

"(2)(C) Triad operated two non-profit organizations -- Citizens for Reform and Citizens for the Republic Education Fund -- as allegedly nonpartisan social welfare organizations under 501 (c)(4) of the tax code and used these organizations to broadcast over \$3 million in televised ads on behalf of Republican candidates in 29 House and Senate races. Using these organizations as the named sponsors of the ads provided the appearance of nonpartisan sponsorship of what was in fact a partisan effort conducted by Triad. Neither organization has a staff or an office, and both are controlled by Triad." (EXHIBIT 22, Pages 1-2)

The anti-Yellowtail ads had a disclaimer that said they were paid for by Citizens for

Reform. The text and disclaimer of one of two anti-Yellowtail ads by Citizens for Reform is EXHIBIT 9.

Heather Martin, political director for the Bill Yellowtail Campaign, on October 22, 1996, contacted Great Falls, MT, television station KFBB to learn who was paying for the anti-Yellowtail ads. The station provided Martin with the name and address of Citizens for the Republic Education Fund.

In an interview with the Bozeman Daily Chronicle (EXHIBIT 10) Larry Akey, spokesman for the Hill campaign one year later admitted he had met with a staff member of Triad. (Bozeman Daily Chronicle, October 28, 1997)

The Chronicle reported: "Akey agreed that the campaign met with Triad but insisted the conversation was about fund raising and that there was 'no conversation about advertising.' He (Akey) said the Triad representative asked to copy news clips from the campaign's files and wasn't heard from again."

After four months of silence following release of the Triad memo, Congressman Rick Hill, now also admits that members of his campaign, including his wife, met with a Triad staff member at Hill's campaign headquarters in Helena, Montana, Bozeman Daily Chronicle, March 7, 1998 (EXHIBIT 23).

The Montana Democratic Party has found that the Triad memo documents potential violations of election law in the following four areas:

1.) Four Hill Campaign Members in Contact with Triad: The "Triad Memo" notes a familiarity and contact with four senior members of the Rick Hill campaign. The Hill Campaign officials named in the memo include:

A.) Betty Hill, spouse of Rick Hill and the campaign's county volunteer coordinator, is noted as having ongoing conversations with Triad officials. The "Triad Memo" identifies Betty Hill as a contact person for Triad and the Hill Campaign. EXHIBIT 2, Page 3, Lines 1-3, states:

"C.S.M. & M.M.O -- I have advised Betty Hill (wife of the candidate and an accomplished campaigner herself) that she will be receiving a call from Meredith in the days to come to discuss possible ways that Triad clients might be able to help." The "I" in this sentence refers to Triad staff person Carlos Rodriguez.

The initials C.S.M. and M.M.O. refer to Triad employees Carolyn S. Malenick and Meredith M. O'Rourke. (EXHIBIT 5, Rapid City Journal, September 20, 1997)

Betty Hill was a senior member of the campaign. EXHIBIT 2, Page 2, Lines 12-13, notes:

"The campaign has a good grassroots operation in place. It has Rick's wife, Betty, heading up that effort with volunteers as county chairman (sic) in all 56 counties."

B.) Larry Akey is identified as the Hill campaign's "behind the scenes" campaign manager.

"Larry Akey (husband of the state GOP party chair) is actually running the campaign on a day to day basis behind the scenes." (EXHIBIT 2, Page 2, Lines 26-28)

In general observations concerning the strengths of the Hill campaign the memo notes the "campaign has additional professional help provided by Jeff Larson and Larry Akey behind the scenes." (EXHIBIT 2, Page 2, Lines 9-10)

Triad was familiar and impressed enough with Mr. Akey's "behind the scenes" activities with the Hill campaign to list them as an important asset for the campaign. This would further suggest more than a casual one time contact as characterized by Mr. Akey. The Montana press has identified Larry Akey as a consultant and spokesman for the Rick Hill campaign (EXHIBIT 10). Mr. Akey is a professional Montana campaign consultant and lobbyist for gambling, insurance and tobacco interests. He is the spouse of Montana Republican Party Chair Sue Akey. It is unclear as to how Mr. Akey was paid for his services to the Hill Campaign.

C.) Bob Moore, of Moore Information and the Hill Campaign pollster, with offices in Washington, D.C., Portland, OR, and Los Angeles, CA, is noted as having "identified the specific points of contrast between Hill and Yellowtail and should be effective in it's delivery." (EXHIBIT 2, Page 2, Lines 16-17)

The Triad memo on Page 1, Lines 16-30, discusses the findings of Hill's polling which showed Hill trailing Bill Yellowtail and identified the "key issues" with which to contrast the two candidates. Triad had access to and used Hill Campaign polling information in the development of the Citizens for Reform's advertising against Bill Yellowtail.

D.) Jeff Larson is the Vice President of Strategic Telecommunications in St. Paul, Minnesota. The firm contracted with the Hill campaign to provide phone bank services. Jeff Larson was identified in the memo as the Hill Campaign phone bank coordinator.

"In addition, the phone bank operation in the state is being handled by Jeff Larson who is also a campaign consultant to the Hill campaign." (EXHIBIT 2, Page 2, Lines 29-30)

Listed among "needs" of the Hill campaign by Triad was "\$15K for Phone Banks." Triad front group Citizens for Reform conducted phone banks attacking Bill Yellowtail in the final week of the '96 campaign. Neither the name of the Triad phone bank firm nor the source of voter identified telephone lists Triad used in their phone bank campaign are presently known. The Montana Democratic Party suspects Triad may have used the information or the services of Mr. Larson's firm in their phone bank attacks against Bill Yellowtail.

2.) The Rick Hill Campaign Provided Triad with Strategic Polling Information to Design Their Attack Advertising: The Triad memo reports polling information supplied by the Hill campaign that showed Rick Hill trailing Bill Yellowtail in four different polls conducted June 14-16, August 7-11, August 23 and September 20, 1996. (EXHIBIT 2, Page 1, Lines 16-20)

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The "Triad Memo" states Hill campaign pollster, Bob Moore, "has identified the specific points of contrast between Hill and Yellowtail and should be effective in it's (sic) delivery." (EXHIBIT 2, Page 2, Lines 16-17)

The "Triad Memo" spells out and further identifies those "specific points of contrast" for an effective advertising campaign. They included:

"Pro Hill

- 1) Jobs
- 2) Bal. Budget
- 3) Environment

Anti-Yellowtail

- 1) Wife beating
 - 2) Robbery of camera store in college
 - 3) Dead-beat dad
 - 4) Voting against the elderly and families"
- (EXHIBIT 2, Page 1, Lines 21-30)

Congressman Rick Hill now admits that his campaign provided Triad with polling information. The March 7, 1998, Bozeman Chronicle reported:

"Triad officials met with members of the Hill campaign, including his wife, Betty, and the campaign shared polling data, news clips and budget information with them, Hill said.

With the exception of budget data, all the information provided to Triad was already public, Hill maintained." (EXHIBIT 23)

Congressman Hill is not telling the truth in trying to minimize the value of polling data provided to Triad. The polling data describing issues to contrast Rick Hill and Bill Yellowtail (EXHIBIT 2, Page 1, Lines 21-30) were not public. The only polling data that was public from the Hill campaign was information on candidate Hill trailing Bill Yellowtail.

Congressman Hill's admission of supplying polling data to Triad further demonstrates his complicity in the ongoing strategy to raise issues of candidate Yellowtail's personal past. On May 30, 1996, Rick Hill pledged to the voters of Montana that:

"my heart goes out to Mr. Yellowtail and his family over this whole situation . . . I don't think it will be appropriate for these issues to be rehashed in the fall campaign." (EXHIBIT 3, Missoulain, May 31, 1996.)

Despite Rick Hill's pledge not to "rehash" issues of Yellowtail's past, his campaign commissioned a poll which specifically tested the effectiveness of personal attacks on Bill Yellowtail. The content of the Hill campaign polls was reported to the Yellowtail campaign by two Montana voters. Copies of the two reports on the content of the Hill campaign's August 1996 poll are found in Exhibit 24.

Professional political polling is expensive. The number and length of questions on a poll increases the cost of the poll. It is expensive for campaigns to test questions on issues they are not considering using in campaign activities.

One has to ask why candidate Rick Hill would be polling in August of 1996 on issues surrounding Bill Yellowtail's past after he had pledged not to further discuss such issues only two and half months earlier at the end of May?

That same Hill campaign polling data was referred to in the Triad memo (Exhibit 2, Page 1, Lines 21-30.)

The Republican Majority Report of the U.S. Senate committee investigating allegations of violations of campaign laws in the 1996 elections devoted just over one page to a discussion of the Triad's activities in the Montana congressional race (EXHIBIT 25). The Republican majority members reported that:

"During the audit (of the Hill campaign by Triad), Rodriguez also learned that Hill did not intend to raise the issue (of Yellowtail's past marital problems)."

If Hill didn't intend to raise those issues, then why did his campaign poll on those issues and provide to Triad polling data identifying which particular issue was the most effective to use in advertising against Bill Yellowtail? The Triad memo lists the number 1 need of Hill campaign as the need for a "3rd Party to 'expose' Yellowtail."

Triad staff person Carlos Rodriguez, in the memo, noted the strategic value of the polling data obtained from the Hill campaign pollster Bob Moore in crafting the advertising message against Bill Yellowtail (EXHIBIT 2, Page 2, Lines 16-17).

Triad staff person Rodriguez and officials from the Hill campaign obviously discussed the issue and it's potential impact against Bill Yellowtail based on polling data provided by the Hill campaign.

It should be noted that the Senate committee's majority (Exhibit 25) admits they based their findings solely on evidence provided to them by Congressman Rick Hill's campaign. The Republican majority's report notes they were unable to depose Carolyn Malenick or Carlos Rodrigeuz from Triad. The Senate committee's majority staff also never contacted the Bill Yellowtail campaign for any information.

The Senate Majority Committee's conclusions concerning the involvement of Congressman Rick Hill campaign coordination with Triad and Citizens for Reform were seriously flawed and not based on a full examination of the facts involved in this complaint.

3.) Triad Used Information Supplied by the Hill Campaign to Coordinate Advertising Attacks on Bill Yellowtail: The "Triad Memo" lists the specific needs of the Hill campaign as:

- "1) 3rd Party to 'expose' Yellowtail
 - 2) Direct Mail
 - 3) \$15K for Phone Banks"
- (EXHIBIT 2, Page 2, Lines 2-4)

It is our contention that Triad and the Hill campaign coordinated their advertising. The Hill campaign ran positive advertising promoting Hill's position on creating jobs and the economy (EXHIBITS 11 and 12). The Hill campaign's negative ads criticized Bill Yellowtail for not supporting senior citizens and families (EXHIBIT 13).

Triad was the "3rd Party" for the attack ads against Bill Yellowtail under the guise of their front group, Citizens for Reform. Citizens for Reform was managed by Triad (EXHIBIT 8). Citizens for Reform ran advertising attacking and distorting Yellowtail's past on points 1-3 on the identified Anti-Yellowtail issues in the Hill poll (EXHIBIT 9).

The "3rd Party" anti-Yellowtail advertising was statewide and substantial. Paul Flaherty, chairman of reported Citizens for Reform, said the organization "spent \$125,000 on the Montana negative ads last year." (EXHIBIT 14, Billings Gazette, November 5, 1997)

The "Triad Memo" notes the Hill campaign was spending \$235,000 on television advertising between October 1 and election day. (EXHIBIT 2, Page 2, Lines 18-19). The anticipated advertising expenditures for political campaigns is usually a closely guarded strategic secret and yet this information was freely shared by the Hill campaign with Triad.

According to the "Triad memo" and the press account (EXHIBIT 14) a total of \$360,000 in television advertising was spent in the last five weeks of the '96 campaign for the benefit of Rick Hill's election. More than a third of the total television campaign was paid for by the Triad front group Citizens for Reform/Citizens for the Republic Education Fund. This was obviously a substantial coordination of resources to elect Rick Hill.

4.) Triad/Citizens for Reform used Paid Phone Banks to Attack Bill Yellowtail: The "Triad Memo" notes additional need of the Hill campaign for "\$15K for Phone Banks." (EXHIBIT 2, Page 2, Line 4). In the last week of the campaign Montana voters reported to the Yellowtail campaign that they were receiving phone calls attacking Bill Yellowtail on the same topics covered in the Triad/Citizens for Reform television ads (EXHIBIT 15).

Triad was particularly interested in the Hill campaign having a phone bank operation. It is listed as a positive asset for the campaign that the phone bank operation was headed by Hill phone bank coordinator Jeff Larson. (EXHIBIT 2, Page 2, Lines 9, 29-30)

The effectiveness of phone banks depends on the quality of the voter lists from which to call. In Montana there is no registration by political party. Therefore, phone bank calling lists are costly to develop and of considerable value to any campaign effort. Again, it is not known how Triad's phone banks obtained their calling lists or what firm they employed to do

the calling.

Summary of Key Points in the Triad Memo Relating to Coordination:

The "Triad Memo" demonstrates significant coordination between Triad, its front groups and the Rick Hill Campaign. We established in EXHIBITS 5, 6, 7, 8 and 22 that Triad had staff members that served on the board of Citizens for the Republic Education Fund that funded the Citizens for Reform advertising campaign against Bill Yellowtail. Triad staff have admitted they managed both Citizens for Reform and Citizens for the Republic Education Fund.

EXHIBIT 2, the "Triad Memo," details the significant and critical coordination between members of the Rick Hill campaign organization and Triad. The illegal coordination included:

- 1) In-depth contact with four different senior Hill campaign organization members. These included conversations with Betty Hill, the candidate's spouse, and the campaign's "behind the scenes" campaign manager Larry Akey. Triad also had access and shared information from Rick Hill's pollster Bob Moore and phone bank consultant Jeff Larson.
- 2) The memo reports extensive knowledge of Hill's campaign staff, fund raising status, campaign budget, polling information, media purchases, phone bank operation and the campaign's "needs" to win the election.
- 3) The memo reports Hill campaign polling information on how the campaign television advertising should be developed and delivered on what issues.
- 4) The memo lists as "needs" of the Hill campaign for a "3rd Party to expose Yellowtail" in advertising and phone banks.
- 5) The content of subsequent Triad/Citizens for Reform advertising attacking Bill Yellowtail concentrated on the negative issues identified by the Hill campaign polling data as the most effective.

The coordination and cooperation was complete. Triad had in-depth knowledge of the Hill campaign's staff, polling, budget, field operation, phone banks, advertising strategy and campaign "needs." The Rick Hill campaign was free to spend \$235,000 on the "politically acceptable" advertising while their "3rd party" partner, Triad, through its front groups Citizens for Reform/Citizens for the Republic Education Fund, spent another \$125,000 on television attack ads of the most vile nature against Bill Yellowtail. Triad's actions were for the sole benefit of candidate Rick Hill. Triad's activities were based on information almost exclusively provided by the Hill campaign. This coordination was in direct violation of Federal Election Laws pertaining to independent expenditure campaigns.

Violation 2: Triad and their committees, Citizens for Reform/Citizens for the Republic Education Fund, failed to file with the Federal Election Commission as political committees and report expenditures and contributors even though the organizations spent more than \$125,000 for television advertising, paid phone banks, staff and organizational resources to defeat Democratic congressional candidate Bill Yellowtail.

Federal regulations define a political committee as:

“any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1000 or which makes expenditures aggregating in excess of \$1000 during a calendar year is a political committee.” (11 CFR 100.5(a))

The discussion of “Violation 1,” outlined the connections of employees and board members of Triad, Citizens for Reform and Citizens for the Republic Education Fund in Exhibits 5, 6, 7, 8 and 22.

Peter Flaherty, chairman of Citizens for Reform, stated their organization spent \$125,000 on negative ads in Montana in an interview published in the Billings Gazette November 5, 1997 (EXHIBIT 14).

Both Flaherty, chairman of Citizens for Reform (EXHIBIT 14) and Kathleen McCann, administrative director of Triad (EXHIBIT 8), maintain that the negative advertising against Bill Yellowtail were “issue ads” and not meant to “expressly advocate” the election or defeat of any candidate. Ms. McCann maintained the issue was “spouse abuse.”

The assertion that the ad transcribed in Exhibit 9 was not advocating the defeat of Bill Yellowtail is patently false.

Triad and Citizens for Reform attempted to craft their political ad to circumvent federal election law so that it did not use any of the traditional political advertising phrases such as “vote against” or “defeat” Bill Yellowtail. This was a clear attempt to get through what they incorrectly viewed as a “loophole” in election law. Triad and its front groups failed to acknowledge an important second part of the federal regulation which further defines “expressly advocating.”

The federal regulation, 11 CFR 100.2(b), further defines “expressly advocates” as: “When taken as a whole and with limited reference to external events such as the proximity to the election could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because --

- (1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
- (2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more candidate(s) or encourages some other kind of action.”

Reading the text of the ad (EXHIBIT 9) or more importantly viewing the actual ad (EXHIBIT 16) can lead any reasonable person to only one conclusion as to the message and purpose of the ad.

Furthermore, if Mr. Flaherty and Ms. McCann were truthful that the ads were merely objective and balanced "issue ads" dealing with "spouse abuse", then why did Citizens for Reform fail to report allegations of adultery and psychological spouse abuse made against candidate Rick Hill by his former spouse in their advertising campaign to educate Montana voters on the issue(EXHIBIT 17)?

Reports on the allegations of Rick Hill's adultery and psychological spouse abuse were widely reported in the Montana press on October 4-5, 1997 as shown in Exhibit 18. Mary Spaulding, former spouse of Rick Hill in a reported interview with the Great Falls Tribune stated:

"It was the affair that split us up. The trust was broken, we grew apart and I never felt the same....There was no physical abuse, but mental abuse can be just as bad. And there was a lot of that. Rick was constantly putting me down about my lack of education and my appearance." (EXHIBIT 17)

Citizens for Reform began airing their ad on October 21, 1996 (EXHIBIT 8), a full 16 days after the statewide reporting of Rick Hill's lying about the causes and circumstances of his divorce.

Triad president Carolyn Malenick confirms that the organization regularly monitors the Montana media in a letter to Montana Democratic Party Chairman Bob Ream (EXHIBIT 19). The Triad memo (Exhibit 2) clearly states on Page 2, Line 32, Carlos Rodriguez will "continue to closely monitor the campaign." So it is unlikely they were unaware of Rick Hill's previous marital problems.

And Triad and Citizens for Reform/Citizens for the Republic Education Fund also failed to educate the voters as to the full story surrounding the incidents involving Bill Yellowtail's past problems. Mr. Yellowtail's former spouse, Professor Jeanne Eder, and daughter, Kim Yellowtail, both publicly supported Mr. Yellowtail throughout the campaign.

Both Professor Eder and Kim Yellowtail appeared on a television ad to dispute the Citizens for Reform attack ad (EXHIBIT 20). Exhibit 21 is a column by Ellen Goodman discussing the "character issues" in the Montana congressional race.

In summary, Triad and their committees, Citizens for Reform/Citizens for the Republic Education Fund, did not file with the Federal Elections Commission as political committees even though they collected and expended funds in excess of \$125,000 on advertising for the express purpose of defeating Bill Yellowtail. Their defense that the ads were merely objective "issue ads" is false given the content of the ad and their failure to include similar problems that candidate Rick Hill had in his past.

Violation 3: The Rick Hill for Congress Committee, Citizens for Reform and Citizens for the Republic Education Fund failed to report in-kind contributions made to the Hill campaign in excess of \$125,000. Furthermore, the contributions were in excess of the \$5000 contribution limit per election cycle by political committees to federal candidates.

Federal regulations define contributions as:

“A gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution.” (11 CFR 100.7(a)(1))

It goes on to define “anything of value” as: “includes all in-kind contributions.” (11 CFR 100.7(a)(1)(E)(iii))

Limits on contributions by political committees are established by 2 USC section 441a.

In Clifton v. FEC, 114 F.d 1309 (1st Cir. 1997) it was established that if groups preparing advertising campaigns consult with or collude with candidates or campaigns, then the cost of the advertisements will be viewed as a contribution from the organization to the campaign

The discussion of the “Violation 1” and Triad memo (EXHIBIT 2) clearly establishes Triad worked with the Rick Hill campaign in the preparation of the advertising run by their front groups, Citizens for Reform and Citizens for the Republic Education Fund. The Rick Hill campaign provided polling information (EXHIBITS 2 and 23) as well as background information in the form of news clipping files to Triad (EXHIBIT 10).

The discussion of “Violation 1” established that Triad and its front groups Citizens for Reform and Citizens for the Republic Education Fund were all branches of the same organization. The discussion of “Violation 2” documents Citizens for Reform and Citizens for the Republic Education Fund as political committees and documents the purpose of the advertising aired against Bill Yellowtail.

Violation 4: Triad Management Services, a registered for-profit corporation, and Citizens for Reform and Citizens for the Republic Education Fund, registered non-profit corporations, shared staff and individuals in leadership positions. They were in reality “branches” of the same organization. As registered corporations, Triad, Citizens for Reform and Citizens for the Republic Education Fund violated federal election laws that prohibit corporations from expending resources for the election or defeat of federal candidates.

Federal election law clearly forbids corporations from being involved in federal election campaigns. 11 CFR 114.2(a) states:

“National banks and corporations by authority of any law of the Congress are prohibited from making a contribution, as defined in 11 CFR 114.1(a), in connection with any election to any political office, including local, State and Federal offices...are prohibited from making

expenditures as defined in 11 CFR 114.1(a) for communications to those outside a restricted class expressly advocating the election or defeat of one or more clearly identified candidate(s) or the candidate(s) of a clearly identified political party, with respect to an election to any political office, including any local, State or Federal Office."

Triad is incorporated under the laws of Virginia. Triad's corporate ID number is #0465800-1 and it's letterhead notes it is a corporation (EXHIBIT 19).

Exhibit 22 is the minority report from the U.S. Senate committee investigating alleged campaign violations in the 1996 elections. That report found:

"Triad conceived the idea, apparently in early 1996, of creating two nonprofit corporations -- Citizens for Reform and Citizens for the Republic Education Fund -- solely for the purpose of airing advertisements without disclosing the sources of their funding. The two groups incorporated on May 5 and June 20, 1996, respectively, within weeks of Triad itself. In post election marketing material, Citizens for the Republic boasted that it had "no endowed chairs, no fellowship programs, no committees and no departments. In fact neither Citizens for Reform nor Citizens for the Republic had committees, programs, or chairs. They had no chairs of any sort, nor desks, offices, staff, or even telephones. Instead, Citizens for Reform and Citizens for the Republic each consists of a set of articles of incorporation, a post office box, and a bank account. Neither organization has ever engaged in any service or activity other than paying for the production and airing of political advertising. They are justifiably characterized as shell companies created as mechanisms for funding million-dollar political advertising campaigns and to create a patina of credibility for the advertisements." (EXHIBIT 22, Pages 13-14.)

The Montana Democratic Party respectfully submits this complaint to the Federal Elections Commission. Through our research and supporting documents, we believe we have established extensive coordination among the 1996 Rick Hill for Congress Committee, Triad Management Services, Citizens for Reform and Citizens for the Republic Education Fund. This coordination is in clear violation of federal election laws and was done for the purpose of advancing the election of Rick Hill and defeating his Democratic opponent Bill Yellowtail.

We contend Triad, Citizens for Reform and Citizens for the Republic Education Fund failed to register as political committees. As political committees, they should have been subject to all federal election laws which govern such committees. We request that upon a finding that these groups were in fact political committees, that the FEC also find them in violation of those relevant federal laws and regulations governing such committees.

We also contend the Rick Hill for Congress Committee, Triad, Citizens for Reform and Citizens for the Republic Education Fund failed to report in-kind contributions in excess of \$125,000 to the Hill campaign and violated the contribution limits placed on political committees.

Furthermore, Triad, Citizens for Reform and Citizens for the Republic Education Fund at the time of the above documented violations were registered corporations. As corporations they violated prohibitions from involvement in federal elections.

In the course of the FEC's investigation of this complaint, we believe the Commission will discover numerous additional violations of federal election law. By concentrating on the four main violations in this complaint, we by no means assert these were the sole violations involving the Rick Hill campaign, Triad, Citizens for Reform and Citizens for the Republic Education Fund.

Only by a thorough investigation can the FEC unravel this tangled web of campaign violations by the named parties. We urge the Commission to conduct a prompt investigation into the described matters and to remedy the violations by imposing any and all penalties appropriate under law.

