

# The LaRouche suit against the bank

by Suzanne Rose

In November 1984, Independent Democrats for LaRouche (IDL) and The LaRouche Campaign (TLC), jointly filed suit against First Fidelity Bank, seeking \$2 million compensatory damages and \$5 million punitive damages from the bank for the theft of \$200,000 in campaign funds on Nov. 1, which prevented IDL from broadcasting an election eve message from presidential candidate Lyndon H. LaRouche on CBS, scheduled in conjunction with spots on ABC and NBC.

IDL learned nothing of the bank's disposition of its funds for several days after the bank refused to make the funds available. It was not until Nov. 5, after obtaining a court hearing, that the bank admitted to taking the funds. Prior to this, officials of the bank were unavailable for explanations to IDL. At a private meeting after the court hearing, officials claimed to be holding the \$200,000 against expected credit-card chargebacks.

On Nov. 16, Bernard Cribben, director of the bank's credit-card unit, filed a certification with the court. He stated that the bank had received a phone call from the FBI on Nov. 1 and decided to close down the account. But at a subsequent deposition in July, Mr. Cribben stated that the bank itself had decided to terminate the account in early October.

Following the theft, IDL issued six leaflets attacking the bank. By then, it was clear that the bank had long-standing ties to mobsters in New Jersey, as the leaflets elaborated. Its president, Robert Ferguson, was the first banker to lend to casinos, and had brought Meyer Lansky's Resorts International into the state.

The bank sought and won an injunction against two of the leaflets, but TLC and IDL successfully removed the case to federal court where the pressures from the Resorts crowd on officials did not appear as great.

The bank countersued for libel and fraud. IDL immediately attempted to get "discovery" on the bank's ties to organized crime. Robert Ferguson was deposed and readily admitted to business and social contacts with "criminal elements."

However, when IDL tried to get discovery on the bank's ties to Resorts International, the bank filed for a protective order which was upheld in substance by Federal Magistrate Serena Perretti. The bank's argument amounted to the following logic: "IDL should not be allowed to probe the relationship between Resorts and the bank because there is no proof that Resorts has ties to criminal elements. Even if there were," the bank's argument went, "the bank was just con-

ducting business and couldn't be held morally responsible." The Magistrate ruled that for IDL to get discovery, they would have to provide "rap sheets" on the principals.

On March 11, 1985, Judge Harold Ackerman, in response to a summary judgment motion by the bank, ruled that the bank had wrongfully seized \$170,000 from IDL. He left for a jury to decide whether TLC's contract had been violated by the bank's seizure of its funds. The bank immediately filed a "motion for reconsideration," but Judge Ackerman reaffirmed his original opinion eight months later.

The bank's strategy has been to flood the court with motions, full of innuendo and attempts to prejudice. They also submitted hundreds of harassing interrogatories for the campaign officials to answer. They have added a new defendant each time a new name was learned in connection with the leaflets. There are now 10 defendants, including the campaign committees. The bank's complaint has been amended four times, each time adding charges. They attempted to add new new counts in December, over a year after the case began. While the magistrate permitted two additional leaflets to be added to the libel counts, she rejected two Racketeer Influenced and Corrupt Organizations (RICO) charges and two other counts. She permitted addition of fraud charges. The bank is now appealing the RICO denial.

The bank is clearly relying on coordination with a Boston grand jury and the FBI, which launched a political witchhunt against TLC, IDL, and other organizations associated with LaRouche, not coincidentally at the time of the bank's theft of the campaign funds. Bank attorney Albert Besser admitted to IDL's counsel that he was out to make the government's case for them. Only by relying on leaks and back-up from the corrupt prosecutor's office in Boston can the bank hope to trump up a case for fraud against the campaign committees. The FBI has intervened several times to try help First Fidelity make its case. They have denied access to documents in the possession of the grand jury which IDL needs to make its case, and an assistant U.S. attorney in Boston, Daniel Small, submitted a lying affidavit in support of one of the bank's motions.

At the present time, both sides have moved for summary judgment on the libel counts and the Bank has moved to collect, by filing a summary judgment motion, \$500,000 worth of chargebacks which they claim to have paid out since the account was closed. Of course, the bank's seizure of funds caused these chargebacks. The bank asks for a ruling that IDL has committed "libel per se," falsely accusing the bank and Ferguson of a crime.

The principal counterargument by IDL is: the truth. What the leaflets said is true, or, at the very least, opinion supported by ample documentation and entitled to complete protection under the First Amendment. Judge Ackerman will hold a hearing on Feb. 27 regarding the affidavit written by Assistant U.S. Attorney Small in Boston in support of the Bank. In March, the libel motions will be heard.