Respectfully submitted,



Bob Ream
Chairman
Montana Democratic Party

Subscribed and sworn to before me
this 31st day of March, 1998



Notary Public

Exhibits

2804A20001

EXHIBIT 1



where



TIME NATION NOVEMBER 3, 1997 VOL. 150 NO. 18

THE SECRET G.O.P. CAMPAIGN

NEW EVIDENCE SUGGESTS THAT IN '96, REPUBLICANS WORKED HAND IN HAND WITH GROUPS PURPORTING TO BE INDEPENDENT

BY VIVECA NOVAK AND MICHAEL WEISSKOPF /WASHINGTON

Two weeks before the 1996 election, Democrat Bill Yellowtail was in a neck-and-neck race for Montana's only House seat when a TV ad swooped out of the Big Sky. "Who is Bill Yellowtail?" it opened. "He preaches family values, but he took a swing at his wife." Yellowtail lost. A year later he's still trying to figure out who really took a swing at him. The ad's sponsor was a nonprofit group with a do-gooder name, Citizens for Reform. But the deeper mystery was how the organization knew to air a domestic incident more than 20 years old. Republican documents obtained by TIME help piece together this puzzle. What they point to is the possibility that G.O.P. candidates and groups that purport to be independent may have broken election law by coordinating their strategy.

Citizens for Reform was really a shell for Triad Management Services, a firm based in Washington that matches conservative donors with candidates and causes. In late September, a Triad agent huddled with the campaign of Yellowtail's opponent, Rick Hill, and figured out how to help. According to a Triad memo, Hill needed a "3rd party to expose Yellowtail" on "wife-beating." Citizens for Reform launched its ad a couple of weeks later, sparing Hill the indignity of playing the mudslinger. It was a turning point in the race, and it appears to be a prime example of the new dirty word in the financing of elections: coordination.

The term is shorthand for a kind of collaboration forbidden under the law: a party and its candidates are not allowed to direct outside groups to take action on their behalf--and that includes making ads. In addition, any ads paid for by these groups cannot explicitly advocate the election or defeat of a candidate, even if they praise or trash the candidate in other ways. As long as organizations obey these technicalities, they don't have to disclose their activities publicly and can spend an unlimited amount of money on

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campaigns.

The G.O.P. has long charged that the Democrats and the AFL-CIO must have coordinated their efforts in 1996 as the union shaped its \$35 million campaign attacking individual Republican candidates. But the G.O.P. has never had much proof. Instead, new material in the hands of Senator Fred Thompson's investigating committee raises questions about whether groups friendly to his party knew where to target their ads and what message to use.

In the last weeks of the '96 race, Americans for Tax Reform, a nonprofit group headed by Grover Norquist, paid for a campaign burnishing the Republican image on the Medicare issue as well as an ad attacking New Jersey Democratic Senator Bob Torricelli. About the same time, Norquist's group received \$4.6 million from the G.O.P. Norquist and party officials have denied coordinating their efforts. But bank records reviewed by Time show that four days after a \$2 million G.O.P. infusion, Americans for Tax Reform paid \$280,000 to buy time for the anti-Torricelli ad, an expense the group could not cover otherwise. An additional \$600,000 was paid out for phone banks and direct mail less than two hours after the same amount came in from the R.N.C.

Other documents turned over to the Senate Governmental Affairs Committee by Bob Dole's presidential campaign further erode Norquist's protestations of independence. R.N.C. deputy finance director and close Dole adviser Jo-Anne Coe directed a \$100,000 contribution to Norquist's group from banana baron Carl Lindner two weeks before the election. "Keep up the good work," she wrote Norquist. Norquist did not return a telephone call seeking comment. An R.N.C. spokesman said the party never dictated the use of money given to Norquist's group; Dole, meanwhile, has volunteered to answer questions from Thompson's committee this week.

Of all the groups in the G.O.P. universe, Triad was one of the most effective at helping the party's cause behind the scenes. Citizens for Reform and another Triad shell group ran ads affecting more than two dozen congressional campaigns after a Triad consultant surveyed each one to determine how best to make a difference. Triad attorney Mark Braden denies there was collaboration, but if there was in the Hill-Yellowtail contest, it did make all the difference.

time-webmaster@pathfinder.com

LINEDate of Visit:

1
2 September 24, 1996
3 I. Finances:
4 Money Needed To Election: \$ 415,000
5 Cash On Hand (COH): \$ 150,000
6 New Income To Election: \$ 250,000
7 Shortage: \$ 15,000
8 Campaign spending:
9 TV & Cable \$ 235,000
10 Radio \$ 100,000
11 Phones \$ 15,000
12 Direct mail \$ 0
13 Overhead & Grassroots \$ 65,000
14 Polling \$ included above
15 Total Expenditures \$ 415,000

II. Polling:

16
17 6/14 - 6/16 38/42 -4
18 8/7 - 8/11 30/43 -13
19 8/23 29/37 -8
20 9/20 36/39 -3

III. Key Issues:

21
22 Pro Hill
23 1) Jobs
24 2) Bal. Budget
25 3) Environment
26 Anti Yellowtail
27 1) Wife beating
28 2) Robbery of camera store in College
29 3) Dead-beat dad
30 4) Voting against elderly and families

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LINE

IV. Needs:

- 1) 3rd Party to "expose" Yellowtail
- 2) Direct Mail
- 3) \$15K for Phone Banks

5 General Observation:

6 Rick Hill is an accomplished candidate. He has experience both at the governmental and
 7 party level. In addition to being a small businessman, he was chairman of the state party of
 8 Montana before deciding to become a candidate for Congress.

9 The campaign has additional support in professional help provided by Jeff Larson and
 10 Larry Akey behind the scenes.

11 Good Points About Campaign:

12 The campaign has a good grassroots operation in place. It has Rick's wife, Betty, heading
 13 up that effort with volunteers as county chairman in all 56 counties.

14 At the grassroots level they have already planned and have locations for 1,500 4x4 signs,
 15 as well as 10,000 yard signs.

16 The survey work just done by Bob Moore has identified the specific points of contrast
 17 between Hill and Yellowtail and should be effective in it's delivery.

18 They have already reserved 4,800 gross rating points of ? TV between October 1st and
 19 the election for a cost of \$235,000.

20 They also have started radio advertising and have budgeted \$100,000 starting October
 21 1st.

22 Bad Points About Campaign:

23 The weakest link in this campaign is the on-site manager who just came on board about
 24 two weeks ago. Prior to joining the Hill campaign, the manager was the state director for the
 25 lottery in Montana.

26 She has strength in administration and weaknesses in the political operation. This should
 27 not be of great concern since Larry Akey (husband of the state party chair) is actually running the
 28 campaign on a day to day basis behind the scenes.

29 In addition, the phone bank operation in the state is being handled by Jeff Larson who is
 30 also a campaign consultant to the Hill campaign.

31 Action:

- 32 1) C.A.R.—Continue to closely monitor the campaign.

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LINE

2) C.S.M. & M.M.O.—I have advised Betty Hill (the wife of the candidate and an accomplished campaigner herself) that she should be receiving a call from Meredith in the days to come to discuss possible ways that *TRIAD* clients might be able to help.

4 Conclusion:

5 This is a campaign that clearly can be won in November. Although 7 points behind at
6 this time, Hill is behind only because his name ID is not that of Yellowtail.

7 A competent campaign will result in a victory. I recommend full involvement by *TRIAD*
8 clients.

28044200025

GOP rivals vow to avoid the negative

By SHERRY DEVLIN
of the Missoulian

Each of the three Republicans asking for their party's nomination to the U.S. House of Representatives promised Thursday night not to "revisit" Bill Yellowstone's record of unpaid child support and burglary convictions if he is the Democratic Party nominee.

"The public has discussed this quite a little bit. The media has discussed this quite a little bit," former Yellowstone County commissioner Dwight MacKay said during a debate at the University of Montana. "What people in Montana want is for us to attack problems in Montana, not problems with each other," he said. "Montana voters are never wrong."

Helena businessman Rick Hill said his "heart goes out to Mr. Yellowstone and his family over this whole situation." Candidates willingly put themselves on the line, Hill said, "but to put your family on the line is another thing altogether."

"I don't think it will be appropriate for these issues to be reshaped in the fall campaign," he said.

Newspaper accounts have, in recent weeks, documented Yellowstone's failure to pay \$110 a month in child support for five years and his conviction (and ultimate pardon) for two burglaries while a student at Dartmouth.

Yellowtail apologized for those lapses in a Democratic debate Wednesday night.

On Thursday, Republican Alan Milkelsen of St. Ignace said he was disappointed in the negativism that has marred both parties' primary campaigns. The Yellowstone issues "do not need to be reshaped," he said.

In the GOP primary, Milkelsen said he was distressed by comments made about his religious faith. The Republican debate drew about 40 people to the Montana Theater, although it also was broadcast live on KUFM and KGPR. There was little in the way of fireworks. The candidates agreed on many issues: the continued value of the Contract With America, the need to give states a chance at welfare reform, the need for a strong defense that includes antiballistic missiles.

Hill and Milkelsen said they would support a constitutional ban on abortion. MacKay reserved judgment until he saw the wording of any proposed amendment, but said he believes "abortion is the wrong choice. Life is the right choice."

MacKay, formerly chief of staff for Republican Sen. Conrad Burns, was challenged to defend his ability to make his own decisions — rather than to do Burns' bidding.

MISSOULIAN
MISSOULA, MONTANA 59807
DATE: MAY 31, 1996
MAY 31 1996
SUPERIOR CLIPPING SERVICE
CLIPPING: 406-565-6612

Debate

Continued

He conceded that he and the senator likely would agree on most issues. "But where he is incorrect, will stand up and speak out against him," MacKay said. Burns has endorsed his former staffer for the Republican nomination.

Hill offered himself as a vote for "diversity in the congressional delegation." He touted his experience as a businessman and pledged not to serve more than three terms in office, to take no increase until the federal budget is balanced and never to vote to raise taxes.

Milkelsen, a rancher and resource consultant, said he is eager to be a leader in the "realignment of the country." He said the move toward conservatism that began 10 years ago is "a move back to our roots, a reaffirmation of our understanding of freedom."

Milkelsen and Hill both said they are frightened by President Clinton and what they believe is a penchant for dishonesty.

"The president has the ability to seem so sincere when it seems to me, he is not," Hill said. "He has the best political skills I've ever seen, but he uses them in such a dishonest fashion."

MacKay, however, said he admires Clinton's intelligence and political astuteness. "He's just wrong most of the time," he said. Thursday's debate was sponsored by the Missoulian, the League of Women Voters and U.S.

EXHIBIT 3



Republican House of Representatives candidates Alan Milkelsen, Dwight MacKay and Rick Hill, left to right, appeared at a debate Thursday night in Missoula.

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TIME LINE OF RICK HILL INVOLVEMENT IN BILL YELLOWTAIL CHARACTER ATTACKS AND POTENTIAL ILLEGAL CAMPAIGN ACTIVITIES

May 31, 1996, Missoulian: Hill Pledges Yellowtail Past Not an Issue in Fall Campaign

Helena businessman Rick Hill said his "heart goes out to Mr. Yellowtail and his family over this whole situation." Candidates willingly put themselves on the line Hill said, "but to put your family on the line is another thing altogether."

"I don't think it will be appropriate for these issues to be rehashed in the fall campaign," he said.

Mid-August 1996: Hill Polls to Test Personal Attacks on Yellowtail

At the same time Hill was pledging not to engage in personal attacks on Bill Yellowtail, he commissioned a poll by Moore Information Research of Portland to test the effectiveness of characterizing Yellowtail as a wife beater and deadbeat dad.

If Rick Hill was not planning on making personal attacks, then why was paying to have personal attack questions in his August 1997 poll?

The Rick Hill poll showed him trailing Bill Yellowtail by nine points. (Source: Moore Information, September 18, 1997 Memo) These results showed Hill was not beating Yellowtail on a discussion of the issues. He therefore had to discredit Yellowtail with personal attacks. This polling information was known when Hill's campaign met with a representative from Triad.

August 23, 1996, Montana Associated Press: Hill Breaks Pledge and Attacks Yellowtail on Child Support Issue

Rick Hill claims his past divorce shows "I lived up to my responsibilities every step of the way....Bill walked away. That is the difference."

August 31, 1996, Lee State Bureau: Hill Releases Divorce Papers to Assert His Superior Moral Behavior. Again Breaks Pledge Not to Engage in Character Attacks.

Hill said he wanted to contrast his integrity with that of his Democratic opponent, Bill Yellowtail.

September 10, 1996, Missoulian: Hill Again Attacks Yellowtail's Personal Past During Missoula Debate...Claims Media is Forcing Him to Discuss Issue.

"Everywhere" he goes, people ask: "Has Bill Yellowtail fully disclosed all the facts about his situation?"

"I agree that we need to focus on the issues," Hill said. "But I do believe that the issue of personal responsibility, how we handled our wives, our lives - how we've handled our lives - in the past are a reflection on us."

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Late September 1996: Time Magazine Alleges Hill Campaign Officials Met With a Triad Representative to Coordinate Attacks on Yellowtail Through Expenditures by "Independent Issue Committee."

"In late September, a Triad agent huddled with the campaign of Yellowtail's opponent, Rick Hill, and figured out how to help. According to a Triad memo, Hill needed a '3rd party to expose Yellowtail' on 'wife beating.' Citizens for Reform aired the ad 'sparing Hill the indignity of playing the mudslinger.'" (TIME: November 3, 1997)

October 4, 1996, Great Falls Tribune: Press Discovers Hill Did Not Release All of His Divorce Papers. Former Wife Recounts Hill's Adultery and Mental Abuse.

Mary Spaulding of Helena, Hill's ex-wife, said Hill's affair lead to a three-month separation and his filing for divorce.

"I'm not denying there was an involvement, but it wasn't what triggered my decision to file for divorce," he said. "It was a very difficult marriage from the beginning."

"Spaulding remembered learning of the affair after Hill began coming home very late at night. She recalled packing their three sons, aged 18 months to 8 years, in a car once and driving to the Sip-N-Dip lounge where she saw Hill with the other woman. She said she begged him without success to come home."

"There was no physical abuse," Spaulding said, "but mental abuse can be just as bad. And there was a lot of that. Rick was constantly putting me down about my lack of education and my appearance."

"Spaulding said, she resents Hill's campaign implication that he is a model father who fought for custody of their three sons after the divorce and eventually raised them."

October 8, 1996, Great Falls Tribune: Hill Vows to Focus the Rest of the Campaign on Issues Rather Than Personal Attacks

"Hill said he was 'disheartened' that his former wife brought her criticism of him into public. He said he has divulged as much as he intends to about their divorce and hopes this is the last time in the campaign such personal questions arise."

October 21, 1996: Triad Front Group "Citizens for Reform" Begin Airing TV Ads Portraying Bill Yellowtail as a Wife Beater

A little-known Washington D.C. organization is responsible for a pair of TV ads attacking Bill Yellowtail as a criminal, wife beater and tax increaser.

Citizens for Reform began airing the commercials on some stations early this week in what a spokeswoman said is part of a multi-state effort to emphasize issues it considers important.

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Kathleen McCann, administrative director for Triad Management Group, which manages Citizens for Reform, said the group is concerned with "social reform." (AP: October 25, 1996)

October 22, 1996: Yellowtail Campaign Writes Stations Urging Them Not to Run the Citizens for Reforms Attack Ads.

All Montana television stations were contacted as to the inaccuracies in the ads and the stations' legal ability to refuse to air the advertising. The ads were also in technical violation of campaign laws because there was not enough information provided in the disclaimer. The ads were pulled for a few days, but resumed after the disclaimer was edited.

October 27, 1996. Bozeman Daily Chronicle: Hill Campaign Denies Involvement With Citizens for Reform Ads and Writes Group to Have Ads Pulled

"This type of overtly negative campaigning simply does not work in Montana," attorney (for Hill Campaign) Tom K. Hopgood wrote. "We demand that Citizens for Reform immediately stop airing these advertisements."

Bowen Greenwood, a spokesman for the Hill Campaign, insisted that the campaign had nothing to do with the ads and didn't know who was organizing or paying for them.

"They've set themselves up to be well protected and that makes it difficult for us to get to them," Greenwood said.

[NOTE:

1) The Hill Campaign's letter to Citizens for Reform didn't object to the ads because they were unethical or misleading. They objected because that type of advertising didn't work in Montana.

2) Bowen Greenwood professed the group was unknown to them and yet they knew where to send the letter asking them to stop the ads.

3) Five days earlier the Associated Press had reported Triad was managing Citizens for Reform.

4) October 27, 1997 Hill campaign strategist Larry Akey admitted they had met with officials from Triad prior to the ads running.]

October 28, 1996: Bill Yellowtail's Former Wife and Daughter Appear in TV Ad Disputing Negative Ads.

The ad disputing the Citizens for Reform attack ads were run statewide by the Yellowtail Campaign. Professor Jeanne Eder, Bill's former wife, and Kim Yellowtail, his daughter, said since May the personal issues raised were resolved years ago and they were supporting Bill for Congress. Both Jeanne Eder and Kim Yellowtail campaigned throughout Montana on behalf of Bill Yellowtail.

28044200029

June 30 - July 29, 1997 . Representative Hill Press Releases: Rick Hill Congressional Office issues 4 Press Releases to Demonstrate His Support for Campaign Reform.

Hill repeatedly calls for a ban on "soft money" independent expenditure campaigns.

"People have lost faith in the whole system. It's part of the responsibility of all of us to do something," Hill said. (Rick Hill Press Release, June 30, 1997)

[NOTE:

1) Some would question whether Hill's attacks on "soft money" expenditures are genuine or a cynical attempt to try and continue to distance himself from the activities in the last campaign.]

October 28, 1997, Bozeman Daily Chronicle and Lee State Bureau: Montana Press Reports Upcoming TIME Magazine Story Will Report Triad Memo Links Hill Campaign With Coordination of Citizens for Reform Ad Campaign. Hill Campaign Officials Admit They Met With Triad Official But Deny Involvement with Ad Campaign.

"There's no more truth to this story today than there was when Bill Yellowtail raised it a year ago," said Larry Akey, a consultant who worked on the Hill Campaign.

Akey agreed that the campaign met with Triad but insisted the conversation was about fund-raising and that there was "no conversation about advertising."

He said the Triad representative asked to copy news clips from the campaign's files and wasn't heard from again.

"He (Akey) also repeated claims made last November that the Hill campaign had no idea at the time who Citizens for Reform was or that it was affiliated with Triad. (Bozeman Chronicle October 28, 1997)

Larry Akey is the spouse of Montana Republican Party Chair Sue Aleksich Akey.

October 29, 1997, Lee State Bureau: Hill Claims He's Innocent and is the Victim of a Rogue Organization

"My Campaign was a victim of a rogue organization that came into our state spreading negative information," he continued. "The Rick Hill campaign has obeyed all election laws and was the first to file a complaint against Citizens for Reform for their actions."

[NOTE:

1) An interesting interpretation of the word victim. Hill was the beneficiary of an estimated quarter of million dollars worth of advertising and phone banks engaging in character assassination of his opponent and won the election.

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2) What possible interest did Triad have in hurting Rick Hill? Hill's campaign has admitted they met with Triad to discuss fund raising and provide press clips on Yellowtail's background. Does anyone truly believe the Triad campaign was aimed at helping Bill Yellowtail and hurting Rick Hill?]

November 5, 1997, Gazette Capitol Bureau/Medill News Service: Triad Admits to Spending \$125,000 on Attacks on Yellowtail. Contradicts Rick Hill Campaign Claims that the Ads Only Ran a Couple Times.

"Flaherty said Citizens for Reform spent about \$125,000 on the Montana negative ads last year."

"Peter Flaherty, chairman of the group that funded the ads, said the advertising was legal. Why? 'They were issue advocacy,' he said.

[NOTE:

1) If the ads were issue advocacy, and the "issue" was the personal character of the candidates for Congress, then why did not Triad run ads pointing out Hill's past as an adulterer, mental spouse abuser and hiding key parts of his divorce papers from the Montana media? Hill's personal character problems had been widely reported in the Montana press more than two weeks before the attacks on Yellowtail began.

2) Triad admits to spending \$125,000 on the ad campaign. Their front group, Citizens for Reform also had paid phone banks that personally attacked Yellowtail in the last week of the campaign. It is estimated that they spent at least an additional \$100,000 on the phone bank effort.

3) Larry Akey said "the ad only ran in Great Falls for 'one or two days' and could not have affected the outcome of the race." (Lee State Bureau, October 28, 1997)

4) If Rick Hill is the victim of a rogue organization, what interest does his campaign spokesman, Larry Akey, have in minimizing their impact on the election? The total amount spent by the Triad campaign will determine the level of potential fines the Federal Election Commission could impose on the Hill Campaign and Triad if they determine there was illegal coordination.]

November 18, 1997, Lee State Bureau: Hill Maintains He Can't Get Triad to Release the Memo Alleging Collusion in Illegal Campaign Activities.

Hill, Montana's lone congressman, says he has no control over the memo.

"It's not our memo, it's not ours to release or not release," said Pieper (Hill's chief of staff). "It is an internal document."

"There is nothing more frustrating than having ads run against you by an organization with no accountability to Montana," wrote Hill. "You and I agree on one thing: we need to bring some accountability to independent campaigns."

[NOTE: 1) What prohibits Hill from writing Triad for the memo?]

28044200031

November 19, 1997, Triad Letter to Montana Democratic Party Chair: Triad Denies Alliance with Hill Campaign and Refuses to Turn Over Copy of 'Memo' Cited in Time Magazine Story.

"In order to clear up your obvious confusion allow me to start by stating there was absolutely no 'alliance' nor coordination of any sort between the Hill campaign and Triad Management Services, Inc. or Citizens for Reform."

December 13, 1997, Lee State Bureau Copy of Triad Memo Arrives in Montana: Montana Democratic Party Says

Memo Confirms Hill Campaign Coordination with Triad. Hill Continues to Deny Involvement.

The "Triad Memo" was faxed to Montana Lee State Bureau reporter Kathleen McLaughlin. A copy was provided to the Montana Democratic Party.

"The three page memo does detail Triad discussion with Hill's phone bank coordinator, main campaign strategists and his wife.

It does not mention direct conversations with Hill, but Lamson (Joe Lamson, Bill Yellowtail Campaign Manager) said the three other conversations are enough to prove violation of federal election laws.

Also incriminating, said Lamson is Triad's use of Hill's internal polling numbers.

'They talked to Hill's pollster about how to coordinate the ads,' said Lamson. 'I'd say that's collaboration.'

'We did not request or coordinate in any way with them,' (Congressman) Hill said Friday.

Democratic leader Ream said his party won't drop the issue.

'I think it's stunning and we fully intend to do something about it,' said Ream."
(Montana Standard, December 13, 1997)

28044200032

Probe to question Thune spending

By Bob Mercer
Capital Bureau



Thune

He was the classic South Dakota underdog running for Congress, young and short of money but long on potential. She was a political consultant from Virginia, a friend of a friend, and her job was to steer money to candidates with the right conservative views.

Now the U.S. Senate committee investigating campaign finance abuse plans to call to the witness stand in the next few weeks Carolyn Malachuk, a self-described political recruitment adviser who helped elect Rep. John Thune, R-S.D., and other Republican members of Congress last fall.

Democratic members of the Senate Governmental Affairs Committee are probing the methods Malachuk used to channel money to campaigns. They have

focused on how two nonprofit committees under Malachuk's management bought hundreds of thousands of dollars worth of TV ads on behalf of conservative Republican candidates, including Thune, using secret sources of money for which the candidates didn't have to account and also won't disclose.

By using the nonprofit committees, Malachuk was able to get around the law limiting how much a person can contrib-

ute to a candidate. In political jargon, this is known as "soft money" -- a practice that has become common in U.S. election campaigns.

So far, the investigation has found no evidence, proving that Thune and his campaign staff coordinated with Malachuk on the TV ads, according to Democratic staff members of the committee. Such co-

See Thune on page A5

Rapid City Journal
9-20-97

Thune: His campaign linked to advertising under question

Continued from page A1

ordination with an independent committee is prohibited by federal law.

But they have found circumstantial evidence linking the Thune campaign to the TV advertising under investigation, including a memo by a Minn. employee written after meeting with Thune campaign advisers in Sioux Falls on Sept. 25, 1994.

The investigators also are looking at whether Malenick and her employees improperly provided consulting services to Thune.

The ads were financed through what are known in legal language as "issue advocacy" by two nonprofit, tax-exempt groups — referred to as 501(c)(4) education committees in federal tax code — that Malenick managed.

Her main company, Triad, found donors willing to give money and worked with candidates. The two 501(c)(4) committees, which don't have to reveal the sources of their funding under the tax laws, bought the TV ads to help the candidates.

Under federal campaign law, independent expenditures such as those by the two committees can't be grouped between a candidate and the campaign doing the spending. Independent expenditure ads are supposed to be about issues and can't advocate that people vote for a specific candidate.

But the memo indicates that, in Thune's case, the independent spending wasn't so independent. It also suggests that information was passed between the Thune campaign and the Triad operations, including the committee.

"If there is anything we can do to help, it would probably be in the area of 501(c)(4) education with regards to the federal tendencies of its operations," the memo from Carlos Rodriguez to Malenick said. Within weeks, the advertising time was purchased.

The memo shows significant details from inside the Thune campaign, including budget and polling numbers. In the memo, Rodriguez also told Malenick and another of her Triad

employees, Meredith O'Rourke, that they should "continue communication with Don Nelson and John Thune" while Rodriguez continued to monitor the campaign. Malenick, O'Rourke and Rodriguez were officers for the campaign buying the ads.

Nelson, a Sioux Falls auto dealer, was an unpaid adviser who was in daily contact with Thune's campaign throughout the 1996 elections. The Thune campaign also mailed office space from Minn.

Thune, Nelson, Rodriguez — who was campaign manager and now is Thune's chief of staff — and another campaign consultant said in interviews with the Rapid City Journal that they discussed the TV ads with Triad personnel. Jones and Nelson had separately met with Triad's Rodriguez during the September visit.

"It's illegal," Jones said, about whether they talked about the TV ads. "As an independent expenditure, that is a coordinated deal you can't have."

Thune's political relationship with Malenick and her Triad Management Services began with a bundle of out-of-state cash, arriving at a crucial time, that helped him keep his campaign going in South Dakota's 1996 Republican primary election, in which he defeated Lt. Gov. Charles Fialla.

The relationship continued as Thune received various forms of assistance, primarily money from across the country, and later on, in protection in Washington, D.C., and TV advertising from Malenick through the November general election.

After he won, the duo took a new direction. She invited him to a Washington dinner with other congressional donors who helped, when they met whom she helped, when they discussed potential leaders for the new class of Republican House members. The freshmen class later chose Thune to its No. 2 post, which Malenick pointed out in a letter to the class heralding her activities.

The Thune-Malenick connection shows how wealthy contributors were willing at Malenick's direction to write \$1,000 checks to candidates they never met in order to elect a Congress that more reflected the "great" conservative values and is "fight against the political influence of employee unions."

Malenick got to know many of the contributors during the four years she spent as a fund-raiser for O'Rourke's various groups, including the defense committee and his campaign for the U.S. Senate.

The Thune-Malenick story is also one more example of the money by people and organizations in both political camps to get around federal laws aimed at controlling the influence of money in congressional elections.

Malenick, who lives at Malenick, Va., but refused to answer any questions posed by Senate Democratic investigators about her Triad Management Services group. She declined requests for an interview and returned questions from the Journal to her lawyer.

Her attorney, Mark Braden, said Malenick won't talk who provided the money to pay for the ads. Braden said the money didn't come from any of the campaign sources, political party organizations or candidates.

"She has an absolute First Amendment right not to reveal to her constituents," Braden said. Braden, a lawyer for the Democratic members of the Senate committee, said the way Triad worked with the two committees, which bought the TV ads in at least 26 states across the nation, was "probably illegal."

"They're front organizations. They're completely controlled by Triad," Stein said about the groups.

Investigation papers show Malenick was listed as president of the Committee for the Republic Education Fund, the nonprofit group that paid for the ads in South Dakota. Rodriguez, the field man who met with Thune's campaign staff, was listed as a director of the committee. His job for Triad was to coordinate the county, conducting what were called political audits on various campaigns in which Triad's contributors were interested.

Braden, the lawyer for Malenick, said Triad analyzed candidates' positions and views and then looked at their campaigns. He said Malenick described her job as "like an investment adviser" for people wanting to contribute money to candidates and their causes.

"She has a consulting business. Her clients are donors," Braden said. "She represents people who are in a financial position to make substantial gifts."

One lawyer is that Malenick's TV campaign likely played little if any influence on Thune's election. Shortly after she was named to the Senate, Thune said he went on the air in South Dakota in late October, but because managers pulled them off because by Malenick, most of it in time to the Democratic candidate Nick Rahall.

Malenick's influence on Thune's federal budget. Of a \$10,000 buy in South Dakota, the ads were shown only a few times.

In interviews with the Journal, Thune, Jones and Nelson repeatedly denied ever discussing the Malenick-funded TV ads with her or the president working for her before the ads aired last fall.

Nelson also said he never met Malenick but had spoken with her on the telephone. Nelson said he never discussed the TV ads with Rodriguez or anyone else.

Thune said he and Malenick created separate lines together at the line of the South Dakota Republican Party, said Malenick, to which independent candidates, outside were linked.

"We set up a series of meetings with different groups and trade associations to drum up support around them," he said.

After he won in November, Thune publicly praised Triad for its role in his election, along with praise from some other state Republicans. Thune's committee was placed in a "bid" committee funded by Malenick's clients immediately after the election.

"Your early contributions and getting of my committee was integral to our success. The advice we received was brought to bear on our success as well as a critical point and helped determine the outcome. My heart felt thanks. I look forward to working closely with you in the future," Thune wrote.

A few days later, Thune went to Washington to begin preparations for joining Congress. Thune said Rodriguez and Rodriguez — "who I previously had not met" — got a press together for him and some of the other candidates Triad helped run. Thune, Colorado, Alabama and others.

"I'm spring primary through one of his 'inner high school classmates who went to college with Malenick. He said that was why Triad became involved in the primary election between Hill and him."

"The (Malenick) informed a number of her clients who are contributors about candidates such as myself," Thune said. He estimated receiving about \$15,000 estimated value by Malenick, most of it in time to the House primary election.

Malenick's influence on Thune's federal budget. Of a \$10,000 buy in South Dakota, the ads were shown only a few times.

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The major topic at the table was leadership posts. "I was already shopping around for leadership," Thune said. He wanted to be picked by the class of new House members as their official leader. He wound up getting the No. 2 spot, as the liaison to House Speaker Newt Gingrich and the House Republican leadership conference.

Malenick, in a May 27 Triad letter, pointed out to clients in Triad in this development. "I brought several business members together to work with them on consulting building, which contained in the successful election of (Thune)."

Triad — officially spelled TRIAD — the company's correspondence — stands for Tactical Resources in American Democracy. Malenick turned the for-profit corporation as a "rapid fire" response to unions, according to a Triad promotional video.

Bradley, her lawyer, said Malenick had management contracts with the two committees that put the TV ads on. He said the ads were created to counter organized labor-funded advertising by the AFL-CIO.

"These particular ads weren't coordinated with any party organization or candidate," Braden said. The ads were run in states where AFL-CIO ads ran.

Malenick initially refused to discuss the Democratic investigation, despite a subpoena for her to appear. When she did go, she didn't answer any questions.

She has been subpoenaed to testify before the committee next week. "She's looking forward to it," Braden said.

He said the Democratic investigators haven't disclosed what they are specifically looking for. He described it as throwing a fishing net over the side to see what they can drag up, in an attempt to offset the continuing revelations about Democratic leadership efforts involving the White House.

"They're looking desperately for some way to divert attention from some real problems," Braden said.

the new Inside Congress

Exclusive news on the people,
politics and agenda of the 104th
Congress and the 1996 campaign

VOL. 3, NO. 44 - NOVEMBER 7, 1995

A NEW ASSASSINATION 'slush fund'?

DEMOCRATS SAY TAX-EXEMPT GROUPS 'FRONT' FOR NATIONAL REPUBLICANS

Rep. Tim Holden (D), who is facing a tough reelection bid in his Pennsylvania district, is filing a complaint with the Federal Election Commission about a tax-exempt group that is running "vicious" ads against him, campaign spokespeople say. But the FEC complaint may be just the tip of the iceberg in a larger puzzle that hides several "mysterious" tax-exempt groups with longtime conservative operatives, sources say.

Democrats charge that the organizations are working to create a "slush fund" for the Republicans to dip into to run ads against Democrats across the nation.

The national party and Democrats in several states — who began a frantic search this week looking for information about two groups running "issue advocacy" ads in several crucial races — privately say the organizations are a front for the Republican National Committee.

RNC spokeswoman Mary Crawford says she has never
continued on page 4

Moderate Republicans aren't traveling

COATS WON'T CHALLENGE JEFFORDS FOR LABOR CHAIRMANSHIP, INSIDERS SAY

Conservative Sen. Dan Coats (R-IN) likely will not challenge moderate Sen. Jim Jeffords (R-VT) for the chairmanship of the Senate Labor and Human Resources Committee in the new Congress, Republican leadership sources say.

Sen. Nancy Kassebaum (R-KS), the committee leader until Nov. 3, announced her retirement plans last month, igniting widespread speculation that conservatives in the Senate would oppose Jeffords — arguably the most liberal Republican in the upper chamber — in the 105th.

Conservative Republican insiders urged Coats, the third-ranking member on Labor, to challenge Jeffords, the senior-most member once Kassebaum departs. Until now, Republican insiders argued that Jeffords could be denied the top post despite the time-honored tradition of "seniority rule" in the Senate.

But during the second half of the 104th Congress, Jeffords became "a team player" and "model conservative" to win favor

continued on next page

GOING OUT ON A LIMB

"If I were really to go out on a limb," says Democratic consultant Peter Fara, "I'd say Walt Minnick (D) beats [Sen.] Larry Craig (R) in Idaho. That would be the upset of the year." Minnick has pulled his negative ads and gone positive for the final week of the campaign, Fara says, but the upset would be triggered by charges that Craig supports a deal to bring nuclear waste into the Gem State.

No, says Republican analyst John Morgan, the big surprise will be the defeat of two-term Sen. Tom Harkin (D) in Iowa at the hands of Rep. Jim Lightfoot (R). "The fact that Harkin has a 'D' behind his name is beginning to hurt him," says Morgan, who was one of the early voices predicting the 1994 congressional takeover. Morgan also believes Republicans will protect the House seat left open by Lightfoot, Iowa's 3rd District, and successfully defend the other four seats for a clean sweep in the Hawkeye State.

SEN. PASCOE, political director of the American Conservative Union, predicts Louisiana and Arkansas will elect Republican senators for the first time since Reconstruction. And in Woody Johnson (R-LA) defeats Mary Landrieu (D-LA) and Rep. Tim Hutchinson (R-AK) trumps Winston Bryant (D-AK). Pascoe says, Republicans will surprise everyone by extending their leads in the House and Senate.

Grover Norquist of Americans for Tax Reform agrees, predicting a GOP net gain of two seats in the Senate and five in

continued on page 6

HEADS UP

President Clinton visits Michigan to help Rep. Lynn Rivers (p2) . . . Kansas conservatives use push poll to stress that Democrat Jim Doehring is Jewish (p3) . . . GOP, Democratic moderates consider bipartisan strategy meetings (p3) . . . Independent poll shows GOP's Gordon Smith leading in Oregon (p8) . . . DSCC launches independent expenditure attacks in five states (p10).

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Insiders estimate that Democrats could have more than 60 "true centrists" in the 105th. For Republicans, the number of moderates likely won't increase dramatically, but that faction already boasts at least 30 lawmakers. "If centrism takes root, you'll see more and more Republican moderates come out of the closet," a staffer for a GOP moderate says.

Expecting their combined forces to exceed 100 members, Republican and Democratic moderates say the group, if organized, could play a key role in reforming campaign finance rules, finding a short- and long-term solution to fixing Medicare and Social Security, and ensuring that "year" welfare reform stays intact. Furthermore, the group plans to be instrumental in balancing the budget, lowering taxes and maintaining a healthy economy.

"We reformed welfare last session, and we had less than 70 members," says a source with the GOP Lunch Bunch. The source is referring to the welfare reform bill sponsored by John Tanner (D-TN), a Blue Dog, and Mike Castle (R-Del.), a Lunch Buncher, that was adopted by GOP leaders in the House and signed into law by President Bill Clinton.

DEMOCRATS ASSAIL 'MYSTERIOUS' TAX-EXEMPT GROUPS . . . begins on page one

heard of either groups and that the RNC has no ties to either organization. Democrats also are questioning the legality of a tax-exempt group -- which does not have to register with the FEC -- spending hundreds of thousands of dollars on commercials, without disclosing any financial reports to the public.

There also is little information about the groups: the Citizens for Reform and the Citizens for the Republic Education Fund, both of which are running issue advocacy ads. Both groups, however, are being managed by Triad Management, a DC-based firm that handles all aspects of the ad campaign, according to sources with Citizens for Reform.

But a "media buyer," who is working for Rep. J.C. Watts' (R-OK) reelection campaign, has linked the organizations, according to several sources. The buyer, who bought air time for Citizens for Reform in the Montana and Fresno/Beaumont, CA, markets, says Citizens for the Republic Education Fund paid for the ads.

The buyer refused all questions to the Farwell Group, a New Orleans firm handling the production of the Campaign for Reform's ads. Spokespeople with the Farwell group refer calls to Triad. A Triad spokesperson would not elaborate on what the company does beyond "fundraising" for the two groups, which are "separate" organizations, she insists. *National Journal* articles this year have said: "Triad provides its wealthy clients with tips about where and how to funnel campaign contributions to get the biggest bang for the buck."

The group, according to the article, is trying to organize a TV advertising blitz to help counter the AFL-CIO's \$35 million infusion of funds into races across the country. And, according to FEC documents, the group worked diligently to help several conservative Republicans, including Louisiana's Wendy Johnston and Rep. Sam Brownback, the Republican in one of Kansas' two Senate contests, win their primary fights.

Triad was founded several years ago by Carolyn Malenick, a conservative activist who worked for more than four years as Oliver North's PAC political director. The company, which also has offices in Manassas, VA, specializes in "providing analysis and intelligence on congressional campaigns to conservative donors," the *July Journal* article states. Recent articles in other publications say the firm specializes in "social reform" issues.

"Leaders of conservative political action committees tout Malenick's networking skills," says Conservative Campaign Fund chairman Peter Fishery in the article. But Fishery also heads Citizens for Reform, a lobby group he organized in May to counter the infusion of AFL-CIO money into the political arena, Fishery told *Inside Congress*.

"We wanted to go to some places where labor unions have dumped money," Fishery says, "to serve as a counterbalance. We're not big players. We're definitely dwarfed by labor unions and trial lawyers."

The reform group is running ads in House races in Kansas (2nd and 3rd Districts), Texas (1, 2, 11), Pennsylvania (6), California (27, 42), Montana (at large), New York (26) and Arkansas (1), Fishery says. He would not disclose how much it is spending or its annual budget.

The organization is registered as a 501(C)4 tax-exempt entity and, according to IRS spokespeople, can run ads as long as it's done through a separate fund, which is taxed. "The law says only 501(C)3 organizations," the most common tax-exempt groups, "are prohibited," the IRS source says. "A C4 can run ads, but that can't be its primary purpose."

Citizens for Reform, according to Fishery, formed as a lobbying group to push for the "balanced budget amendment, term limits and congressional reforms." The group raises revenue through "general direct mail and personal solicitations," says Fishery, who headed the fundraising group Citizens for Reagan during the 1980s.

But Democrats in states where the ads are being run question the group's actions. In Holden's race, the ad talks about how the incumbent "wants to give condems to me," a campaign source says. An ad against Montana's Bill Yellowstone says: "He preaches family values, but he whips a swing at his wife."

continued on next page

"Yellowtail's explanation: he only slapped her once, but her nose was not broken. He talks law and order, but is himself a convicted criminal. He talks about protecting children but Yellowtail failed to make his own child support payments."

The Yellowtail campaign lobbied a Great Falls, MT, TV station to pull the ad, and it did last week. But campaign sources estimate the group is spending \$35,000 a week to air a separate ad on mtns. State Republicans say the advertisement questioning Yellowtail's values was "not a pretty spot."

"The one on mtns is really, really good," says a top state Republican. "But the personal one . . . in Montana that can boomerang on you real fast." Yellowtail's challenger, Rick Hill (R), talked about the slapping incident and the Democrat's failure to pay child support — both of which have been confirmed by the campaign — early on, until his own on-with wrote a letter outlining Hill's late payments on child support as well, state sources say.

But Holden staff say the group is "getting around finance laws" and this week plans to file a complaint against Citizens for Reform and Holden's challenger, Christine Latsch.

"We're not going to let his threats stop us," Fishery says. "We have First Amendment rights." Fishery describes the ads as "issue advocacy," because Citizens for Reform does not "advocate the election or defeat of any candidate." The Yellowtail ad tells citizens to call the campaign and "tell him you don't approve of his wrongful behavior."

The targets, according to Fishery, are selected based on their positions on issues that affect the group.

Don Simon with Common Cause, a group making changes in campaign finance law, says the ads are another example of the "executive abuse of issue advocacy ads."

A source with the Center for Responsive Politics adds: "These ads are difficult for voters, who are trying to figure out who is behind them."

Citizens for Reform isn't the only social welfare group running issue ads. Citizens for the Republic Education Fund also is airing similar television advertisements in a couple of Senate races. The group, which former Ronald Reagan political director Lyn Nofziger chairs, is chiming in against JIM Ducking (D) in her race against Rep. Brownback for out of Kansas' open Senate seat and against Arkansas Attorney General Winston Bryant (D).

In Kansas, the ad, which the fund paid \$7,000 to air 31 times, describes Brownback's work as a "tax fighter" and "says that Ducking won't tell her position on the balanced-budget amendment," Democrats say. Brownback's campaign is being "tight-lipped" about the campaign, state sources say.

"Because the ads do not directly advocate the election of a candidate, the ad could slip through federal election law that typically requires the disclosure of campaign contributions," a source adds. A Bedford Falls, NY, firm, Dream-Wickers & Assoc., produced the ads, but, according to sources, company officials "had been directed not to discuss the advertising campaign." Citizens for the Republic Education Fund has bought an estimated \$300,000 worth of TV in Kansas, sources add.

The ads against Bryant, who is lagging behind Rep. Tim Wainwright (R) for the open Senate seat in Arkansas, talks about the Democrat's "wasteful spending" and how he's "out on crime," campaign sources say. The campaign pressured local TV stations to pull the ad. The station told Dream-Wickers that unless the station received a list of directors it would drop the ads. KARK received a list that named Nofziger, Carlos Rodriguez and Dave Gillard as board members.

Nofziger and Rodriguez failed to return calls seeking comment.

Nofziger is head of Nofziger Communications in D.C., but company sources say his work with the Fund is "on his own time."

Rodriguez is a Sacramento, CA-based consultant, who came under fire earlier this year when a California state Senate candidate sued his GOP challenger for libel. The suit named Rodriguez and Gillard as defendants.

The Citizens for the Republic Education Fund — which is a separate group from the Citizens for the Republic, a PAC chaired by Ray Buchanan — was founded in the early 1970s as a PAC for then-President Reagan, say Democratic sources who have researched the group. It was founded by Edwin Meese and Nofziger, but, according to Associated Press reports, was bought by former GOP presidential nominee Pat Buchanan, who in 1993 changed the name to American Cause.

Buchanan, however, has nothing to do with the group, American Cause spokespeople say. Citizens for the Republic, however, originated from Citizens for Reagan, a group that Citizens for Reform chairman Fishery used to run during the 1980s.

FEC records also showed that in 1991 Citizens for the Republic paid Ray Buchanan \$58,000 and Nofziger \$43,500. The latest FEC reports show that the group raised \$3,600 and has spent \$5,500, having started the year with nearly \$62,000. The organization had \$59,000 in its coffers. Buchanan lists her home address as its headquarters.

EXHIBIT 7

Click on graphic to find out more!

U.S. News

11/8/97

Election '96**The Money Behind the Message***By Jason A. Vest*

While Republicans have been righteously annoyed by AFL-CIO ads this campaign season, at least they had a clear notion of who they were dealing with. Last week, Democratic congressional candidates in seven states--Kansas, Arkansas, Montana, California, Pennsylvania, Texas, New York--were trashed in TV or direct mail ads sponsored by two groups, the Citizens for the Republic Education Fund and the Citizens for Reform. Submitted to TV stations or sent to mailboxes as "issue advocacy" spots, the ads slammed Democrats by name; one directed against Montana's Bill Yellowtail was so harsh it even drew fire from Republican candidate Rick Hill, who asked Treasure State broadcasters to yank it from the airwaves.

Indeed, Hill was so taken aback by the ad--which charged Yellowtail with "taking a swing at his wife"--he drafted an angry letter to Citizens for Reform. Problem was, he didn't know where to send it. Since the groups were not registered as political action committees, but as "social welfare" non-profits, spending limits and disclosure requirements didn't apply. At first, some reporters fingered Pat and Bay Buchanan, who still control a PAC called Citizens for the Republic, as the force behind the ads. But the Buchanans denied any connection.

The mystery deepened when Little Rock's KARK-TV refused to air a Citizens for the Republic ad without some background information from the group. The station received the phone number and address for Triad Management Services in Washington, D.C.--a "management company," according to a spokeswoman, for CREF and Citizens for Reform, which, she said, are headed respectively by former Reagan aide Lyn Nofziger and longtime conservative activist Peter Flaherty.

Flaherty confirmed that he had been indeed been responsible the Citizens for Reform ads. But when Nofziger was reached, he claimed he had virtually nothing to do with the CREF spots. "Some people approached me asking if they could use an old foundation of mine," he said. "I told them, 'There ain't no foundation,' and they asked if I would be the titular head of a new one. I said sure, as long as I don't have to do any work." And who was the leader of the group that asked Nofziger for aide? Carolyn Malenick, replied Nofziger--head of Triad Management Services.

Once the chief fundraiser for Oliver North, Malenick is well-known in right-wing circles, and founded Triad in order to "basically broker deals between donors and donees," according to one Washington, D.C.-based Republican activist. While there are disclosure requirements for lobbyists, PACs, and party/campaign donors, there are none for a group like Triad--which only advises contributors where to spend their money.

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Apparently Triad's clients gave generously to the two non-profits. In just ten days time, the Citizens' groups dropped at least half-a-million dollars for air time, according to local TV stations and ad buyers. Flaherty refused to identify the source of his group's funding and Malenick did not return U.S. News's phone calls. So, although they behaved in a PAC-like way, they were not held to the PAC standards of disclosure. According to Larry Makinson, research director of the Center for Responsive Politics, it's yet another example of election-year loophole excess. "As long as independent expenditure ads don't use the phrases 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'so-and-so for Congress,' 'vote against,' 'defeat,' or 'reject,' they're not deemed political expenditures, and aren't subject to any reporting, or spending limits," he said. "And with these ads, we may never know who's paying."

Out Loud:

"A race to be the first to declare a winner in the presidential election, before millions of Americans have the chance to vote, would be an irresponsible and damaging course."

HALEY BARBOUR, GOP chairman, in a letter to executives at ABC, CBS, NBC, CNN and Fox.

Toles cartoon: The media are poised--to jump?

Washington Whispers: Clinton thinks about a job for Dole

For more news and political analysis, check out U.S. News Online's Election '96.

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A6—The Montana Standard, Butte, Friday, October 25, 1996

D.C. group finances Yellowtail attack

By Bob ANEZ
of the Associated Press

HELENA — A little-known Washington, D.C. organization is responsible for a pair of TV ads attacking Democratic U.S. House candidate Bill Yellowtail as a criminal, wife beater and tax increaser.

Citizens for Reform began airing the commercials on some stations early this week in what a spokeswoman said is part of a multi-state effort to emphasize issues it considers important.

Some TV stations have refused to broadcast the ad dealing with Yellowtail's troubled past because of concern that the label of criminal may not be accurate.

Kathleen McCann, administrative director for Triad Management Group, which manages Citizens for Reform, said the group is concerned with "social reform." She referred other questions to the organization's attorney, Mark Braden. He could not be reached

Thursday for comment.

Yellowtail and Republican rival Rick Hill condemned the commercial that focuses on Yellowtail's personal life.

Yellowtail suggested Hill was connected with the ad.

"In spite of Rick Hill's handshake and his repeated pledges not to engage in personal mudslinging tactics in this race, I'm not surprised his campaign would engage in this kind of tactic," he said.

"It's a convenient tactic to get some surrogate to do the dirty work here," Yellowtail added.

"Meanwhile, Rick smiles and shakes hands and is ever so pleasant for public consumption here in Montana."

Hill denied any involvement in the ad and said the commercial "goes beyond the bounds of accepted Montana standards."

"It has no place in this campaign and is an insult to both the candidates and the voters," he said.

Here is the text of the controversial ad:

"Who is Bill Yellowtail?"

"He preaches family values, but he took a swing at his wife."

"Yellowtail's explanation? He only slapped her but her nose was not broken."

"He talks law and order, but is himself a convicted criminal."

"And though he talks about protecting children, Yellowtail failed to make his own child support payments, then voted against child support enforcement."

"Tell Bill Yellowtail you don't approve of his wrongful behavior."

The ad refers to revelations earlier in the campaign that Yellowtail failed to pay court-ordered child support in the late 1980s, once slapped his first wife during an argument and was convicted of burglarizing a store while in college.

The commercial doesn't mention that Yellowtail was pardoned for the burglary conviction.

McCann said Citizens for Reform does not advocate the

election or defeat of any candidate, but tries to deal with social issues it considers important. In Yellowtail's case, the issues are spouse abuse and taxes, she said.

McCann said she did not know the source of funding for Citizens for Reform or how much it's spending on the Montana ads. She also could not say how many candidates targeted by the group nationwide were Democrat or Republican.

She said Citizens for Reform is not registered with the Federal Election Commission because it is a nonprofit group.

In response to the ad addressing Yellowtail's personal history, the Democratic Congressional Campaign Committee sent a letter to Montana TV stations warning them not to run the commercial.

The letter Tuesday from Robert Bauer, attorney for the national committee, said the ad could expose the stations to libel suits and would require the stations to provide Yellowtail free time to respond.

"CITIZENS FOR REFORM"

-BILL NEGATIVE AD ON WIFE BEATING AND CRIMINAL RECORD

**ALL IN BLACK AND WHITE WITH WHITE LETTER ON A BLACK BACKGROUND
FOREBODING BACKGROUND MUSIC WITH DRUM MARCH BEAT**

**" " = script
() = written text**

"Who Is Bill Yellowtail?"

(Large white letters on black screen: Who is Bill Yellowtail?)

"He preaches family values"

(He preaches family values)

"but he take a swing at his wife"

(Picture of Bill above newspaper article and source: AP 5/21/96)

"Yellowtail's explanation?"

(His explanation)

"He only slapped her, but her nose was not broken."

(He only "slapped" her, but "her nose was not broken.") Over newspaper article headline "Yellowtail heads off rumor, admits he slapped ex-wife" Source: AP 5/21/96

"He talks law and order"

(He talks law and order)

"but is himself a convicted criminal"

(... but is himself a convicted criminal.) Over news clipping

"Yellowtail's felonies are college folklore" Source: Missoulian 5/25/96

"And though he talks about protecting children"

(And though he talks about protecting children)

"Yellowtail failed to make his own child support payments"

(Yellowtail failed to make his own child support payment.) Over news clipping "Yellowtail had to pay \$7,200 in delinquent child support" Source: Great Falls Tribune 1996

"Then voted against child support enforcement."

(...then voted against child support enforcement) Source: HB445 (1985).

"Call Bill Yellowtail and tell him you don't approve of his wrongful behavior."

(Tell Bill Yellowtail you don't approve of his wrongful behavior.)

(In red letters: "Call (406) 443-3620")

(Paid for by Citizens For Reform)

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EXHIBIT 10

TODAY'S WEATHER

FRONT PAGE NEWS STORY

Input Today's Newslink Keyword! What's
Newslink?

Enter Keyword:

Click for Interactive Features!



Partly cloudy,
 high of 51, low
 of 33.

Hill may have broken campaign laws

PICTURE OF THE DAY

By SCOTT McMILLION

- 10/28/97

Chronicle Staff Writer



Click on picture
 for caption and
 a better view.

Rep. Rick Hill may have broken campaign laws by plotting with a conservative group to air negative advertising against his opponent in the 1996 election, Time magazine reports in its upcoming issue.

Read the
 Chronicle
Classifieds! All
 current print
 classifieds are
 available and
 updated each
 Sunday.

But a campaign official categorically denied any wrongdoing.

"There's no more truth to this story today than there was when Bill Yellowtail raised it a year ago," said Larry Akey, a consultant who worked on the Hill campaign.

Hill, a Republican, beat Yellowtail to become Montana's lone congressman.

Powered by
Silicon
Graphics and
Power
Macintosh.

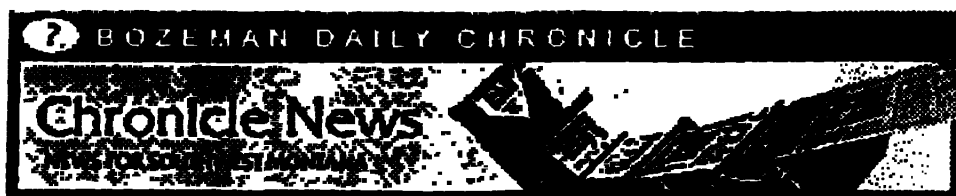
Joe Lamson, Yellowtail's former campaign manager, said the Democratic Party may file a formal complaint against Hill.

"If what Time magazine says is true, we'll be filing a complaint," Lamson said.

At issue is a television advertisement that criticized Yellowtail for once slapping his wife 20 years earlier.

Continued

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(Continued from page 01)

"He preaches family values, but he took a swing at his wife," the ad said. "He talks law and order but is himself a convicted criminal."

Yellowtail had admitted early in the campaign to slapping his wife and burglarizing a camera store while a teenager but won the Democratic primary anyway. Hill vowed shortly afterward not to make Yellowtail's indiscretions a campaign issue.

A group called Citizens for Reform paid for the ad. That group is a "shell" set up by the conservative Triad Management Services, which "matches conservative donors with candidates and causes," the magazine reported. Triad met with the Hill campaign in September.

"According to a Triad memo, Hill needed a 'third party to expose Yellowtail' on 'wife-beating,'" Time magazine reported.

Citizens for Reform aired the ad two weeks later, "sparing Hill the indignity of playing the mudslinger," Time said.

Akey agreed that the campaign met with Triad but insisted the conversation was about fund-raising and that there was "no conversation about advertising."

He said the Triad representative asked to copy news clips from the campaign's files and wasn't heard from again. Yellowtail's offenses were frequently in the newspapers last year.

Under current campaign laws, independent groups can run "issue" advertisements without opening their books to campaign watchdogs. However, if there is coordination between the campaign and the independent groups, it is a violation of campaign laws.

Lamson said that, if the Time story checks out, it confirms his suspicions. The existence of a memo could also prove to be significant, he said.

"We knew he was doing it," Lamson said of the ads. "We just didn't know he was putting it in writing."

Time called Triad one of the nation's most effective groups at helping the Republican cause "behind the scenes."

Citizens for Reform and other shell groups ran advertising in 24 congressional districts "after a Triad consultant surveyed each one to determine how best to make a difference," the magazine said.

Lamson said tracking polls showed the ads made a difference in Hill's favor.

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Rick Hill Bio Ad:

Shots of construction area on city street, combine, dump truck, trucker on the freeway, Rick talking to woman at construction site (with a blue text box with white letters that says "small business"), shot of new house construction site that moves down to a beautiful stream (with blue text box with white letters that says "good jobs" then transition to a box that says "clean environment"), kids on a school playground, Rick talking to workers with "Rick Hill for Republican for Congress" in white letters. Followed by Rick sitting on a porch railing. Last frame puts his face in a blue background.

Text:

V/O (man):

Montana's economy: growing, changing, on the move.

We need a Congressman who really understands small business.

Someone who believes we can have good jobs and a clean environment.

Someone who wants our kids to have the chance to stay here, too.

A Congressman like Rick Hill.

Rick Hill:

"As a businessman I've been part of Montana's economy for 25 years.

As a Congressman, I'll work to keep taxes down and government regulation under control."

V/O (Man)

Rick Hill: Jobs for Montana ... Common Sense to Washington.

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RICK HILL: "JOBS" AD

EXHIBIT 12

(woman) Rick Hill republican running for Congress on jobs and the economy

(Hill) Small business and our farms and our ranches, these are the backbones of Montana's economy. I know, because I built my own successful business here.

(woman) Rick Hill, a common sense conservative. Rick Hill stands with us for lower taxes and less government regulation. He has the experience and the ideas to help make things better.

(Hill) I know what it takes to create jobs and economic security. I've been on the receiving end of high taxes and over regulation. I know what it means to fight for property rights. And I know how to win that fight. The other guys can talk about it, I've done it.

(woman) Like most of us Rick Hill raised his family and built a life here, in Montana. Rick Hill, a main street business man, not a politician.

(Hill) People tell me they have to work at two or three jobs just to make ends meet. They say taxes are taking a bigger bite out of their paycheck than ever before. I say it doesn't have to be that way. If you want a congressman who's been there, creating jobs, firsthand, I need your support.

(woman) Paid by Rick Hill, Republican for Congress

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RICK HILL ATTACK AD
Oct. 14, 1996

VISUAL: Very flattering shot of Bill in a blue suit at a debate or some sort of hearing. He gestures throughout the video and continues talking. Camera pulls back to allow 1/3 black bottom screen with Bill above.

Kryons start coming in from left of screen and land below the talking Bill Yellowtail.

White letters:

"CHECK MY RECORD"

SOURCE: MISSOULIAN 3/22/96

AGAINST RELIEF FOR FARMERS AND SMALL BUSINESS

SOURCE: HB 12 3/13/87 HB163 4/10/89

AGAINST TAX FAIRNESS FOR RETIREES

SOURCE: HB 57 12/16/93

VOTED FOR RAISING 26 DIFFERENT TAXES

SOURCE HB 44 7/17/92

FOR LOWERING PENALTY FOR ABUSING A SENIOR CITIZEN

SOURCE: SENATE JUDICIARY 1/28/85

AGAINST OUTLAWING TREE SPIKING

SOURCE HB 172 3/8/89

Red Large Letters:

DANGEROUSLY LIBERAL

TEXT:

NARRATOR: Bill Yellowtail told voters to check my record. Okay...in the State Senate Bill Yellowtail voted against tax relief for farmers and small business.

Against tax fairness for retirees.

And then he voted to raise 26 different taxes.

He voted to lower the penalty for abusing a senior citizen.

For letting convicted murderers go free before serving a full sentence.

And he was the only senator to vote against making tree spiking a crime.

Bill Yellowtail's record...dangerously liberal.

DISCLAIMER: Paid by Rick Hill for Congress. [NOTE: No Rick Hill picture on disclaimer.]

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Group defends '96 ads against Yellowtail

By CHRISTOPHER SHUKAM
Medill News Service

WASHINGTON — Last year's negative ads may have cost Democratic candidate Bill Yellowtail a seat in the U.S. House. Even Montana Republican Rep. Rick Hill, who benefited from the ads, called the conservative political group funding them "a rogue organization" and said the ads were illegal because they weren't issue advocacy. Yellowtail supporters also charged that the ads were illegal for the same reason.

"They were issue advocacy," he said. "Was the negative advertising issue advocacy? It depends on whom you ask. Issue advocacy advertising is at the center of the campaign finance controversy in Washington, a controversy that spread to Montana last week after Time magazine questioned whether the Hill campaign was involved in creating the negative ads. As long as political advertising sticks to "issue advocacy," organizations can pay for the advertising with unregulated "soft" money, meaning they can spend as much as they want and don't have to make their activities public, said Federal Election

Commission spokesman Ian Stinson. But a loophole in the definition of issue advocacy makes it hard to say for certain whether ads like the negative Yellowtail ads were legal.

"Under the thinly veiled guise of issue advocacy, these folks are influencing campaigns," said Joe Lamson, Yellowtail's campaign manager. "They claim they are legally able to raise issues, but the ads are set up to influence campaign."

"The law on what is, or what is not, issue advocacy is a matter of interpretation," said Mike Pieper, Hill's chief of staff. "I don't think there has been a definitive defini-

tion of what it is, which is what leads to all the confusion about it."

In the 1996 federal election campaigns, \$135 million to \$150 million was spent on broadcast issue advocacy commercials, according to Douglas Rivlin, Washington director of the Annenberg Public Policy Center. In comparison, President Clinton spent just under \$62 million in his 1996 campaign.

Flaherty said Citizens for Reform spent about \$125,000 on the Montana negative ads last year. Advertising containing the magic words "vote for" or "vote against" is not issue advocacy but electioneering — meant to advocate the

election or defeat of a candidate, according to Stinson. Advertising that engages in electioneering is funded with "hard" money, and is strictly regulated by law. "If an ad doesn't contain an electioneering message, basically, vote for or vote against, then that's issue advocacy," said Cliff May, communications director for the Republican National Committee.

But the line between issue advocacy and electioneering is harder to define when political advertising appears to sway voters to one candidate or another but does not use "vote for" or "vote against," according to Stinson.

"There's still some question involving issue ads and when the issue ads become electioneering," he said.

Lower courts that have considered cases involving issue advocacy have ruled that only advertising using the words "vote for" or "vote against" is electioneering. Because the negative ads against Yellowtail did not use those words, Flaherty said, the ads were legal. Which is where representatives from both sides of the 1996 congressional campaign disagree with Flaherty. "It looked to us like this ad was more than issue advocacy," Pieper said. "It actually advocated the defeat of Bill Yellowtail."

EXHIBIT 15

**Montana Voters Reporting Citizens for Reform Anti-Bill Yellowtail Phone Bank Calls Involving
Accusations of Spouse Abuse:**

Dema Harris

Helena, Montana

**Susan Tilton-Chiovaro
Whitehall, Montana**

**Roger Sullivan
Kalispell, Montana**

Lou Gates

Kalispell, Montana

**Steve Thompson
Whitefish, Montana**

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EXHIBIT 16

Video Copy of Citizens for Reform Anti-Yellowtail Ad

28044200049

Warm

Increasing high clouds with southwest winds 10-25 mph. High near 80; low in the lower 50s / 10A



Great Falls TRIBUNE

Friday, October 4, 1996

Great Falls, Montana

No. 144 — 112th Year

50c

Hill admits affair but says marriage was on the rocks

Candidate's ex-wife, upset by Hill's statements on campaign trail, brings '76 situation to light

By PETER JOHNSON
Tribune Staff Writer

The former wife of Republican congressional candidate Rick Hill has charged that he had an affair with a cocktail waitress while the couple was living in Great Falls in 1976.

Mary Spaulding of Helena, Hill's ex-wife, said Hill's affair led to a three-month separation and his filing for divorce that year in Great Falls. The couple later reconciled after she faced health problems, but the marriage was essentially shattered, she said. In 1980,

after they had moved to Helena, Spaulding filed for a divorce that went through.

Hill admitted Thursday he had "an involvement" with another woman in Great Falls in 1976, but disagreed over its timing. The affair was not the cause of the couple's rift, he said. It started after he had already moved out because of marital problems and was considering divorce, Hill stressed.

"I'm not denying there was an involvement, but it wasn't what triggered my decision to file for divorce," he said. "It was a very difficult marriage from the beginning."

Spaulding, a state worker who has remarried and has a young son, told the Tribune she came forward with her charges against Hill now, partly because

she thinks it is unfair for him to criticize Democratic opponent Bill Yellowstone's earlier problems "when there is plenty of stuff in Rick's own background."

She said she is not backing either candidate and was not urged to go public by either Yellowstone or his supporters.

Rather, Spaulding said, she resents Hill's campaign implication that he is a model father who fought for custody of their three sons after the divorce and eventually raised



them. "I feel he was trying to make himself look good at my expense," she said, adding that

Yellowtail says campaign needs to focus on real issues facing Montana / 10A

Democratic primary despite revelations he broke into a camera store as a college student, slapped his first wife so hard she received hospital treatment, and failed to pay child support for five years.

See HILL, 10A

Hill: Marriage ended in 1980 in Helena

FROM 1A

Hill has contrasted Yellowtail's background to his own in press interviews, saying he paid child support and sought involvement in his children's lives.

"I moved up to my responsibilities every step of the way," Hill has said. "Bill walked away. That's the difference."

Hill also has provided reporters with thick copies of legal records from the 1980 divorce and long custody fight, with a news release stressing there "was never any allegation of violence or abuse." He has told reporters he and his ex-wife had disputes over child support, but he always paid what the judge ordered.

Spaulding and Hill disagreed over when Hill's affair occurred within their other problems in 1976.

Spaulding remembered learning of the affair after Hill began coming home very late at night. She recalled packing their three sons, aged 18 months to 8 years, in a car once and driving to the Sip-N-Dip lounge where she saw Hill with the woman. She said she begged him not to move out until sometime later, she said.

Hill is just as certain the affair began after he separated from his wife, moved out and was either contemplating or actually had filed for divorce. But he declined to discuss particular details. The Tribune was unable to reach the woman with whom he was allegedly involved.

Court records show Hill filed for divorce on May 18, 1976, saying the marriage was "irretrievably broken," and asking that the mother have custody of the children. Hill, who has been stressing his later ef-

forts to gain joint custody, said he felt in 1976 that the sons should be cared for by their mother because they were so young.

Both Spaulding and Hill agreed that he moved out of the house in the spring of 1976 for about three months and returned temporarily in early summer to care for the boys while Spaulding recovered from facial surgery for injuries suffered in a skiing accident that winter.

After Spaulding developed other serious medical conditions, they attempted a permanent reconciliation and Hill allowed the Great Falls divorce petition to lapse.

"When people have a crisis, they try to pull together," Hill said. "We even moved to Helena later to get our marriage back together and get a fresh start. I tried very hard to make our relationship work, but it evidently didn't because four years later Mary sought a divorce."

For her part, Spaulding said, "It was the affair that split us up. The trust was broken, we grew apart and I never felt the same."

In other charges that Hill and the couple's sons dispute, Spaulding accuses Hill of emotional abuse during their marriage and using his greater income to win the children's affection during the custody fight.

"There was no physical abuse," Spaulding said. "But mental abuse can be just as bad. And there was a lot of that. Rick was constantly putting me down about my lack of education and my appearance."

"I also feel there are issues as great as non-payment of child support, such as when one parent in a divorce uses his greater income to turn the children against the other parent who was relatively poor," she said. "That happened to me."

In response, Hill said the last cou-

ple of years in the couple's frequently difficult 15-year marriage "were a painful period for all of us," but he denied criticizing Spaulding repeatedly or buying their sons' loyalty later.

"I fought a protracted fight to be involved in my children's lives," he said. "As a consequence, I have an excellent relationship with them.... But my kids also love their mother, and they should."

Hill also questioned why Spaulding never raised those charges during their seven-year custody fight.

Richard Llewellyn, a Helena attorney hired by Spaulding to review those legal records, said he is not surprised they don't include her charges.

There was no need for Spaulding's previous attorney to charge him, he said, because Montana is a no-fault divorce state. The law only required the couple agree the marriage was "irretrievably broken."

It also would have been "very difficult and expensive" for Spaulding's attorneys to prove Hill was trying to buy the children's affection, Llewellyn said.

At Hill's suggestion, two of the couple's now grown sons were asked for comment. They generally backed their father.

"There were times when our parents argued," recalled Corey, 27, a Helena businessman. "But we were in another room, and didn't want to know what went on."

Still, neither he nor brother Todd, 29, a Minnesota political consultant, remembered their father criticizing their mother.

Nor did the brothers think their father bought their love.

As a boy of 13 after the divorce, Todd Hill said it was natural for him

to choose to live with his father, with whom he hunted and fished. He said his younger brothers made the same decision later, but their mother "never fully accepted it" and at times made "hurtful comments about not wanting to see us."

"My decision had more to do with trust. Dad's always been there for us," he said.

Corey Hill said his father didn't have much money at first because he was starting a business. He recalled one Christmas when the three boys decorated "a scrawny tree" and shared one present, a little race car truck.

Rick Hill was making more money when he was in high school, Corey Hill said, but had him earn his first car, rather than buy it for him. But his father always attended his wrestling matches and cross country meets, he added.

Hill insists he provided copies of his divorce record to the press in response to questions from reporters and the public - not to score political points against Yellowtail.

He did contrast his child support record to Yellowtail's, Hill said, because one of his campaign themes is the need for people to take responsibility for their actions. But he said he has not made that point a central focus through ads, news releases or direct mail.

Yellowtail has said he paid child support for five years, but stopped for five years when his income dropped sharply after he went to work on the troubled family ranch. He said he has changed since those incidents occurred. His former and current wives and daughter all support his campaign.

Hill remained 13 years ago.

Focus on issues facing state, Yellowtail says

By Tribune Staff

Democratic congressional candidate Bill Yellowtail has had his share of personal controversies but took no pleasure Thursday in news that Republican rival Rick Hill had admitted to an affair.

"I feel badly about the turn that this whole campaign took from the outset," said Yellowtail, who faced primary campaign revelations that he broke into a store as a college student, slapped his first wife and failed to pay child support for five years.

"I urge folks to look at the issues that really matter to Montana's future," he said.

Yellowtail declined to discuss Hill's situation, saying: "I dealt with my own history when it came up, and Rick's going to have to deal with his. But I

pledged earlier not to get involved in Rick's past, and I'm going to stick to it."

"We only have 32 days left until the election, and I'm going to use 100 percent of my energy to concentrate on Montana's future," Yellowtail added.

Hill also said he hopes the focus of the election will now turn toward the candidates' stands.

"I've said all along that this ought to be a campaign about issues," he said. "There are real distinctions between Bill Yellowtail and me, and voters ought to make their choice based on their understanding of where we stand on those issues."

"Every aspect of our campaign has been based on where I stand on the issues and what I would do as a congressman," Hill added. "and I intend to keep it that way."

Keating released from Arizona prison

TUCSON, Ariz. (AP) - Charles Keating Jr., symbol of the savings and loan debacle of the 1980s, was released from prison Thursday as he awaits a hearing on whether he should be granted a new federal trial.

Keating's release came hours after U.S. District Judge Mariana Paezler in Los Angeles ordered his release and set bail at \$300,000.

The former Lincoln Savings & Loan boss walked out of prison, put his arm around two women, got in a van and drove off. He ignored about two dozen reporters who watched from across the street.

Keating's troubles began after his American Continental Corp bought Lincoln and invested its taxpayer-insured deposits in high-risk land, hotel and securities deals.

The government estimated losses to taxpayers at \$3.4 billion after Lincoln was seized by regulators, one of the worst S&L failures of a crisis estimated to cost \$480 billion. Keating, 72, has been serving a 10-year state prison sentence and a 12-year, seven-month federal sentence concurrently. He has been imprisoned in Tucson, Ariz., for more than 4 1/2 years.



TRIAD Management Services, Inc.

Tactical Resources In American Democracy

November 19, 1997

EXHIBIT 19

Via Fax & Mail

Mr. Bob Ream
Chairman
Montana Democratic Party
616 Helena Avenue
Room 307
Helena, MT 59624

Dear Mr. Ream,

It has come to my attention from monitoring the Montana media that you seem to think that there is or was some sort of "illegal alliance" between Congressman Rick Hill's campaign and *Triad* Management Services, Inc. or the non-profit organization Citizens for Reform.

In order to clear up your obvious confusion allow me to start by stating there was absolutely no "alliance" nor any coordination of any sort between the Hill campaign and *Triad* Management Services, Inc. or Citizens for Reform.

So that you fully understand what took place, let me explain what *Triad* Management Services, Inc. is and what we do. *Triad* is a for-profit firm. One service that *Triad* provides is conducting political audits of campaigns to advise our clients as to where it is in their best interest to make contributions. Our clients may use our research and advice as they consider whether or not to contribute to a candidate's campaign. We do not dictate. The decision on whether to contribute is left solely to our clients. The "memo" which you are demanding Congressman Hill to turn over to you is an internal *Triad* document which Mr. Hill has never seen. It is the result of research conducted by *Triad* on the campaign and was, in part, the basis of our advice to clients.

A separate service *Triad* provides is to advise our clients regarding support for issue education efforts. *Triad* Management Services Inc. also has a management contract with Citizens for Reform, a non-profit organization involved in educating the public about serious public policy issues and where public officials and candidates for public office stand on those issues. The television advertisement entitled "Responsible" which you seem so upset about was intended to educate Montanans about where a candidate for office, Mr. Bill Yellowtail, stood on the very serious issues of domestic violence, neglect of child support and criminal activities. Citizens for Reform believed that Montanans deserved to know that Mr. Yellowtail abused his wife, failed to pay his child support and burglarized a camera store. The advertisement was well researched and accurate. Moreover, this advertisement was reviewed by legal counsel.

The most important question which you obviously chose not to address was whether any statements in "Responsible" were incorrect. The answer to that question is

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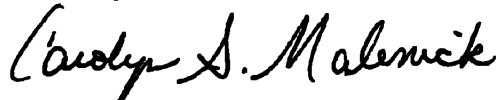
NO. Both political parties claim and still portray to the American people – to be tough on crime. Some say that spousal abuse is an issue in which the government should not intervene. But the government already has – by enacting laws governing family values. Now maybe it's not an issue when it's the behavior of a candidate for office – but I don't believe you can turn domestic violence on and off like a light switch. As long as there are speakers from the well and the passage of the laws is on the books, it's an issue regardless of political persuasion. Often, news organizations ignore this type of important issue for horse race coverage.

More and more I am seeing how the Democratic party continues to have memory lapses. Let me remind you that it was Yellowtail's opponents in the Democratic primary which brought these "20 year old" issues into the public domain. Well issues like these cannot be put into a time capsule. Despite former efforts, after the primary to bury these stories, you now seem intent to dig them up again. These actions lead to a single conclusion.

It appears obvious that you are attempting to damage Congressman Hill by suggesting his campaign and *Triad* somehow worked together on the advertisements. That is absolutely false. In fact, from reading Mr. Hills' comments in the press, it is obvious that he knew nothing of the education effort by Citizens for Reform and even criticized the effort.

I trust this explanation and reminder of the facts will satisfy your thirst for information. Anticipating your request to my company for a copy of the memo, the answer is no. If the Montana Democratic Party wants a copy of this "secret" memo, I suggest you contact the Democratic National Committee which, unlike Rick Hill, does have a copy leaked by the Democratic staff of the Senate Government Affairs Committee. It was and remains an internal *Triad* document. By copy of this letter, I am notifying the Montana press corps that your request to Mr. Hill for a copy of the memo is misguided and appears to be nothing more than a cheap political attack on a Congressman elected by well informed citizens of Montana.

Sincerely,



Carolyn S. Malenick

President & CEO

Triad Management Services, Inc.

CC: Editor, *Billings Gazette*
Editor, *Great Falls Tribune*
Editor, *Missoulian*
Editor, *Montana Standard*

EXHIBIT 20

**Video Copy of Campaign Ad Disputing Citizens for Reform Anti-Yellowtail Ad
by Professor Jeanne Eder, former spouse, and Kim Yellowtail.**

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OPINIONS

EXHIBIT 21



ELLEN
GOODMAN

Montana's issues of character

Bill Yellowtail ambles into the Leaf and Bean coffee shop on Main Street looking relaxed and downright amiable for someone who has been through a politician's worst nightmare.

By now the Democratic candidate for Montana's one congressional seat can recite the lead of every story about his campaign. "Bill Yellowtail, comma, criminal, comma, wife-beater and deadbeat dad ..."

The burly, energetic 48-year-old son of an Irish mother and Crow father entered this race as a progressive with a reputation for women's issues and for building coalitions. He was a charismatic three-term state senator and head of the regional EPA.

BUT ANYONE RUNNING for office now must expect to see their 10 worst moments on videotape. Yellowtail saw his worst three moments in newsprint.

Moment 1: When he was caught stealing camera equipment as a young student at Dartmouth

American Indian away from home and over his head.

Moment 2: When he struck his first wife — once, but hard enough to warrant medical care.

Moment 3: When he fell behind on child-support payments because he was dead broke and trying to save his family ranch.

This morning, Yellowtail shakes his shock of white hair, wondering how he could have believed that these "skeletons in my closet" would remain private. "I had this innocent Montana cultural attitude that these were matters of our family and we resolved them all over the years to our mutual satisfaction. I thought it was 'water under the bridge.' Instead, his candidacy almost drowned in these revelations.

But something remarkable happened for an era of up close and (sometimes too) personal politics. In the homestretch, Yellowtail has a 12-point lead in the polls. Running against Republican Rick Hill — a divorced father who has said, "I stood up for my kids; he walked away from his" — Yellowtail is way ahead in the support of Montana women.

THIS IS A STRIKING story in the annals of character politics. Every since Gary Hart tripped over the A-word, Americans have been wrestling over the personal lives of public figures. Women in particular believe that a politician's private behavior shouldn't be left out of the public accounting.

But over time, character assessment seems to have gotten harder, not easier. As Yellowtail himself asks: "Is a blemish or a set of blemishes on a person's past necessarily a reason to exclude them from policy-making?" The answers seem to be increasingly ambiguous: It depends.

This candidate survived his three worst moments, in part because his whole family — including his first wife and 26-year-old daughter — came forward in his defense. "Actually bounded forward," is his appreciative phrase.

He survived too because he talked and talked and talked. He didn't excuse what had happened 15, 20 and 25 years ago, but he explained what he had done and how he had made amends.

He survived finally because as James Carville recently told a roomful of would-be campaign managers, "The danger of character attacks is everyone is human." Just this month, Hill's ex-wife publicly claimed that Hill had an affair with a cocktail waitress 20 years ago.

Yellowtail's campaign has been, to put it mildly, unusual — even disillusioning — in the "last, best place" state. Montanans have confronted issues familiar across the landscape.

HOW DO YOU COMPARE "human" flaws? In the presidential campaign, for example, how do you compare a husband who "caused pain" in his marriage and repaired it, with another who walked out of his marriage with barely a word. How do you rank the importance of a private life with public positions. In this case, "Bill Yellowtail, comma, deadbeat dad," is a pro-choice, pro-Brady bill progressive. Rick Hill is a pro-life, anti-Brady bill conservative.

And finally, how do you calculate someone's "three worst moments" with the rest of their life? "In Montana," says Bozeman state Sen. Dorothy Eck, "we tend to know our politicians in a more personal way, so these are not just attacks on some TV figure but on someone we have met. We don't want to see people torn apart personally."

If that is true, this huge and diverse state may be ahead of the "character" curve. Indeed, from time to time, Yellowtail steps outside his experience and "looks at it objectively."

"AS AMERICANS," HE SAYS this crisp morning, "we have to reconcile our morbid curiosity about people and our quickness to judge with this ethic that we teach and preach that every person should seek to be better and if we stumble, we should pick ourselves up and dust ourselves off and recover."

Bill Yellowtail stumbled. But if the polls are right, the next headlines about recovery will read, "Bill Yellowtail, comma, Congressman."

ELLEN GOODMAN is a columnist for the *Boston Globe*.

PART 2 INDEPENDENT GROUPS

Chapter 12: Triad

Triad Management, Inc., is a for-profit corporation owned by Republican fundraiser Carolyn Malenick. Malenick incorporated Triad in the spring of 1996 but appears to have operated the business as an unincorporated entity since at least early 1995. Triad holds itself out as a consulting business that provides advice to conservative donors about how to maximize their political contributions. Triad oversaw advertising in 26 campaigns for the House of Representatives and three Senate races. Triad's spending may have affected the outcome of some elections. Because Triad is an unusual corporation directly involved in federal campaigns, the Committee investigated its work. Despite the refusal by Triad and its lawyers to comply fully with the Committee's subpoenas for both documents and testimony, the Minority developed substantial evidence of wrongdoing by Triad.

Based on the evidence before the Committee, we make the following findings with respect to Triad and the two non-profit organizations that it established:

FINDINGS

- (1) The evidence before the Committee suggests that Triad exists for the sole purpose of influencing federal elections. Triad is not a political consulting business: it issues no invoices, charges no fees, and makes no profit. It is a corporate shell funded by a few wealthy conservative Republican activists.**
- (2) Triad used a variety of improper and possibly illegal tactics to help Republican candidates win election in 1996 including the following:**

 - (A) Triad provided free services to Republican campaigns in possible violation of the federal prohibition against direct corporate contributions to candidates. These services included raising funds for candidates, providing consulting advice on fundraising and political strategy, and providing staff to assist candidates.**
 - (B) The evidence before the Committee suggests that Triad was involved in a scheme to direct funds from supporters who could not legally give more money directly to candidates, through political action committees ("PACs"), and back to candidates. Triad obtained from Republican candidates names of supporters who had already made the maximum permissible contributions and solicited those supporters for contributions to a network of conservative PACs. In many instances, the PACs then**

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made contributions to the same candidates.

(C) Triad operated two non-profit organizations — Citizens for Reform and Citizens for the Republic Education Fund — as allegedly nonpartisan social welfare organizations under 501(c)(4) of the tax code and used these organizations to broadcast over \$3 million in televised ads on behalf of Republican candidates in 29 House and Senate races. Using these organizations as the named sponsors of the ads provided the appearance of nonpartisan sponsorship of what was in fact a partisan effort conducted by Triad. Neither organization has a staff or an office, and both are controlled by Triad. Over half of the advertising campaign was paid for and controlled by the Economic Education Trust, an organization which appears to be financed by a small number of conservative Republicans.

INTRODUCTION

Triad Management, Inc. ("Triad") is a corporation which appears to exist primarily to make contributions to conservative Republican candidates in an attempt to help them win election to Congress. Triad claims to be a legitimate business, but this is mainly so that it can evade the disclosure and contribution limits of the campaign finance laws. Triad also created and ran two other shell companies — Citizens for Reform and Citizens for the Republic Education Fund ("Citizens for the Republic") — for the sole purpose of funneling millions of dollars into political advertising. Even more troubling is that Triad's nonprofits were, in turn, largely funded by money from two trusts: the Personal Trust and the Economic Education Trust. The Minority believes that these two trusts were controlled by a very small number of wealthy individuals who sought to keep their identity unknown. The facts suggest that these individuals spent millions of dollars to affect over two dozen federal elections despite operating completely outside of federal election laws.

In the 1996 elections, Triad operated in 26 campaigns for the House of Representatives and three Senate races. Triad's spending alone appears to have changed the outcome of some of those elections. In Kansas, where Triad was particularly active, it may have changed the results in four of six federal races, including a Senate race where the Republican candidate received significant support from Triad.

Most disturbing, Triad is poised to become a model for future elections. A fundamental premise of the 1976 campaign law is that voters are entitled to know who is funding candidates' campaigns. As the Supreme Court noted in upholding that law: "[D]isclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributors to the light of publicity. This exposure may discourage those who would use money for improper purposes."¹ The ability of wealthy contributors to finance million-dollar advertising blitzes

without disclosing their identity to voters fundamentally undermines the spirit and letter of current campaign finance laws.

BACKGROUND

Carolyn Malenick, the sole owner of Triad, is a graduate of Jerry Falwell's Liberty University, and press reports have indicated that she has remained personally close to Falwell and his family.² Malenick appears to have spent her entire professional career in conservative Republican politics, primarily in the fundraising arena. Malenick initially worked for the "conservative direct mail king" Richard Viguerie.³ Subsequently, she raised funds for Oliver North's Freedom Alliance, a nonprofit organization founded by North in the wake of the Iran-Contra scandal that has been criticized for raising millions of dollars in undisclosed funding for North's political activities.⁴ Malenick went on to raise funds for North's losing 1994 bid for U.S. Senate.⁵ Malenick is also a member of the Council for National Policy, an organization of ultra-conservative political activists who work to further their agenda within the Republican Party.⁶

According to Malenick's public statements, she personally conceived the idea for Triad and started the business from her home, most likely in 1995.⁷ The stated purpose of Triad is to provide advice to maximize the effectiveness of contributions from conservatives.⁸ In 1996, Malenick incorporated Triad and established an office on Capitol Hill.⁹ Triad is ostensibly a political consulting firm that simply works for contributors rather than candidates. Purportedly, Triad generates income from yearly subscription fees for a fax service, percentage fees for contributions made at Triad's advice, and management fees for overseeing the two nonprofits it created, Citizens for Reform and Citizens for the Republic.¹⁰ Triad then employs consultants to determine which candidates have the best chance of winning and are thus deserving of financial support from Triad's clients.¹¹

THE COMMITTEE'S INVESTIGATION OF TRIAD

On April 9, 1997, the Committee initiated its investigation of Triad and its linked entities, Citizens for Reform and Citizens for the Republic, by issuing subpoenas requiring production of documents to the Committee. Virtually no substantive documents were produced for three months, until July. Further, documents which would ordinarily be retained in the course of business, including scripts and invoices for advertising by one of the nonprofit shells, were not produced and appear not to exist. A February 22, 1997, memo from Malenick to her employees refers to the completion of the "cleaning" of computer hard drives.¹² The memo is dated less than two weeks prior to publication of a Washington Post article on the subject of Triad and the shell companies.¹³

After delays in document production and protracted refusals to consent to voluntary interviews or depositions, on July 11, Chairman Thompson signed deposition subpoenas for 11 individuals associated with Triad.¹⁴ On September 8, after only two-and-a-half depositions of people with knowledge of the events under investigation had been completed, the Committee

received a letter from Triad's counsel.¹⁵ He wrote: "[f]rom press accounts, our clients have been substantially more cooperative than other organizations. Accordingly, we will not permit additional depositions. . ."¹⁶ Not only was the assertion of cooperation dubious at best, but counsel set forth no valid basis for Triad's obstruction. In a traditional litigation setting, such a refusal to appear and answer pursuant to subpoena would likely result in a finding of contempt and sanctions against these individuals.¹⁷

At the time Triad employees and consultants defied the personal subpoenas issued by the Committee, ten individuals -- including all senior-level decision-makers -- were under personal subpoenas to appear and answer questions. Also refusing to appear for deposition was Triad attorney Mark Braden. Braden is a former general counsel to the Republican National Committee who advised Triad throughout the period in which it carried out many of its apparently illegal activities. Although three individuals subsequently appeared for deposition, none answered any substantive questions. Carolyn Malenick herself, for example, eventually appeared for deposition and then refused to answer any substantive questions posed by Committee staff.¹⁸ Prior to the blanket refusal to appear, the Committee had already established that Triad had made significant corporate contributions to Republican candidates; found evidence of illegal earmarking of political action committee contributions; found evidence that Triad coordinated its advertising campaign with Republican candidates; and found evidence that the nonprofit shells had no independent existence apart from Triad.

Malenick and her backers and associates joined officials from the RNC and other pro-Republican groups as the only individuals to blatantly defy deposition subpoenas issued by the Committee. No individuals associated with Democratic entities who received personal subpoenas to appear before this Committee and answer questions either refused entirely to appear, or issued a blanket refusal to answer.¹⁹ Yet, no order was ever issued to enforce the subpoenas or to hold Triad, its employees, officers, and directors in contempt of the Senate.

Not only were the Committee's subpoenas not enforced, the Majority reneged on its commitment to allow three days of hearing time on the subject of abuses by Republican organizations, including Triad, despite overwhelming evidence that these groups had engaged in improper, and likely illegal, conduct. Further, in possibly the most telling failure of this investigation, no subpoena was issued for records of the Economic Education Trust, a secret entity that provided over half of the funding for Triad's advertising campaign. As a result, the identity of the figures behind the Economic Education Trust and the amount of money they spent funding secret advertising campaigns through groups like Triad in the 1996 election remains unconfirmed.

Two Republican members of the Senate had links to Triad. One Senator received the benefit of more Triad advertising dollars than any other candidate in 1996. He also had several meetings with Malenick and Triad staff, and his campaign was involved in receipt of PAC contributions involving Triad. Another Senator appeared in a Triad marketing video that was intended to help Triad raise funds for federal candidates. The video was filmed in his Senate

office, possibly violating prohibitions on the use of Senate offices for fundraising and commercial purposes. In late 1997, a spokesman for that Senator said the video was a mistake.²⁰

Despite the obstruction by Triad and its lawyers, and despite the lack of enforcement by the Committee, the Minority developed substantial evidence of wrongdoing by Triad and its nonprofit shell organizations. The evidence shows that Triad carried out an audacious plan to pour millions of dollars in contributions into Republican campaigns nationwide without disclosing the amount or source of those contributions.

THE POLITICAL OPERATION OF TRIAD MANAGEMENT

Triad is Not a Business

The Committee's investigation has shown that Triad is not a business in the conventional sense, because it charges no fees and generates no profit. Triad did not produce a single client bill or invoice to the Committee, nor were any marketing materials produced which mentioned fees or discussed a fee structure.²¹ Neither the bookkeeper nor the finance director of Triad could tell the Committee how Triad billed its clients. While Triad finance director Meredith O'Rourke recalled seeing a sheet of paper with a fee structure on it, she could not recall if fees were paid on a monthly, weekly, or yearly basis.²² She could not explain how fees were calculated and could only say that clients were paying for "advice" but could not recall the "specifics" of it.²³ Triad bookkeeper Anna Evans, when asked about the fee structure, said she could not state how clients were billed or on what basis. Asked about whether clients were billed for travel by Triad staff, she responded, "I'm not involved in agreements that are reached between Carolyn and the clients."²⁴

In telephone interviews, a number of people who confirmed that they contributed to PACs at the advice of Triad made no mention of paying fees.²⁵ At least one individual, Floyd Coates, stated that he did not pay Triad for the contribution advice he received.²⁶ Another person who made contributions at Triad's advice stated he had learned of Triad from his friend Robert Cone and that he regarded Malenick as the organization's executive secretary.²⁷

Robert Cone's Financial Support of Triad

The evidence shows that at least through the second half of 1995, and into 1996, Triad was largely a vehicle for a single conservative activist, Robert Cone. According to Triad bookkeeper Evans, money was given to Triad from a single principal donor "so it could proceed with its work."²⁸ Bank records show that between June 1995 and January 1996, Triad received a total of \$196,000 in deposits.²⁹ Of this total, Cone provided \$175,000, or 89 percent of Triad's funding.³⁰ Through the end of 1995, Cone's payments were made in increments of approximately \$25,000 per month.³¹ During this period, Triad received only \$1,376 from sources other than Cone or fellow conservative Lorena Jaeb.³² Between January and September 1996, Triad received a total of \$1.1 million. Of this amount, at least \$150,000 was received from Robert

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Cone, while \$900,000 was received from unknown sources in wire transfers of \$50,000 or more. Only \$17,000 is known to have come from non-Cone sources.³³ The total amounts received by Triad from Cone may be even larger. Asked to estimate the cumulative amounts received from its principal donor, Triad bookkeeper Evans estimated that Triad had received between \$600,000 and \$700,000 from this source, while one of the two nonprofits received \$900,000, and the other received between \$400,000 and \$500,000.³⁴

Cone, a businessman based in Elverson, Pennsylvania, is a well known social conservative who backs anti-abortion causes.³⁵ However, it was not until the last few years that he began devoting large sums of money to political causes. Cone, who together with his brother, Edward, formerly owned Graco Children's Products, initially made political contributions to a number of candidates who supported tort reform shortly after Graco was sued in a series of product liability cases.³⁶ In 1996, Cone created a state-level political action committee in Pennsylvania, which has come under media scrutiny because he is the committee's only contributor.³⁷ It was reported as early as October 1996 that Cone along with Malenick visited staff in a Republican Senator's office to promote Triad.³⁸ Cone also appears in Triad's marketing video and attended a presentation of the results of a national poll commissioned by Triad he attended.³⁹

While Triad holds itself out as a for-profit consulting business, the evidence before the Committee indicates that it charges no fees and is primarily funded by Cone. As discussed below, Triad's business activities were confined to activities designed to affect the outcome of federal elections.⁴⁰ In effect, Cone used Triad as a vehicle to provide in-kind contributions to Republican candidates nationwide, contributions that in many instances he would have been prohibited from making himself, as he had already reached his personal annual contribution limit with contributions to PACs and to individual candidates.⁴¹ Because Triad's sole purpose is to influence the election of conservative Republican candidates, legally it should publicly disclose its activity to the Federal Election Commission, like any other political party or political action committee that exists to influence federal elections.⁴²

Corporate Contributions by Triad

As a corporation, Triad is prohibited from making contributions to the campaigns of political candidates.⁴³ When providing services to campaigns, corporations such as Triad are required to charge commercially reasonable rates. Any failure to charge such market rates can result in the services being deemed illegal "in-kind" corporate campaign contributions.⁴⁴ Triad, generously funded by Cone and others, apparently never charged fees. Instead, Triad provided political consulting services to numerous Republican campaigns free of charge. Triad raised funds for candidates from PACs and from individuals and advised candidates on fundraising and on matters of political strategy, often sending consultants to meet with candidates and observe the campaign structure. These free services would appear to constitute illegal corporate contributions from Triad to the campaigns.

While Triad publicly claimed to act as a consultant only to contributors, its activities were,

in fact, more broadly based. From Triad's offices, Malenick provided advice to candidates on subjects as varied as raising funds from PACs, to where to live if elected.⁴⁵ Triad finance director Meredith O'Rourke, who was based in Triad's Washington office throughout 1996 and shared an office with Malenick, testified that Malenick spoke to dozens of Republican candidates in 1996 and that she herself frequently spoke to candidates about fundraising, polling, and how their campaigns were going in general.⁴⁶ Robert Riley, Jr., son of a successful candidate for the House of Representatives in 1996, told a Committee investigator that he was initially put in touch with Malenick as a person who could secure financial support from PACs for his father.⁴⁷ Representative John Thune of South Dakota, when asked about Malenick's receipt of a check from his campaign committee, explained that he had traveled to Washington, and Malenick had spent a couple of days showing him around and introducing him to people.⁴⁸

Triad also made in-kind contributions to candidates in the form of advice from experienced political consultant Carlos Rodriguez. Prior to becoming a consultant for Triad, Rodriguez was known primarily for his work on behalf of California Republicans. In one incident, while he was working for Republican State Assembly candidate Curt Pringle, he was reportedly responsible for posting uniformed guards outside Orange County, California, polling places to discourage Latino voters.⁴⁹ Through November 1996, Rodriguez traveled the country assessing the chances of various conservative Republican candidates and offering advice to candidates and campaigns along the way. Paid \$20,000 a month by Triad, Rodriguez wrote reports of his visits to at least 53 congressional districts and campaigns.⁵⁰ At the same time, Rodriguez advised the campaigns on issues from the hiring of particular consultants, to the utility of phone banks, to the effectiveness of advertising, and how to develop fundraising plans.⁵¹ The assessments performed by Rodriguez also document the high level of personal contact between candidates and Triad. Many reports indicate a personal meeting with the candidate, or, at a minimum, a meeting with senior campaign staff. Many reports were also executed just prior to the final decision-making period on advertising buys in September and early October. In addition to these visits, according to Triad's attorneys, Triad may have actually funded visits to as many as 250 Republican campaigns during 1996.⁵² Thus, there is no doubt that candidates were aware of Triad's activities, and in most cases at least appear to have welcomed the activity.

The ostensible purpose of the Triad campaign site visits was for Triad to assess each candidate's viability and thus determine if the campaign was deserving of Triad-generated financial support. Triad also used the site visits as occasions to give strategic advice on such issues as selection of vendors, and advisability of polling, mailings, and phone banks.

For example, Rodriguez strongly encouraged the campaign of Jay Mathis, a House candidate in Texas, to engage a phone bank operation.⁵³ Another site visit report by Rodriguez described the particulars of his campaign-consulting activities: "I gave them a plan to work out with regards to fundraising, establishing specific goals and programs to meet those objectives."⁵⁴ In the case of Christian Leinbach, a House candidate from a Pennsylvania district near Robert Cone, Rodriguez wrote: "I have suggested to Christian Leinbach specific steps that need to be taken regarding his fundraising. I have asked the campaign chairman to inform me if Christian

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Leinbach does what he has been told he needs to do.³³

In other instances, Rodriguez advised campaigns to hire vendors with whom Triad, or at least Rodriguez, already had relationships. For example, in the report on Jim Ryun, a House candidate in Kansas, Rodriguez wrote that the bad points about the campaign included the lack of a campaign structure. He noted that he had recommended Chris Wilson of Fabrizio & McLaughlin as "they are already doing Snowbarger next door and Todd Tlahrt's respect and as such have a good knowledge of the state."³⁶ Fabrizio and McLaughlin also worked directly for Triad in 1996 and had previously worked with Rodriguez on the 1994 campaign of Indiana Representative David McIntosh.³⁷ Wilson was also Rodriguez's choice for Steve Stockman's House campaign in Texas: "Should [the existing pollster] not be ready to go into the field, I have suggested in very strong terms to Steve Stockman that he consider replacing [him] with Chris Wilson from Fabrizio McLaughlin who has intimate knowledge of Texas and Stockman's own district."³⁸ For House candidate Mark Sharpe of Florida, Rodriguez recommended his own former partner David Gilliard as a paid consultant: "In addition I recommended . . . that Gilliard do their advocacy direct mail to add punch to their campaign."³⁹

Triad also provided staff to assist directly at least one candidate in raising funds. O'Rourke testified that on two occasions she went to the National Republican Congressional Committee to assist a member of the House of Representatives who was a candidate for the Senate in "dialing for dollars."⁴⁰ Although Triad counsel Mark Braden has publicly insisted that O'Rourke was not acting as an employee of Triad when she assisted that candidate,⁴¹ O'Rourke (with Braden present) testified that Malenick arranged her initial meeting with that candidate:

Q: The first time you met with [the Senate candidate] was at the NRCC and I think you said Carolyn [Malenick] had set it up, is that correct?

A: Correct.⁴²

In addition to providing advice and fundraising assistance to candidates, Triad worked to raise funds for individual candidates.⁴³ One common means that Triad used to solicit contributions was a sophisticated system of fax messaging that could simultaneously send information to many persons. The faxes, written by Malenick, were sent to conservative Republicans and contained general information on a number of campaigns. Triad also used its fax system to urge support or defeat for particular candidates. For example, a November 15 fax discussing run-off elections exhorts: "Stockman needs our help and we must answer the call."⁴⁴ A July 18 fax, sent just before the Kansas primary, claims: "The election of Brownback will send shock waves through the Republican national convention! Sheila Frahm must be defeated."⁴⁵ By expressly advocating the election and defeat of candidates, these faxes by Triad appear to be illegal corporate contributions to the campaigns.⁴⁶ While no witness could tell the Committee how many people received the faxes, one fax alert notes that "over 160 businessmen and women have been added to the Fax Alert in the last 18 months."⁴⁷ In one fax sent shortly before the November 5 election, entitled "TOP TIER RACES IN NEED OF CASH \$\$," Triad solicited

contributions for 26 candidates.⁶⁸ Of the 26 candidates, 19 also benefitted from advertising, mail, or telephone attacks on their opponents from Triad's affiliated organizations, Citizens for Reform or Citizens for the Republic. Essentially, Triad acted as a volunteer fundraising consultant for Republican campaigns, illegally facilitating contributions to the candidates.⁶⁹

These services--the solicitation of contributions, visits to and assessment of campaigns, general advice, introductions to PAC funding sources, and express advocacy on behalf of specific candidates--summarize the day-to-day activities of Triad up to September 1996. While these activities do not significantly differ from the day-to-day business of other political consultants, Triad's activities are fundamentally problematic because Triad was not paid by the candidates but was largely financed by a single individual. Triad's activities, therefore, appear to have constituted illegal corporate contributions from Triad to the candidates it assisted.

Triad and Political Action Committees

Triad also worked to generate contributions to conservative political action committees. Moreover, PACs for which Triad solicited contributions frequently gave to candidates who had received contributions from the same PAC contributors. If these contributions were merely coincidental, no violation of federal law occurred. However, if either the contributor or Triad suggested or implied to anyone at the PAC that contributions should be made to a particular candidate, and the contributor had also made the maximum contribution to the candidate, the contribution is considered illegally "earmarked."⁷⁰

The pattern of candidate contributions made by PACs receiving Triad-solicited contributions suggests that earmarking did occur. An examination of the public records of approximately ten conservative political action committees shows that on a number of occasions multiple PACs received checks from the same individual within a matter of days. All of the PACs receiving the contributions then made contributions to one candidate within days of one another. In most cases the individual contributor had already made the maximum permissible contribution ("maxed-out") to the candidate benefitting from the PAC contribution.

One example of this pattern is the contribution of Robert Riley, Jr., an Alabama lawyer and the son of congressional candidate Robert Riley. Between May 9 and May 23, 1996, Riley, Jr. made four contributions to PACs, which appear on an internal Triad PAC list.⁷¹ Between May 23 and May 29, the same four PACs made contributions to the Riley campaign, two of the PACs within 48 hours of reporting receipt of the Riley contribution.⁷² On June 4, Riley, Sr. won the Republican primary. On November 14, the newly elected Representative Riley was quoted in a Triad fax stating, "Triad came to our aid in crucial times when we were desperately in need of funds."⁷³

Another series of contributions was made by John and Ruth Stauffer. Between July 5 and July 29, the Stauffers made contributions to seven PACs. Between July 12 and July 29, all seven PACs contributed to the Senatorial campaign of the Stauffer's son-in-law. At least one of the

checks delivered stated, "c/o Triad."⁷⁴ Shortly after winning the August 6 primary, the same candidate sent Triad a personally signed thank-you note which read, "I cannot even begin to thank Triad enough for its help in my Senate primary campaign."⁷⁵

In her deposition, O'Rourke confirmed that Triad was in regular contact with individuals who worked for the PACs receiving the Riley and Stauffer contributions. O'Rourke testified that either she or Malenick was in contact with people at the Faith Family and Freedom PAC, the Conservative Victory Committee, the Eagle Forum, the Conservative Campaign Fund, Citizens United, the Republican National Coalition for Life, the Madison Project, and the Sacramento-based Citizens Allied for Free Enterprise and Americans for Free Enterprise.⁷⁶

Malenick had long-term relationships with many of the people in charge of making the PACs' contributions. Peter Flaherty, who is responsible for making contributions for the Conservative Campaign Fund, testified that he had known Malenick for a number of years.⁷⁷ The relationship with Flaherty is particularly important as he not only oversees the Conservative Campaign Fund, which made a number of questionable contributions, but also acts as spokesperson for one of the nonprofit organizations created by Triad, Citizens for Reform.⁷⁸ David Gilliard, the contact for Citizens Allied for Free Enterprise, is also a director of the second Triad shell, Citizens for the Republic.⁷⁹ In addition, Gilliard produced mailings for Citizens for Reform and is the former business partner of Carlos Rodriguez.⁸⁰ Rodriguez himself worked for the 1994 election campaign of Representative David McIntosh, who is associated with the Faith, Family and Freedom PAC.⁸¹ All of the PACs identified above as well as additional political action committees implicated in patterns of suspicious contributions appear on an internal Triad list along with names and telephone numbers of contacts at each organization.⁸²

The Committee found evidence that Triad was involved in each step of the contribution process, from the time a PAC contribution was solicited from a contributor to the time the PAC contributed to a candidate. Robert Riley, Jr. told a Committee investigator that he made his contributions on the advice of Malenick and that Malenick had held the checks for a period of time before they were cashed by the PACs.⁸³ Riley also told the agent that when the campaign received the contributions from the PACs, the checks were received not from the PACs themselves, but from Triad.⁸⁴ O'Rourke confirmed that, on occasion, she personally delivered checks to PACs; that she always called a PAC to let it know that a Triad-solicited check would be arriving; and that as a general matter people at the PACs knew when checks they received were the result of Triad involvement.⁸⁵

Documents produced to the Committee, along with the testimony of O'Rourke, also established that Triad had a regular pattern of soliciting Republican candidates for names of their supporters who had already contributed the maximum amounts to their campaigns permitted by law, so that the supporters could be solicited by Triad for PAC contributions. O'Rourke confirmed that, on multiple occasions, she solicited names from Republican candidates and campaign staff of supporters who might be good "potential Triad clients."⁸⁶ Candidates who provided names of such potential contributors included the Senate candidate who received

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contributions from the Stauffers, Representative Riley, and Representative Gutknecht.⁸⁷ Carlos Rodriguez's reports also reflect this pattern. In the campaign report of Texas House candidate Pete Sessions, Rodriguez states: "[b]oth Sessions and [the campaign manager] clearly understood the Triad concept and will have a list of their maxed out donors for our inspection as soon as there is a call from Washington."⁸⁸ In another Texas campaign report, Rodriguez notes, "Ed Merritt has a number of maxed out donors who might want to be introduced to Triad. Towards that end, I have recommended over the telephone to Meredith O'Rourke that we check their receptance."⁸⁹

Triad's pattern of soliciting candidates for the names of maxed-out contributors was so well-established that Triad used standard "phrases" approved by counsel. A June 13, 1996, memo from O'Rourke to Triad counsel Mark Braden queries, "Is this phrase okay for candidates to use to refer potential clients to Triad? 'There is a business in Washington -- whose clients are donors to conservative causes and campaigns. Call them.'"⁹⁰ Handwriting in the top corner of the memo indicates that on June 13 "Braden OK'd quotes."⁹¹ Reports of visits to the campaigns by Rodriguez also routinely note that O'Rourke should get in touch with the campaign staffer in charge of fundraising after his visit. For example, in the report on the Rick Hill campaign for the House in Montana, Rodriguez notes, "I have advised Betty Hill (the wife of the candidate and an accomplished campaigner herself) that she should be receiving a call from Meredith [O'Rourke] in the days to come to discuss possible Triad clients [who] might be able to help."⁹²

The public disclosure records of the PACs that appear on Triad's internal list also indicate that Triad's network of contributors had relationships with one another and with Malenick through membership in the Council for National Policy. For example, the public records for a Sacramento-based PAC, Citizens Allied for Free Enterprise, which is administered by David Gilliard, show a number of contributions by Council for National Policy Members.⁹³ The PAC, established in November 1995, received a total of 21 contributions. Nine contributors were members of Robert Cone's family, while four additional contributors were, like Cone and Malenick, members of the Council for National Policy.⁹⁴

Besides the Riley and Stauffer incidents, other contribution records reveal a pattern whereby contributions found their way from supporters of particular candidates through PACs associated with Triad to the candidates the contributors supported. The records show:

- Steve Stockman received three \$5,000 contributions from PACs on Triad's internal list. All three PACs received \$5,000 contributions from Richard Eckburg. Eckburg also made a \$1,000 contribution to Stockman.⁹⁵
- Foster Freiss of Wyoming made a \$4,000 contribution to Peter Flaherty's Conservative Campaign Fund on November 1, 1996. On the same day, the Conservative Campaign Fund made a \$4,000 contribution to Ray Clatworthy, a Senate candidate in Delaware. The Conservative Campaign Fund made no other contributions in the amount of \$4,000. Freiss also contributed directly to

Clatworthy. On October 31, Freiss made a \$25,000 contribution to Citizens for Reform, for which Flaherty was spokesman. Citizens for Reform spent \$18,000 on advertising for Clatworthy.⁹⁶

- O Peter Cloeren of Orange, Texas, made a contribution to Texas House candidate Brian Babin in September 1996. On October 14, Cloeren made a \$5,000 contribution to Citizens United. On the same day, Citizens United made a \$5,000 contribution to Babin. On October 1, Cloeren made a \$20,000 contribution to Triad-affiliated Citizens for Reform. Citizens for Reform spent an unknown amount on television commercials attacking Babin opponent Jim Turner.⁹⁷
- O Lorena Jaeb of Florida contributed \$20,000 to Triad in 1995. On April 22, 1996, she made a contribution of \$2,500 to Citizens United. On April 28, Citizens United made a \$2,500 contribution to Representative J.C. Watts of Oklahoma. Jaeb also made a \$1,000 contribution to the Watts campaign. Representative Watts was quoted in a Triad fax stating, "My thanks to TRIAD's clients who had the backbone to answer the call -- putting their money where their mouths were."⁹⁸

Meredith O'Rourke and Peter Flaherty, the only individuals with knowledge who answered any substantive questions in deposition, refused to answer questions on the subject of specific PAC contributions. Asked about the Riley contributions, O'Rourke responded, "I don't think I want to answer that question." Triad counsel Mark Braden then added, "No, we're not going to answer any questions in regards to Bob Riley, Jr."⁹⁹ Asked whether any "clients" of Triad made contributions to Riley's PAC, the Conservative Campaign Fund, Flaherty responded, "It's none of your business."¹⁰⁰ While a spokesperson for another candidate has insisted that O'Rourke obtained names from that candidate's public FEC reports, O'Rourke testified that she received the names directly from a campaign staff member.¹⁰¹ Asked about the Stauffers, O'Rourke confirmed that she knew them, but when asked if she had gotten their names from a specific Senate candidate, she was instructed by her attorney, Mark Braden, not to answer.¹⁰² Among the questions that Malenick refused to answer was, "Did Triad ever make suggestions to any political action committee relating to the candidates that the committee intended to contribute to?"¹⁰³

Triad has tried to make the case publicly that these situations are simply coincidences that occur in any campaign where a candidate receives funds from individuals and PACs with similar ideology. However, the Committee is aware of no other situation where an entity acted as an intermediary, soliciting candidates for potential contributors, and directing the flow of the contributions from contributors to multiple PACs on the one hand, while being involved in the subsequent distribution of the PAC funds on the other. It strains credulity that Malenick repeatedly accomplished each of these steps without ever implying to the candidate, the contributor, or the PAC representative that a particular candidate might be a good selection for a particular PAC contribution. While, according to Robert Riley, Jr., Malenick told him she could

not guarantee that his father would benefit from his PAC contributions, evidence gathered by the Committee strongly suggests that Malenick made implied representations that particular contributions should go to particular candidates, thus illegally earmarking contributions for particular candidates.¹⁰⁴

THE ADVERTISING CAMPAIGN

The primary means by which Triad assisted in the election of conservative candidates was by overseeing millions of dollars' worth of advertising placed by two nonprofit organizations, Citizens for Reform and Citizens for the Republic. The advertising funded through these groups cost between \$3 and \$4 million and aired in 26 House and three Senate races.¹⁰⁵ The sole purpose of the advertising was to influence voters in favor of conservative Republican candidates in those races.

Creation of Citizens for Reform and Citizens for the Republic

Like other organizations that aired advertising in the 1996 campaign, Triad took advantage of a series of court cases decided as recently as 1996. The cases hold that if a political advertisement or other communication (such as a mailing or telephone call) is paid for by an individual or corporation that is not a candidate or a political party, and the advertisement does not use words that expressly advocate the election or defeat of a candidate (such as "vote for," "elect," or "defeat"), then the advertiser is exempt from the campaign-finance laws.¹⁰⁶ The ad may be paid for with corporate or union funds, and neither the source of the funds nor the cost of the advertisement need be publicly disclosed. However, if groups preparing such advertising campaigns consult with or collude with candidates or campaigns, then the cost of the advertisements will be viewed as a contribution from the organization to the campaign.¹⁰⁷

In the 1996 election cycle, the use of "issue advocacy" advertising exploded, and many groups began airing advertisements that were unmistakably political advertising clearly favoring one candidate over another and intending to influence the views of potential voters.¹⁰⁸ The majority of groups that aired such advertisements, produced mailings, and made telephone calls in 1996 were well-established membership organizations committed to particular issues. Such groups included the AFL-CIO, the U.S. Chamber of Commerce, the Christian Coalition, and the Sierra Club.

In contrast to these groups, Triad conceived of the idea, apparently in early 1996, of creating two nonprofit corporations — Citizens for Reform and Citizens for the Republic — solely for the purpose of airing advertisements without disclosing their sources of funding. The two groups were incorporated on May 5 and June 20, 1996, respectively, within weeks of Triad itself.¹⁰⁹ In post-election marketing material, Citizens for the Republic boasted that it had "no endowed chairs, no fellowship programs, no committees and no departments."¹¹⁰ In fact, neither Citizens for Reform nor Citizens for the Republic had committees, programs, or chairs. They had no chairs of any sort, nor desks, offices, staff, or even telephones. Instead, Citizens for Reform

and Citizens for the Republic each consists of a set of articles of incorporation, a post office box, and a bank account. Neither organization has ever engaged in any service or activity other than paying for the production and airing of political advertising. They are justifiably characterized as shell companies created as mechanisms for funding million-dollar political advertising campaigns and to create of a patina of credibility for the advertisements.

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In 1996, both Citizens for Reform and Citizens for the Republic claimed to be tax-exempt "social welfare organizations" pursuant to section 501(c)(4) of the U.S. tax code, with a public purpose: respectively, to "develop greater participation on a non-partisan basis, in the debate on the size, scope, growth and responsibility of government" and to focus on "public policy issues concerning the American worker." Despite holding themselves out as social welfare organizations throughout the election, and despite the fact that Citizens for the Republic obtained IRS approval, both organizations apparently now have conceded that they do not fit the requirements of section 501(c)(4) status but are instead political organizations governed by section 527, the same IRS section that applies to the Democratic National Committee and the Republican National Committee.¹¹¹ While a 501(c)(4) organization may lobby and may even engage in campaign activities, such activities may not be the primary activity of the organization. Yet, campaign activity was not just the primary but the exclusive activity of both Citizens for Reform and Citizens for the Republic. While counsel Mark Braden claimed that the change of tax status was "just a question of what forms you file," in fact Citizens for Reform and Citizens for the Republic have conceded that they exist to influence the outcome of elections, coming perilously close to an admission that they are subject to the disclosure requirements and contribution limits of the campaign-finance laws.¹¹²

Carolyn Malenick has insisted that Citizens for Reform and Citizens for the Republic are independent organizations that Triad simply "manages." In fact, the organizations were created at Malenick's instigation and have always essentially been run by Triad. In his deposition, Citizens for Reform director Peter Flaherty was able to recall that he discussed the creation of a nonprofit organization with Malenick between one and ten times prior to incorporating Citizens for Reform, but he insisted he could not recall any single discussion or the specifics of any discussion.¹¹³ Triad's role in the creation of Citizens for the Republic is even more clear, in that it was incorporated by Triad's law firm, and Rodriguez, Malenick, and O'Rourke were all appointed as either officers or directors of the organization.¹¹⁴

Triad was also responsible for all financial arrangements of both organizations from their creation. In July 1996, Citizens for the Republic paid for a series of "test advertisements" in a variety of congressional districts. All funding for this campaign originated with Triad, which simply made transfers into Citizens for the Republic's bank account.¹¹⁵ In fact, while Flaherty insisted under oath that he signed all checks for Citizens for Reform, bank records show that financial transactions for both Citizens for Reform and Citizens for the Republic consisted only of wire transfers that were handled exclusively by Triad bookkeeper Anna Evans.¹¹⁶

On September 27, 1996, six weeks prior to the election, Malenick on behalf of Triad

entered into a formal consulting agreement with both Citizens for Reform and Citizens for the Republic. The consulting agreements granted to Triad carte blanche authority to act on behalf of both organizations. The agreements gave all authority for decision-making and hiring of consultants to Triad -- destroying any semblance of separation between Triad and the two other organizations. The consulting agreements read in part:

TRIAD will be free to decide the means by which it will provide the Services. To the extent that TRIAD requires assistance in providing the Services, it shall be responsible for hiring the necessary individuals or firms. All work done by TRIAD and its agents servants and employees and all employment and other contracts made by TRIAD in the performance of this agreement shall be as principal and not as agent of [either organization].¹¹⁷

Prior to execution of its agreement, Citizens for Reform did not even have a bank account. Yet, between the time an account was opened on October 11 and the November 5 election, Citizens for Reform received 12 deposits totaling \$ 1.79 million.¹¹⁸ Of these funds, \$1.69 million was spent by November 7.¹¹⁹ Between October 1 and November 15, Citizens for the Republic received eight deposits totaling \$1.84 million while spending \$1.68 million.¹²⁰ Funds were also freely transferred between accounts held by Citizens for Reform, Citizens for the Republic, and Triad.¹²¹ In December 1996, Citizens for Reform received \$127 in deposits and spent only \$17.¹²²

While Citizens for Reform and Citizens for the Republic each had a spokesperson, neither person appears to have played a substantive role in the advertising campaign. Lyn Nofziger, spokesperson and director of Citizens for the Republic, refused to answer questions at his deposition but has stated publicly that "Malenick handled most of the work."¹²³ This statement is certainly supported by the documents produced to the Committee, since Nofziger's name appears on only official documents bearing his signature, talking points for a single meeting, and his letter of resignation dated April 3, 1997, one week prior to the issuance of subpoenas by this Committee.¹²⁴ Peter Flaherty confirmed that, despite his title as director, he viewed Malenick as the person in charge of fundraising, retaining vendors, and deciding on the content and placement of advertising for Citizens for Reform.¹²⁵

The fact that the Citizens for Reform and Citizens for the Republic advertising was financed by so few deposits so close to the election suggests that a handful of wealthy contributors were financing the huge political advertising campaign. The creation of the companies allowed these contributors to contribute enormous sums of money without public disclosure. Contributors were also free to use corporate funds, which they could not otherwise legally contribute to candidates. Besides protection from disclosure, the Triad companies also offered contributors another huge advantage: control of the substance, timing, and location of advertising. Triad essentially allowed contributors to launder funds through these entities for their own political purposes.

Improper Coordination of Triad's Advertising with Political Candidates

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Citizens for Reform and Citizens for the Republic spent a combined total of between \$3 million and \$4 million on advertising in 29 races.¹²⁶ The total amount remains unknown, because the documents produced to the Committee contain inexplicable gaps. It appears that Citizens for Reform and Citizens for the Republic spent money for television, radio, mail, and telephone calls in three Senate and 26 House races. The Senate races were in Kansas, Arkansas, and Delaware, while House races included four in Texas, three in Kansas, three in California, two each in Pennsylvania and Oklahoma, and one each in Minnesota, Hawaii, Montana, South Dakota, Washington, Oregon, Ohio, Illinois, Tennessee, Arkansas, New York, and North Carolina. Of the 29 Republican candidates who benefitted from advertising "managed" by Triad, 22 are known to have received campaign visits from Carlos Rodriguez, while at least three others spoke personally to Malenick.¹²⁷

Like other groups running so-called issue advertisements in the 1996 campaign, Triad carefully avoided the words "vote for," "support," or "defeat," in the advertisements it funded, but otherwise attacked the positions, ideology, and, frequently, the character of candidates. The advertising created by Triad focused on no single set of issues. It more closely resembled negative attack advertising aired by an opposing candidate. The candidates benefitting from the advertising were the same candidates for whom Triad had solicited contributions and advised on campaign and fundraising strategy.

When a candidate and an organization exchange information, and the organization subsequently spends funds to encourage voters to support the candidate, it raises questions about whether the expenditures were undertaken in coordination with the candidate, thereby making the advertising expenditures a disguised contribution to the campaign. One court has said that organizations may legally have contact with candidates, but noted that the level of contact and coordination was important and that the "government has an interest in unearthing disguised contributions," and "the FEC is free to investigate any instance in which it thinks the inquiry (between representatives of a corporation and a campaign) has become collaboration."¹²⁸ The Committee's investigation of Triad has shown that representatives of Triad and its shell corporations had contact with the campaigns that went far beyond the making of inquiries, and that Triad and campaign representatives collaborated on plans, strategies, and the needs of the campaigns. Both the content of the advertising and the determination of where to air advertising was clearly influenced by Rodriguez's conversations with the candidates and the campaigns.

For example, Rodriguez visited the campaign of Rick Hill, a Republican running against Democrat Bill Yellowtail for Montana's at-large seat in the House of Representatives. In a report dated September 24, 1996, Rodriguez wrote that the number-one item the Hill campaign needs is a "3rd party to 'expose' Yellowtail."¹²⁹ Rodriguez also noted that three "key issues -- anti Yellowtail" are "wife beating," "robbery of camera store in college," and Yellowtail's record as a "deadbeat dad."¹³⁰

On October 22, Citizens for Reform commenced a \$109,500 television advertising

campaign attacking Yellowtail.¹³¹ The television advertisement exactly followed the issues laid out in Rodriguez's report, with the announcer intoning:

Who is Bill Yellowtail? He preaches family values but took a swing at his wife. And Yellowtail's response? He only slapped her. But 'her nose was not broken.' He talks law and order . . . but is himself a convicted felon. And though he talks about protecting children, Yellowtail failed to make his own child support payments -- then voted against child support enforcement. Call Bill Yellowtail. Tell him to support family values.¹³²

Although polling in September showed Yellowtail ahead by three points, on November 5, Rick Hill won by a margin of 52 to 43.¹³³

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In other cases Rodriguez made no secret of the fact that he was using information gained in the audits to determine where Triad would run advertising and what it would say. On September 25, after visiting the South Dakota campaign of Republican House candidate John Thune, Rodriguez wrote, "This campaign is well on its way to winning. If there is anything we can do to help it would probably be in the area of 501(c)(4) education with regards to the liberal tendencies of his opponent."¹³⁴ The report also noted Democrat Steve Weiland's "union ties" as a key issue in the race.¹³⁵ Citizens for Reform subsequently spent \$21,000 on television advertisements focusing on Weiland's support for organized labor.¹³⁶

On September 3, Rodriguez noted in a report on the Texas campaign of Steve Stockman: ". . . we ought to place Steve Stockman among the top ten races for TRIAD to watch. We should also give some very serious thought to the possibility of engaging in an educational effort to bring into focus what Steve Stockman has done for the district and to expose some of the shortcomings that his Democratic opponent brings to this campaign."¹³⁷ In the two weeks before the election, both Citizens for Reform and Citizens for the Republic aired advertisements totaling \$142,000 attacking Stockman opponent Nick Lampson.¹³⁸ One advertisement stated:

Can we trust Nick Lampson? As Jefferson County tax assessor, Lampson was criticized as inefficient and disorganized by the county auditor. . . . And the Houston Chronicle reported that Lampson was accused of Medicare fraud by a home health care worker from his family business. Call and tell Nick Lampson to support ethics in government.¹³⁹

Other excerpts from Rodriguez's reports demonstrate how Triad's extreme conservatism led it to spend money to target even moderate Republicans. For example, Sue Wittig, who ran against Representative Maurice Hinchey in New York state during the Republican primary, benefitted from \$111,000 in television and radio advertising placed by Triad through Citizens for Reform.¹⁴⁰ On September 29 Rodriguez wrote:

During the entire primary season, we have encountered Republican women who represented the more moderate to liberal philosophy in the Republican party. We have been successful, in most cases, in defeating those Republican women. Here is an opportunity for TRIAD clients to play a leading role in helping elect a conservative woman to show that conservative women have a better chance of winning than liberal women.¹⁴¹

In a two-week period, Triad spent \$111,000 for Wittig -- not much less than the \$141,000 the Wittig campaign itself spent in the same period.¹⁴²

These advertisements were the functional equivalent of campaign ads. The ads were run in specific districts. Faxes sent by Triad indicate that the timing of the ads was carefully planned for when advertising was likely to have its greatest impact on voters.¹⁴³ The advertisements seldom if ever dealt with "issues" but were instead attacks motivated by partisan intent. Asked about the ads run by Citizens for Reform attacking Democratic candidate Yellowtail, Peter Flaherty of Citizens for Reform reportedly stated: "If more wife beaters are out there as public figures, we are going to expose them, and they better watch out."¹⁴⁴ Asked whether his group would attack any Republican wife beaters who might turn up, Flaherty said "Its not up to us to do the job of people who have a liberal ideology."¹⁴⁵ Even Lyn Nofziger, spokesperson for Citizens for the Republic, has said that it is "outrageous" that groups like this can "go and run political ads and call them educational."¹⁴⁶

Given the level of coordination with the campaigns and the content of the ads, Triad's advertising expenditures constituted disguised contributions to the candidates. Triad collaborated with campaigns to determine what issues and strategies would most benefit the candidates. Because Rodriguez was among those refusing to answer questions at his deposition, the Committee was not able to expand on the documentary evidence concerning the extent to which the advertising campaign was discussed with the campaigns and candidates. While campaigns may not have been familiar with the names Citizens for Reform and Citizens for the Republic when the Triad-managed advertising appeared in their districts, it seems highly unlikely that neither candidates nor campaigns ever anticipated or discussed potential advertising campaigns in the course of consultations with Rodriguez.

No Comparison Between Triad and the AFL-CIO

Malenick has repeatedly asserted that Triad -- through Citizens for Reform and Citizens for the Republic -- was simply trying to respond to the issue advertising effort launched by the AFL-CIO in March 1995. However, the advertising aired by Triad rarely mentioned labor as an issue. Further, the majority of races where Triad aired advertising were not in districts where the AFL-CIO was active. In fact, of 26 House races in which Triad advertised, only ten were targets of the AFL-CIO. Triad also spent over \$800,000 on advertising in three Senate races even though the AFL-CIO was not active in any Senate race. Of the six House races where Triad spent over \$100,000 on advertising, the AFL-CIO was active in only one district. The evidence suggests that two criteria that appear to have determined where Triad ran advertising were whether a

conservative Republican candidate was running in the district and whether one of Triad's contributors wanted advertising aired in that particular district.

Additionally, while Triad ran a covert advertising campaign through unknown groups funded by secret contributors, the AFL-CIO campaign was publicly announced in 1995 along with the 25 freshman House races the AFL-CIO intended to target. Unlike Triad, the AFL-CIO is a bona-fide membership organization whose member unions are backed by millions of American workers, most of whom support the labor federation's public policy positions. Hence, advertising paid for by unions is an open and legal attempt to promote the interests and views of union members. In contrast, Triad received funds from people who went to extraordinary lengths to conceal their identity and purpose from voters.

Financing the Advertising Campaign

When the Minority began the Committee's investigation into Triad Management, it already suspected that Robert Cone was a major source of Triad financing. Press reports had linked him to Malerick and had noted Cone's increased financial involvement with political organizations.¹⁴⁷ As the Committee's investigation progressed, it became increasingly clear that whoever was funding Triad and the shell companies was also playing a role in determining the content and the location of advertising prepared by Triad. The investigation clearly showed that Triad and both Citizens for Reform and Citizens for the Republic were largely financed by a single backer, and that neither Citizens for the Republic nor Citizens for Reform had done anything other than create and air advertising with direction from that backer.

As the Minority became more convinced that understanding the role of Triad's backers was essential to the investigation, resistance from several quarters to the investigation began to build. Nevertheless, in August, the members of the Committee agreed that an in camera review of the funding sources of Triad was warranted.¹⁴⁸ On August 20, the Committee also issued a bank subpoena requiring production of financial records of Triad, Citizens for Reform and Citizens for the Republic. The subpoena permitted the attorneys for the parties only to redact certain depositor information from the records produced to the Committee.¹⁴⁹ Informed of the decision to perform an in camera review of Triad's records, and the issuance of the bank subpoena, on September 8 attorneys for Triad notified the Committee that they would not submit to an in camera review and would not produce subpoenaed witnesses for depositions.¹⁵⁰

On August 21, attorneys for Triad were notified of the bank subpoena, provided a copy of the subpoena, and informed that records needed to be produced to the Committee within two weeks.¹⁵¹ The Committee subpoena stated that the bank holding the records "shall permit" representatives of the organizations to make redactions, and that representatives of the organization "may" remove certain information from the records.¹⁵²

In early September, records including account statements and expenditure records were

produced to the Committee by the bank. The bank records for Triad, Citizens for Reform, and Citizens for the Republic showed that:

- Citizens for the Republic was entirely financed by Triad from its creation through September 1996;
- Citizens for Reform had no bank account until less than one month prior to the 1996 election;
- both nonprofit organizations received fewer than a dozen deposits of large amounts of money;
- between \$1 million and \$2 million dollars passed through the accounts of both Citizens for Reform and Citizens for the Republic in the weeks around the 1996 election, while the accounts were virtually inactive in other months; and
- money was freely transferred among the three entities.

However, in its September production, the bank did not provide the account deposit records for any of the organizations under subpoena. On September 30, six weeks after the bank subpoena was served, Minority Chief Counsel sent an inquiry to the bank holding Triad's records, noting that these records had not been produced and requesting production. The letter specifically noted that the subpoena required that attorneys for the account holders be offered the opportunity to redact information. Two weeks later, the Committee received from the bank unredacted account deposit records identifying contributors to Triad, Citizens for Reform and Citizens for the Republic.¹⁵³ The records had been sent without redactions, presumably because the bank had determined that it had provided Triad's attorneys with sufficient opportunities to redact the records during the eight weeks between service of the subpoena and production.¹⁵⁴ At the same time, attorneys for Coalition for Our Children's Future, who had been similarly notified of issuance of an identical subpoena for the bank records of their client, produced records which redacted the identity of depositors to the account as permitted by the subpoena.

It is unclear why Triad's attorneys failed to exercise their option to redact their client's records, leading to the production of records identifying contributors. The circumstances of the production and the history of Triad's non-cooperation with the Committee support the inference that Triad's counsel declined to take steps to redact the subpoenaed bank records based on the incorrect assumption that the bank would not produce the unredacted records. Seen in this light, the failure of Triad's counsel to redact the records was consistent with a general course of conduct in seeking to obstruct the Committee's investigation of Triad's activities. When Triad attorney Mark Braden learned that the bank had produced the records without redactions, he demanded the immediate return of the records. Braden offered no explanation of why he did not exercise his option to redact the documents. He not only failed to redact the documents by the September 2 deadline, but also failed to redact them at any point in the six weeks prior to the

October 16 production by the bank. The Minority retained its copy of the documents because, as Senator Glenn has explained, the records are relevant to the investigation and were properly received pursuant to a valid Committee subpoena.¹⁵⁵

The Trusts Behind Triad

When the Committee received the unredacted documents identifying contributors to Triad and the shell companies, it became clear why Triad and its attorneys had been so anxious to prevent the records from coming to light. The documents contain further proof that Triad was used as a tool to evade the contribution limits and disclosure provisions of the campaign finance laws. Most notably, the bank records revealed that yet another layer of dummy organizations existed behind Triad. Two secret trusts together contributed \$2.34 million to Citizens for Reform and Citizens for the Republic, over 83 percent of the total money received by the organizations. The trusts appear to have given the funds with the specific intent that the trusts' existence never come to light. In fact, Triad's attorneys have publicly confirmed that Triad entered into written agreements to keep the identity of funding sources secret.¹⁵⁶

The first trust, identified in bank records only as "Personal Trust," contributed \$600,000 to Citizens for Reform and Citizens for the Republic from an account at CoreStates Bank in Philadelphia.¹⁵⁷ Based on the testimony of Triad bookkeeper Evans that Triad's backer provided hundreds of thousands of dollars to the two nonprofits, the Minority believes that the Personal Trust is, in all probability, controlled by Robert Cone. The trust's account is at the same bank where Robert Cone's brother Edward, who also contributed \$300,000 to Citizens for the Republic and \$100,000 to Citizens for Reform, has a personal account, and the wire transfers from the Personal Trust to Citizens for Reform and Citizens for the Republic began at the same time that Robert Cone stopped making contributions to Triad from his personal account. The only public statement Robert Cone has ever made on the subject of Triad is, "I'm not confirming or denying anything at the moment."¹⁵⁸

Economic Education Trust

Still unresolved by the Committee is the identity of the backer or backers of the Economic Education Trust. This Trust provided \$1.79 million to the Triad nonprofits in October 1996. Evidence suggests that these funds were given to Triad's two nonprofits with the contingency that the trust's own consultant oversee the advertising campaign, including selection of where ads would air. Even without the benefit of a subpoena for the financial records of the Economic Education Trust, circumstantial evidence developed by the Minority suggests that the trust was financed in whole or in part by Charles and David Koch of Wichita, Kansas. The Koch brothers control Koch Industries, an oil company with revenues of about \$30 billion per year. It is believed to be the second-largest privately-held company in the United States. The Committee's evidence of the Koch brothers' involvement includes:

- Many of the candidates who benefitted from attack ads run by Triad also received campaign contributions from Charles Koch, David Koch, and/or their company's

political action committee.¹⁵⁹

- O The Koch brothers have a history of channeling money through nonprofit organizations in order to advance their political interests, including think tanks and term-limits groups.¹⁶⁰ In 1996, a term-limits group with possible Koch funding ran attack ads under the guise of "issue advocacy" (See Chapter 15). Some of the candidates attacked by the term-limits group were also targeted by Triad.¹⁶¹
- O A disproportionate amount of the money spent on the attack ads by Triad and by a second group, Coalition for Our Children's Future, benefitted candidates in states where Koch Industries does significant business, most notably Kansas, where the company is headquartered; Minnesota, where Koch Industries owns a major oil refinery; and Arkansas, Louisiana, and Oklahoma, where Koch Industries has refineries and pipelines.¹⁶²
- O Koch Industries gave at least \$2,000 directly to Triad in October 1996.¹⁶³

Koch Industries has refused to say whether it funded the Triad-controlled tax-exempts or any other organizations that ran attack ads in 1996. A September 30, 1997, letter to Koch Industries Chairman Charles Koch from the Committee's Minority Chief Counsel, produced no response.¹⁶⁴ Questions from journalists have been met with "no comment." After the Minority learned of the existence of the Economic Education Trust, Senator Glenn, the ranking Minority member, asked Chairman Thompson to issue a subpoena to the Riggs National Bank of Washington, D.C., where the Trust maintained the account from which money was wired to the Triad organizations. On November 24, Senator Glenn renewed his request for issuance of the subpoena. No subpoena was issued.

Whoever is behind the trust played an active role in the crafting of the Triad advertising campaign, as well as advertising aired through other organizations. Evidence strongly suggests that the trust was also the "secret contributor" that required a confidentiality agreement from Coalition for Our Children's Future, a nonprofit group that also ran ads attacking Democrats (see Chapter 13).

The trust appears to have hired its own vendors to handle its advertising campaigns. Documents produced by Triad show that Triad's eight most heavily-funded races were handled by a New York-based consultant named Dick Dresner, of the political consulting firm Dresner Wickers & Associates. The amount contributed to the Triad groups by the Economic Education Trust roughly corresponds to the amount spent on the production and airing of the eight projects overseen by Dresner.¹⁶⁵ Documents produced to the Committee indicate that Dresner was not retained by Triad, but by a major contributor who controlled the Dresner portion of the advertising. The evidence includes:

- O An October 22 memorandum from Malenick to Dresner stating, "the market buys

that are being handled by Dresner Wickers & Associates were pre-determined before TRIAD was contracted to oversee the projects end.¹⁶⁶

- O An October 24 memorandum from Triad administrator Kathleen McCann to Peter Flaherty noting that "based on a client's request, additional vendors have been used to run ads through Citizens for Reform in [the 1st, 2nd, and 3rd districts of Kansas and Montana at large];"¹⁶⁷
- O An October 28 memorandum from Triad bookkeeper Anna Evans to Dick Dresner's assistant Joanne Banks noting, "After my conversation with you this morning, I spoke with [redacted]. He has requested that to get the media time bought, to separate the media time amounts from production and retainer and other costs. Carolyn and Mr. Braden have agreed to this."¹⁶⁸
- O A January 21 memorandum from Evans to Banks stating, "Has Mr. Dresner never informed you of his agreement of a 12% and not 15% commission that he made directly with Triad's client, who preferred using DW&A as a vendor. Let me assure you that this arrangement of vendor selection was an exception, and plans do not call for a repeat;"¹⁶⁹ and
- O A February 7 memorandum from Evans to Banks stating, "The commission taken based on these affidavits is at 15% instead of the originally agreed 12%. The agreement was requested by CFTR and agreed upon by DW&A through an intermediary."¹⁷⁰

Dresner, Malenick, and Braden all either refused to appear for deposition or to answer questions. The Committee's understanding of the arrangements is, therefore, less than complete. However, Dresner also played a role in advertising prepared for Coalition for Our Children's Future ("CCF"). On September 18, 1997, the Committee deposed Denis Calabrese, a political consultant who oversaw the CCF ad campaign. Calabrese testified that in mid-1996, he was retained by an individual he refused to name, who was a representative for an organization he refused to name, for the purpose of overseeing an issue advertising campaign consisting of political advertisements.¹⁷¹ Calabrese testified that as part of his duties he hired a number of other political consultants to act as vendors including Dresner, and Dresner's Triad subcontractors James Farwell and Steve Sandler.¹⁷² He testified that he initially met Dresner at a meeting with the anonymous donor representative and that he attended meetings with a variety of organizations, including CCF and Triad, in order to determine if they were "appropriate vehicles" for the issue ad campaign.¹⁷³ He also testified he oversaw a second ad campaign for the anonymous donor through another organization which was not Triad.¹⁷⁴

Although he failed to appear for a sworn deposition, in a January 1998 roundtable discussion, Dick Dresner admitted that he helped to coordinate a number of issue advertising campaigns in the 1996 election cycle. Dresner said that "many of the people he worked with were

most concerned with remaining anonymous, while still having a major impact on federal elections."¹⁷⁵ Dresner confirmed that "his wealthy clients set up a series of foundations, trusts and other 'shells' to pump money into subterranean issue-ad campaigns. 'They use three or four or five or six different ways so they aren't discovered.'"¹⁷⁶ He went on to note that "his clients seemed to have success with that tactic, and most have remained anonymous even now. 'Even if their names came up once or twice, the extent of their activities is underestimated.'"¹⁷⁷

Other evidence besides the involvement of the same consultants suggests that the donor behind the Economic Education Trust whose identity has been concealed from the Committee funded not only the Triad advertising campaign but also the CCF advertising campaign. In addition:

- O Both Triad and CCF representatives confirmed that both organizations executed written confidentiality agreements with a secret contributor.¹⁷⁸
- O An unnamed former employee of CCF stated in a news article that the entity that funded the CCF advertising campaign was a trust.¹⁷⁹
- O The funds for the CCF ad campaign were wired from an account at Riggs Bank in Washington, D.C., the same bank where the Economic Education Trust has an account.¹⁸⁰
- O Barry Bennett, executive director of CCF stated that the confidentiality agreement was drafted by former RNC General Counsel Benjamin Ginsberg. Ginsberg was also consulted on the substance of CCF advertising, and represents both Dick Dresner and James Farwell, both of whom failed to appear for deposition on any of the numerous dates offered to them.¹⁸¹

Triad's Impact on the 1996 Elections

While it is impossible to know the full extent of the Economic Education Trust's advertising campaign absent a full investigation, the election results in Kansas (the home state of the Koch brothers) suggest that Dresner was correct in noting that his clients had been successful in their attempts to covertly influence the outcome of particular federal races. Triad advertising aired in four of six federal races in Kansas. Two were for open House seats, the third was held by a vulnerable freshman Republican, and the fourth was an open Senate seat in which a bitter and disruptive Republican primary battle had been waged.

Using television advertising, mailings, telephone calls, and radio ads all prepared under the supervision of Dick Dresner, Triad spent over \$1 million on the four races: \$420,000 in television advertising in the Senate race between Republican Representative Sam Brownback and Democrat Jill Dockett; \$287,000 on television and radio advertising and phone calls in the race between Republican Vince Snowberger and Democrat Judy Hancock; \$131,000 on phones, mail, and television advertising benefitting freshman Republican Representative Todd Tiahrt in his campaign

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against Randy Rathbun; and \$133,000 on television, radio, phones, and mail in the race between Republican Jim Ryun and Democrat John Freidan.¹⁶² Triad's two-week spending spree on behalf of the Republican Senate candidate totaled almost a quarter of the amount the candidate spent on his own campaign throughout 1996.¹⁶³ Triad's two weeks of spending on behalf of Vince Snowbarger totaled over half of what he himself spent in 1996.¹⁶⁴ Republican candidates were victorious in all four races. Representative Tiahrt was re-elected by a margin of less than two percentage points. Vince Snowbarger and Jim Ryun were elected by margins of less than five points.¹⁶⁵

Advertising by Other Triad Contributors

Although the multimillion-dollar advertising campaigns appear to have been funded largely by Cone and the Koch families, the Committee also found evidence that smaller contributors made contributions with the intent of financing advertising campaigns that targeted specific candidates. For example, California agribusinessman Dan Gerawan contributed \$50,000 to Citizens for Reform. In the primary, Gerawan had funded a publicly disclosed advertising campaign attacking one of the candidates in the 20th Congressional District in California for supporting the Legal Services Corporation, a government-funded agency that provides legal services to the indigent. In the general election, Citizens for Reform aired an advertisement attacking Representative Calvin Dooley's views on the Legal Services Corporation.¹⁶⁶ After the election, Gerawan admitted he paid for the ads.¹⁶⁷ Although the Minority requested a subpoena for Gerawan's deposition, no subpoena was ever issued.

The Committee also found evidence suggesting a direct link between a Triad-sponsored advertising campaign and eight checks totaling \$11,500 received by Citizens for Reform on a single day in October 1996. The checks, among the lowest contributions received by either nonprofit, all came from people or businesses based in the 6th District of Pennsylvania, where Republican Christian Leinbach was challenging Representative Tim Holden.¹⁶⁸ Seven of the eight families who contributed to Triad had already made the maximum permissible contribution to Leinbach's campaign.¹⁶⁹ On September 11, Carlos Rodriguez had written a report of the Leinbach campaign complaining: "the problems with the campaign became obvious once I visited the campaign headquarters. Leinbach has been unwilling to make the fund raising calls necessary. . . . We should wait for marked improvements on the part of the candidate and the consultant before providing them with any financial assistance."¹⁷⁰ Yet less than a month later, Citizens for Reform funded a \$17,000 radio campaign against Leinbach's opponent.¹⁷¹ Presumably, the funds received from Leinbach's supporters were used to pay for advertising in a campaign to which Triad consultants were unwilling to devote existing resources.

CONCLUSION

In the end, Triad succeeded in pouring millions of dollars into televised advertisements designed to attack particular candidates in hotly-contested races, while concealing the identities of the individuals and companies that provided the monies. Triad's secrecy about its sources of

funding, which is one of the principal benefits it offers its contributors, was accomplished through several means, including its disingenuous incorporation as a for-profit business and the establishment of sham nonprofit corporations. This secretiveness undermines our system of campaign-finance laws. If, as the Minority strongly believes, Triad violated campaign-finance laws, it has done so with impunity. If, as Triad contends, its activities fell within the limits of the law, then the disclosure requirements of the campaign-finance laws have proven to be so easily circumvented by individuals with wealth that they are essentially meaningless. Triad is important not just for the ways it bent or broke existing laws, but for the pattern it has established for future groups, which will take comfort in Triad's successful defiance of this Committee.

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1. Buckley v. Valeo, 426 U.S. 1, 9 (1976).
2. Roll Call, 12/4/97.
3. Roll Call, 12/4/97: Austin-American Statesman, 8/16/95.
4. Roll Call, 12/4/97: U.S. News and World Report, 6/6/94.
5. Roll Call, 12/4/97.
6. See Council for National Policy Unofficial Information Page, <http://apocalypse.berkshire.net/~ifas/cnp/index/html>.
7. Roll Call, 12/4/97.
8. National Journal, 9/28/96.
9. Triad records of incorporation TRI 1-5: Anna Evans deposition, 8/19/97, p. 20.
10. The Hill, 10/8/97.
11. Roll Call, 12/4/97.
12. Memorandum from Carolyn Malenick to Triad employees, 2/22/97, TR 20 5.
13. Washington Post, 3/9/97.
14. Committee subpoenas 247-257 for: Cleta Mitchell, Lyn Nofziger, Carlos Rodriguez, David Gilliard, Padraic Buckley, Kenneth Boehm, Peter Flaherty, Meredith O'Rourke, Carolyn Malenick, Mark Braden, Anna Evans. See also subpoena number 346 for Kathleen McCann, 375 for Richard Dresner, and 377 for James Farwell.
15. Letter from Richard Hauser to Majority Chief Counsel and Minority Chief Counsel, 9/8/97. Those deposed at that point were Peter Flaherty and Anna Evans. The deposition of Meredith O'Rourke had been adjourned but not completed. Two other directors of Citizens for Reform, Kenneth Boehm and Padraic Buckley, had also been deposed to establish they had almost no role in the organization.
16. Letter from Richard Hauser to Committee staff, 9/8/97.
17. See 18 U.S.C. sections 1503, 1505.

18. Carolyn Malenick deposition, 9/16/97.

19. Three subpoenas for deposition for individuals involved in the AFL-CIO advertising campaign were issued in September but never taken. Contrary to public statements, these individuals only refused to appear on the date contained in the subpoena because they were given short notice and had conflicts. The Majority staff never contacted these individuals to reschedule deposition dates. See Committee subpoenas 399-401; letter to Committee staff from counsel for the AFL-CIO, 9/22/97. Another individual affiliated with the AFL-CIO did appear pursuant to a deposition subpoena. Deposition of Geoffrey Garin, 9/5/97. See Chapter 39 of this Minority Report.

20. Associated Press, 11/4/97.

21. The only invoices produced were for "fees" Triad charged the shell companies, Citizens for Reform and Citizens for the Republic. TR 8 26, CR 13 1956.

22. Meredith O'Rourke deposition, 9/3/97, pp. 30-33.

23. Meredith O'Rourke deposition, 9/3/97, pp. 30-33.

24. Anna Evans deposition, 8/19/97, pp. 45-46.

25. Staff interviews with PAC contributors, 5/97.

26. Staff interviews with PAC contributors, 5/97.

27. Staff interviews with PAC contributors, 5/97.

28. Anna Evans deposition, 8/19/97, p. 175.

29. Bank statements of Crestar account of Triad Management, 5/31/95 - 1/31/96.

30. Deposit records of Crestar bank account of Triad Management.

31. Deposit records of Crestar bank account of Triad Management.

32. See financial records of Crestar account of Triad Management.

33. See financial records of Crestar accounts of Triad Management and Triad Management, Inc.

34. Anna Evans deposition, 8/19/97, p. 177.

35. Morning Call, 10/3/93.

36. Boston Globe, 8/23/96.

37. Morning Call, 10/3/93.

38. National Journal, 9/28/96.

39. James McLaughlin deposition, 9/17/97, p.16.

40. See 2 U.S.C. sections 433 and 434.

41. See 2 U.S.C. section 441 (a)(3); see also FEC public disclosure records for federal contributions of Robert Cone. Contribution records are available at www.tray.com.

42. See 2 U.S.C. sections 433 and 434.

43. 2 U.S.C. section 441b.

44. 11 C.F.R. section 116.1 (a)(c).

45. Meredith O'Rourke deposition, 9/3/97, p. 53; staff interview with Robert Riley, Jr., 9/16/97; Rapid City Journal, 9/20/97.

46. Meredith O'Rourke deposition, 9/3/97, pp. 46, 50.

47. Staff interview with Robert Riley, Jr., 9/16/97.

48. Rapid City Journal, 9/20/97.

49. Los Angeles Times, 11/12/97.

50. Triad invoices, TR 8 35; TR 8 112-114.

51. See Rodriguez reports identified in footnotes 52-58, *infra*.

52. Minneapolis Star Tribune, 10/29/97.

53. Report of Jay Mathis campaign, TR 15 1170-1172.

54. Report of Vince Snowbarger campaign, TR 15 1206-1207.

55. Report of Christian Leinbach campaign, TR 15 1163-1166.

56. Report of Jim Ryun campaign, TR 15 1197-1199.

57. James McLaughlin deposition, 9/17/97, pp. 13-14.

58. Report of Steve Stockman campaign, TR 15 1210-1212.

59. Report of Mark Sharpe campaign, TR 15 1186-1188.

60. Meredith O'Rourke deposition, 9/3/97, p. 95.

61. "My understanding of what happened is Meredith [O'Rourke] asked Carolyn [Malenick] whether she could go over and help [the Senate candidate] dial for dollars." Washington Post, 12/12/97; "O'Rourke was simply doing a favor for Brownback, not on Triad's time." Kansas City Star, 12/5/97.

62. Meredith O'Rourke, deposition, 9/3/97, pp. 94-95.

63. Triad solicitation TR 10 146-147: Rapid City Journal, 9/20/97.

64. Triad 10 0079-10 0081.

65. "96 Primary Alert". Triad Fax Alert 7/18/97, TR 10 218.

66. Massachusetts Citizens for Life v. FEC, 479 U.S. 238 (1986), Faucher v. FEC, 928 F. 2d 468 (1st Cir. 1991), Maine Right to Life v. FEC, 98 F. 3d 1 (1st Cir. 1997), 11 C.F.R. section 114.4.

67. Triad "fax alert," 10/10/96, TR 10 160-161.

68. Triad fax solicitation, TR 10 146-147.

69. Federal election law severely limits the volunteer activities that corporations may engage in, and limits the group of people that corporations may solicit for contributions to political campaigns to a restricted class of officers and executive employees. In a corporation like Triad the restricted class Triad could properly solicit would consist only of Carolyn Malenick herself. See 11 C.F.R. section 114.2 (f); 114.1(e)(2).

70. 2 U.S.C. section 441a(a)(8): 11 C.F.R. section 110.6.

71. Triad internal PAC list, TR 15 105-1052.

72. FEC public disclosure reports of: Robert Riley, Jr., Conservative Campaign Fund, Americans For Free Enterprise, Citizens Allied for Free Enterprise, and Faith, Family, and Freedom. See also Wall Street Journal, 4/10/97.

73. Triad "fax alert," 11/14/96, TR 10 83.

74. Kansas City Star, 5/2/97: FEC Public Disclosure records of John and Ruth Stauffer.

75. Handwritten note to Triad, TR 15 678.

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76. Meredith O'Rourke deposition, 9/9/97, pp. 60-77.
77. Peter Flaherty deposition, 8/22/97, p. 13.
78. Peter Flaherty deposition, 8/22/97, pp. 11, 15.
79. Citizens for the Republic Education Fund Unanimous Consent in Lieu of Meeting, CREF 1 4-8.
80. Triad invoices from Gilliard and Associates, CREF 13 1934.
81. James McLaughlin deposition, 9/17/97, p. 13: records of incorporation for Huckaby, Rodriguez, Gilliard, Inc.
82. Triad internal PAC list, TR 15 1050-1052.
83. Staff interview with Robert Riley, Jr., 9/16/97.
84. Staff interview with Robert Riley, Jr., 9/16/97.
85. Meredith O'Rourke deposition, 9/9/97, pp. 66, 72.
86. Meredith O'Rourke deposition, 9/9/97, pp. 51, 53, 90.
87. Minneapolis Star Tribune, 10/29/97.
88. Report of Pete Sessions campaign, TR 15 1176.
89. Report of Ed Merritt campaign, TR 15 1183-1185.
90. Memo from Meredith O'Rourke to Mark Braden, 6/13/96, TR 15 1054.
91. Memo from Meredith O'Rourke to Mark Braden, 6/13/96, TR 15 1054.
92. Report of Rick Hill campaign, TR 15 1143-1145.
93. In addition to acting as administrator of the PAC and director of Citizens for the Republic, Gilliard was also a paid consultant of California candidate Linda Wilde. Wilde benefitted from \$100,000 in mailings and \$25,000 in phone calls against Representative George Brown funded by Citizens for Reform, over half the amount Wilde spent on her own campaign throughout 1996. Wilde also received \$6,000 of \$21,000 raised by Citizens Allied for Free Enterprise ("CAFE"). No other candidate received more than \$1,000. See FEC disclosure reports of CAFE. In addition to working directly for Wilde, the PAC and Citizens for the Republic, Gilliard was also a paid vendor of Citizens for the Republic, and produced at least \$75,000 worth of mailings in

Representative Randy Tate's Washington district.

94. Disclosure reports for Citizens Allied for Free Enterprise; see also <http://apocalypse.berkshire.net/~ifas/cnp/index.html>.

95. FEC public disclosure records of Richard Eckburg, available at www.tray.com.

96. FEC disclosure records of Foster Freiss and the Conservative Campaign Fund available at www.tray.com; deposit records of Citizens for Reform.

97. FEC disclosure records of Peter Cloeren available at www.tray.com; bank deposit records of Citizens for Reform.

98. FEC disclosure records of Lorena Jaeb and Citizens United available at www.tray.com.

99. Meredith O'Rourke deposition, 9/3/97, p. 102.

100. Peter Flaherty deposition, 8/22/97, p. 13.

101. Kansas City Star, 5/5/97: Meredith O'Rourke deposition, 9/3/97, pp. 91-92.

102. Meredith O'Rourke deposition, 9/3/97, pp. 99-100.

103. Carolyn Malenick deposition, 9/16/97, p. 20.

104. A disclaimer such as that contained in letters from Triad to the PACs does not negate fact. Massachusetts Citizens for Life, 479 U.S. 238, 249 (1986).

105. Committee list of races where Citizens for Reform and Citizens for the Republic were active and the amounts spent.

106. Faucher v. FEC, 928 F. 2d 468 (1st Cir. 1991); 743 F. Supp 64 (1990); FEC v. Christian Action Network, 92 F.3d 1178 (4th Cir. 1996), 894 F. Supp 946 (S.D.Va. 1995); Maine Right to Life v. FEC, 98 F.3d 1 (1st Cir. 1997).

107. Clifton v. FEC, 114 F.3d 1309 (1st Cir. 1997); see also Chapter 20: Legal Analysis and Overview.

108. Annenberg Public Policy Center, "Issue Advocacy Advertising During the 1996 Campaign: A Catalog," Report Series No. 16, 9/16/97, p. 7.

109. Certificate of Incorporation for Citizens for the Republic, CREF 1 32: Articles of Incorporation for Citizens for Reform, CR 1 61-64.

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110. Citizens for the Republic marketing brochure, CREF 1 100.
111. Citizens for Reform stated in its application for (c)(4) status that it had not spent and did not plan to "spend any money attempting to influence" an election. IRS Form 1024, item 15, 6/7/96. This may be a false statement in violation of 26 U.S.C. §7206.
112. Roll Call, 10/20/97.
113. Peter Flaherty deposition, 8/22/97, pp. 19-21.
114. Incorporation documents of Citizens for the Republic, CREF 1 13-14, 33-35.
115. The Citizens for the Republic bank account received \$ 302,548 in deposits in July and spent \$ 273,114. All the deposits into the account were made by transfer from Triad's account at the same bank. See bank records of Crestar accounts held by Citizens for the Republic and Triad Management, Inc.
116. For example, Evans would generate an invoice for "management fees due to Triad from either Citizens for Reform or Citizens for the Republic." The invoices (the only ones Triad ever seems to have issued) are printed on Triad letterhead, are addressed to the respective groups in care of Triad, then seek payment made to Triad -- all at the same address. To actually pay Triad's bill, Evans would simply make a bank transfer from one account to another. Invoices from Triad to Citizens for Reform and Citizens for the Republic, TR 8 26, TR 8 22.
117. Consulting agreements between Triad and Citizens for Reform and Citizens for the Republic, CREF 1 94-95; CR 1 38-39.
118. October and November 1996 bank statements of Citizens for Reform.
119. October and November 1996 bank statements of Citizens for Reform.
120. October and November 1996 bank statements of Crestar bank accounts of Citizens for the Republic.
121. See note 113 *infra*; see also bank statements of Citizens for Reform and Citizens for the Republic for October and November 1996.
122. December 1996 bank statement of Crestar Bank accounts of Citizens for the Republic.
123. Los Angeles Times, 5/5/97.
124. Documents bearing signature of Lyn Nofziger, CREF 1 56, 66, 94-95.
125. Peter Flaherty deposition, 8/22/97, pp. 54, 62, 70, 83.

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126. Committee list of races where Triad was active.
127. Meredith O'Rourke deposition, 9/3/97, pp. 46, 87; See Appendix C for reports of Rodriguez visits.
128. Clifton v. FEC, 114 F.3d at 1309, 1316-19 (1st Cir. 1997).
129. Report of Rick Hill campaign, TR 15 1143-1145.
130. Report of Rick Hill campaign, TR 15 1143-1145.
131. Invoice for Yellowtail advertising, CR 13 1179.
132. Script of Yellowtail advertisement, CR 13 0713.
133. Congressional Quarterly 1996 Election Results: report of Rick Hill campaign, TR 15 1143-1145.
134. Report of John Thune campaign, TR 15 1141-1142.
135. Report of John Thune campaign, TR 15 1141-1142.
136. Invoice showing funds spent for Thune by Citizens for the Republic, CREF 13 0512.
137. Report of Steve Stockman campaign, TR 15 1210-1212.
138. Invoices showing funds spent by Citizens for Reform and Citizens for the Republic, CREF 13 512, CR 13 1272.
139. Videotape advertisement produced by Citizens for the Republic.
140. Invoice showing funds spent for Wittig race, CR 13 12792.
141. Report of Sue Wittig campaign, TR 15 1136-1139.
142. FEC disclosure reports of Friends of Sue Wittig.
143. Triad fax alert "The Time for Battle Is Now," 9/27/97, TR 10 191.
144. Los Angeles Times, 5/5/97.
145. Los Angeles Times, 5/5/97.
146. Annenberg Public Policy Center, "Issue Advocacy Advertising During the 1996 Campaign: A Catalog," Report

147. National Journal, 9/28/96; Boston Globe, 8/23/96.
148. Letter of 8/27/97 from Majority and Minority Chief Counsels to Triad Counsel Richard Hauser.
149. Subpoena of 8/21/97 to Crestar Bank.
150. Letter from Richard to Hauser to Alna Baron and Michael Madigan, 9/8/97.
151. Letter of 8/22/97 from Minority Staff Counsel to Mark Braden.
152. Subpoena of 8/21/97 to Crestar Bank
153. Staff also followed up with the bank holding the Triad records leaving two voice mail messages seeking to determine when records would be produced. At the same time, the bank holding records of Coalition for Our Children's Future, which had received an identical subpoena for records that had not yet been produced, was contacted for the same purpose. Letter from Minority Chief Counsel to Crestar General Counsel John Clark, 10/30/97.
154. Committee staff reviewed such records when they were received. Documents revealed the existence of a second account held by Triad which was clearly covered in the subpoena. Records for this account were also requested and were forwarded without redactions.
155. Letter of 11/24/97 from Senator Glenn to Senator Thompson.
156. New York Times, 10/24/97.
157. Wire transfer receipts of Crestar Bank accounts of Citizens for Reform and Citizens for the Republic.
158. Associated Press, 10/29/97.
159. FEC public disclosure records for Charles Koch, David Koch and Koch Industries PAC.
160. National Journal 5/16/97: Lewis Charles and the Center for Public Integrity, The Buying of the President. New York: Avon Books, 1996, p. 127.
161. Roll Call 1/26/98.
162. Wichita Business Journal 10/24/97: Minneapolis Star Tribune, 10/29/97.
163. Deposit records of Crestar account of Triad Management, Inc., 10/29/96.

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164. 9/30/97 Letter from Minority Chief Counsel to Charles Koch.
165. The eight races were: Brownback v. Docking (Kansas Senate); Hutchinson v. Bryant (Arkansas Senate); Hill v. Yellowtail (Montana House); three Kansas House races: Snowbarger v. Hancock; Tiahrt v. Rathbun; and Ryun v. Freidan; Brown v. Wilde (California House); and Coburn v. Johnson (Oklahoma House). Invoices for Dresner Wickers & Assoc., CR 13 1751, 1755, 1759, 1179, 1017; CREF 13 0009, 0150.
166. 10/22/96 Memo from Malenick to Dresner, CR 13 1748-49.
167. Memo from Triad staff to Peter Flaherty 10/24/96, CR 13 1659.
168. Memo from Triad bookkeeper Anna Evans to Dresner Wickers staff Joanne Banks, 10/28/96, CR 13 1780.
169. Memo from Evans to Banks, 1/21/97, CR 13 1819.
170. Memo from Evans to Banks, 2/7/9, CREF 13 0308.
171. Denis Calabrese deposition, 9/18/97, pp. 10-12.
172. Denis Calabrese deposition, 9/18/97, pp. 41-44.
173. Denis Calabrese deposition, 9/18/97, pp. 44, 18-19, 35-37, 11.
174. Denis Calabrese deposition, 9/18/97, pp. 18-19.
175. Roll Call, 2/2/98.
176. Roll Call, 2/2/98.
177. Roll Call, 2/2/98.
178. New York Times, 10/24/97; Minneapolis Star Tribune, 10/29/97.
179. Minneapolis Star Tribune, 10/29/97.
180. Wire transfer records for deposits received by Coalition for Our Children's Future, Citizens for Reform, and Citizens for the Republic.
181. Minneapolis Star Tribune, 10/29/97: Letter to Benjamin Ginsberg 11/5/97.
182. Invoices from Dresner Wickers to Triad, CREF 13 9, 150; CR 13 1017, 1735.

183. FEC disclosure report of Sam Brownback for U.S. Senate. Senator Brownback's 1996 spending totaled \$2.2. million.

184. FEC disclosure report for Snowbarger for Congress. Snowbarger's spending totaled \$443,000.

185. Congressional Quarterly, 1996 Election Results, 11/9/96 pp. 3250-57.

186. Cox News Service, 7/11/97.

187. Cox News Service, 7/11/97.

188. Deposit records of Crestar account of Citizens for Reform.

189. FEC public disclosure reports for Robert Harris, Gaspari, Gensemer, Duquette, Weaber, Doblin, available at www.tray.com.

190. Campaign Report of Christian Leinbach, TR15 1163-1166.

191. Committee list of races where Triad was active.

Attention: Joe From: Heler

08/26/96 18:27

001

✓
Poll taken by Chantel in
Borum an - 15 mins.

"More Information" from Portland
the lady was older and either
couldn't speak well or was drunk.
Who knows

- How likely are you to vote this year?
- Are you R. D. I?
- Is Montana doing OK or headed down the wrong path?
- What is the most important problem in your area?
- Who would you vote for:
 - Yellowtail or Hill
 - Dole (no Clinton mentioned)
- What is your opinion of Newt?
- What do you like best about R.H.
 - Yellowtail
- Least about R.Hill / Yellowtail
- Senate election
 - Rehberg - (Max not mentioned)
- Gov election
 - Racicot (Blaylock not mentioned)
- Is Yellowtail Conservative or liberal



28044200094

- Issues

- Same as ours
- Are you Pro Choice or Pro life
- If Dole were pres. would you want a Repub. Congress.
- I 122 Support or oppose
- Min. Wage
- Medicare reform
- Health care reform
- Is Yellowtail an extremist?
- Who will protect ranchers? Hill / Yell.
- protect env. r.
- reform welfare
- create jobs
- Did you know Yellowtail beat his wife & didn't pay child support?
- Hill 500 tax credit for children
- " Single parent
- " wanted to eliminate dept of ed to give control to parents.
- " sales tax supports
- Yellowtail tried to end mining



28044200095

- "Yellowstone" voted to let police men
carrying concealed weapons
- Yell. Supports the re intro of wolves.
- How often attend church.

Enjoy!

Questions? Call

Input Today's Newslink
Keyword! What's Newslink?

EXHIBIT 23

Today,
partly
cloudy.
High of 31.

Click for Interactive Features!

Hill can't promise no negative 'issues ads' in future campaigns

Click on
picture for
caption and
a better
view.

By SCOTT McMILLION

Chronicle Staff Writer 3/7/98

Rick Hill still believes a conservative group in Washington, D.C., "stepped over the line" when it ran ads blasting his opponent in the 1996 election, the freshman Republican and Montana's only congressman said Friday.

Click
on
me to hear a
Wolf Howl!

Discuss
your
feelings
about Wolf
re-introduction.

Check out
some cool
QuickTime
VR movies
we've

produced of
the
surrounding
area!

Powered by
Silicon
Graphics
and Power
Macintosh.

However, he also said he can't promise such things won't happen again, because he has no control over independent groups that run "issue ads."

"The world we are in today is a world where there is no limit on what issue-advocacy groups can do as long as they follow the rules," Hill said in an interview.

The issue of advocacy group ads arose late in Hill's 1996 race against Democrat Bill Yellowtail. They were paid for by a group called Citizens for Reform, a front for the Triad Corp., a behind-the-scenes strategy group that supported conservative candidates across the country.

Continued



(Continued from page 01)

Citizens for Reform ran television advertisements lambasting Yellowtail for his admissions of an incident of spouse abuse, his failure to pay child support, and a burglary he committed while a college student.

Yellowtail had admitted all of the transgressions, and Hill had promised not to make a campaign issue of them.

Triad officials met with members of the Hill campaign, including his wife, Betty, and the campaign shared polling data, news clips and budget information with them, Hill said.

With the exception of the budget data, all of the information provided to Triad was already public, Hill maintained.

Shortly after the meeting, the ads began running on television.

The Yellowtail campaign complained and so did the Hill campaign.

Republicans in a Senate committee this week cleared Hill of any wrongdoing. However, a minority report, written by Democrats, is expected next week and Hill said he expects a less rosy assessment from that group.

The committee examined whether there was any coordination between the Hill campaign and Triad. Such planning would be illegal, under current campaign laws. Groups can run "issue" ads if they don't openly advocate for or against a candidate.

"There was no evidence of any coordination because no coordination occurred," Hill said Friday.

He did say he will continue to share information with different groups and that he favors allowing interest groups of all stripes to air their views.

"I don't think the appropriate thing is to tell people that they can't criticize me or criticize an opponent of mine," Hill said. "That's just not the history of free political speech in this country."

Even if he wanted to control such groups, he insisted, doing so would be illegal.

"If I tried to exert control that would be coordination," he said. "That's the whole point. We're prohibited from having any influence."

Joe Lamson, manager of the Yellowtail campaign, said Friday he isn't buying Hill's protestation of impotence or his claim that he didn't work with Triad.

"This strange group just showed up in Helena, six weeks before the election and they (the Hill campaign) just turned that information over to strangers?" Lamson said. "I don't think it works that way."

He noted that Triad, a group he maintains "existed to circumvent the campaign laws," selected a limited number of campaigns to help.

"If Rick Hill really put his foot down, he could keep them out," Lamson insisted.

Hill said he favors changing campaign laws so "issue" groups would be forced, like political groups, to reveal who they are and how much money they are spending.

A spokesman for his opponent in the 1998 election, Missoula County Attorney Dusty Deschamps, declined comment on the issue.

"Dusty didn't have anything to do with the last campaign," said spokesman Eric Tombre.

Lamson said Democrats will fill formal complaints with the Federal Elections Commission and the Internal Revenue Service over Triad activities.

BACK



EXHIBIT 24

P.O. BOX 217 • 433 NORTH LAST CHANCE GULCH
HELENA, MONTANA 59624
(406) 443-3820
FAX: (406) 443-3772

August 27, 1996

TO: Bennet, Celinda
FR: Joe

RE: Hill Poll Questions

The Hill campaign is polling in Montana. On Sunday evening, August 25, Tim Bergstrom of Billings was called by a pollster from an Oregon firm. He couldn't remember the name of the company. Hill uses Moore Research out of Portland. The poll appeared to be a joint poll of Plum Creek Timber and the Hill campaign. A portion of the poll asked questions about people's attitudes towards Plum Creek and forestry practices.

The pollster was a young woman, and told Tim he was the first Democrat she interviewed. She said she was a Democrat married to a Republican and was doing the poll to make a few bucks. She was very friendly.

The Hill questions that Tim remembered were standard favorability and face off questions. They then tried three attack messages. The attack questions were:

- 1) Would you still vote for Bill Yellowtail if you knew he struck his first wife so hard she had to be hospitalized?
- 2) Would you still vote for Bill Yellowtail if you knew he was ten years late in paying back child support payments?
- 3) Would you still vote for Bill Yellowtail if you knew he voted to reduce the penalties for senior citizen abuse?

Isn't this the same Rick Hill who has said on numerous occasions that Bill Yellowtail's personal past was not an issue in this campaign? Why you suppose he would be polling on such topics?

Judy will be looking up the senior vote to see what that is about when she gets back on Friday.

I believe we can expect to see a Rick Hill poll story at the end of this week or early next week.

OUR NETWORK IS WORKING. AS I WAS FAXING THIS MEMO, THE NEXT 3 PAGES CAME IN FROM A PERSON WHO WAS CALLED IN BOZEMAN.



28044200100

EXHIBIT 25

advocacy expenditures with the Thune campaign, or that the Thune campaign had any knowledge of or participation with Triad in its activities.

Under FECA and FEC regulations, the expenditure must be shown to have been made at the request of the candidate or the candidate's agent, or based on information obtained from the candidate.⁷⁹ Communication in the abstract is not equivalent to coordination. The Committee found no evidence that Congressman Thune or anyone from his campaign staff directed the substance or location of issue advocacy expenditures made by CR and CREF. In fact, the Committee has found no evidence that Congressman Thune or his campaign even knew about these issue ads before they were aired. Therefore, there is no basis to conclude that Triad illegally or improperly coordinated issue advocacy expenditures with the Thune campaign.

Another example illustrates the point more clearly. During a visit with the campaign of Rick Hill, a Republican congressional candidate in Montana, Rodriguez learned that the Democrat candidate, Bill Yellowtail, had been involved in a spousal abuse incident. During the audit, Rodriguez also learned that Hill did not intend to raise the issue in the campaign. In his audit memorandum following the visit, Rodriguez described one of the Hill campaign's needs as "3rd Party to 'expose' Yellowtail" for wife-beating.⁸⁰ Triad followed Rodriguez's advice and, in the last weeks of the 1996 campaign, CR funded several hundred thousand dollars worth of issue ads that focused on Yellowtail's arrest for spousal abuse.

At first blush, this evidence suggests that CR, acting through Triad, selected the substance and location of issue ads at the request of a congressional candidate. The Committee,

⁷⁹ 2 U.S.C. § 441a(a)(7)(B)(i); see also 11 C.F.R. § 109.1(b)(4)(I)(A), (B).

⁸⁰ Rick Hill Political Audit Memorandum, Sept. 24, 1996, p. 2 (Ex. 20).

however, found evidence that indicates that the Hill campaign did not ask Triad to air these ads. Shortly after the CR issue ads began running in Montana, the Rick Hill campaign contacted Triad to protest the negative advertising and demanded that the ads cease immediately. On October 25, 1996, the Hill campaign's lawyer, Tom Hopwood, wrote to Mark Braden, the attorney for CR, decrying CR's "unwanted intrusion into this congressional campaign."⁸¹ Hopwood noted that Rick Hill "was not consulted about these ads, had no knowledge of their existence and most assuredly disapproves of their content."⁸² He added that "this type of overtly negative campaigning simply does not work in Montana. . . . Simply put, Montanans do not need or want the type of campaigning embodied in your client's ads."⁸³

In light of the contemporaneous letter from the Hill campaign and the inability to depose Carolyn Malenick or Carlos Rodriguez, the Committee cannot conclude that CR funded the Yellowtail issue ad at the request of Congressman Hill or his campaign. As a result, there is no basis to conclude that Triad illegally or improperly coordinated issue ad expenditures with the Hill campaign.

In the case of Congressman Vince Snowbarger, a Republican from Kansas, there is evidence of contact between his campaign staff and Rodriguez. However, the Committee has not found any documents or testimony to support a finding of coordination. Rodriguez met with Snowbarger's campaign staff in June of 1996 and provided the staff a detailed fundraising

⁸¹ Letter from Tom K. Hopwood, Counsel for the Rick Hill for Congress Committee, to E. Mark Braden, Counsel for CR, Oct. 25, 1997 (Ex. 21).

⁸² *Id.*

⁸³ *Id.*