

Congress of the United States

Washington, DC 20515

November 16, 2009

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution NW
Washington, DC 20224

The Honorable Lorraine C. Miller
Clerk of the US House of Representatives
US Capitol, Room H154
Washington, DC 20515

The Honorable Nancy Erickson
Secretary of the US Senate
232 Hart Senate Office Building
Washington, DC 20510-7116

Ms. Pamela Gavin
Superintendent, Senate Office of Public Records
232 Hart Senate Office Building
Washington, D.C. 20510

Dear Commissioner Shulman, Clerk of House Lorraine C. Miller, Senate Secretary Erickson, and Senate Superintendent Gavin:

It has come to our attention that the Council on American Islamic Relations (CAIR) may be in violation of both the anti-excessive lobbying provision of its 501(c)(3) non-profit status and of the Lobbying Disclosure Act of 1995 by their failure to register with Congress as a federal lobbying organization.

As you know, IRS code states that:

“In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status. Legislation includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies. An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.”

Whether CAIR uses the Expenditure Test or the Substantial Part Test to self-govern its lobbying activities, in either case their activities warrant review by the IRS as to excessive lobbying. Please consider the following:

- CAIR created an internal electronic mailing list, called “Policy-net”, in order to alert Hill staffers about policy issues important to CAIR.
- In 2005, when Congress met for less than 150 days, CAIR by their own admission came to Capitol Hill no less than 72 separate occasions to lobby Members of Congress on the Patriot Act. In other words, half the days Congress was in session that year, CAIR was on the Hill lobbying against this piece of legislation. The coordination expenses, salaries, equipment use, travel costs, etc associated with a lobbying campaign of this sustained magnitude should count against any lobbying limits (IRS) and should clearly show that CAIR is engaged in overt lobbying of Congress and in need of registering with the Lobbying Disclosure Act of 1995 (Clerk of Court).
- According to CAIR documents, CAIR spends \$25,000 annually for a “lobby day on the Hill,” a dollar figure that should count towards any IRS non-profit expenditure test and also appears to exceed the amount allowed under the Lobbying Disclosure Act of 1995 (IE—no more than \$20,500 may be spent on lobbying activities in a six-month period).
- CAIR and its chapters regularly lobby via Email Action Alerts to those on their email lists, which directly ask the public to contact Members of legislative bodies and ask them to support, or oppose, legislation. Attached is a copy of 29 instances of these email alerts, including the links where you can find this information on their website. The sheer amount of these alerts show that someone (CAIR staff) is assigned to monitor the daily flow of Congress for issues of interest to CAIR. Staff salaries and equipment usage for such monitoring and lobbying should count against any excessive lobbying limit and count against the legal threshold of the Lobby Disclosure Act.

The above instances are by no means an exclusive list. CAIR is continually engaged in lobbying, as they themselves point out on their official website: “CAIR's Governmental Affairs Department conducts and organizes lobbying efforts on issues related to Islam and Muslims. The department is active in monitoring legislation and government activities and then, responding on behalf of the American Muslim community. CAIR representatives have testified before Congress and have sponsored a number of activities designed to bring Muslim concerns to Capitol Hill.”

At a minimum, CAIR appears to be in violation of the Lobbying Disclosure Act of 1995 and potentially in violation of the excessive lobbying provision of their non-profit status.

In light of the above activities, we ask the IRS to conduct a review of CAIR to see if they are in compliance with either the Expenditure Test or Substantial Part Test regulations

governing 501c(3)'s engaged in lobbying activities depending on which test CAIR elected to use to justify their activities.

If the organization has not filed a 501(h) exception, we ask the IRS to look into their activities to see if they exceed the legally allowed lobbying activities. If the organization has filed such exception, we respectfully ask that you supply us with a copy of their Form 5768.

Likewise we ask the Clerk of the House of Representatives and the Secretary of the US Senate in cooperation with the United States Attorney for the District of Columbia to investigate CAIR for potential violations of the Lobbying Disclosure Act of 1995.

At the conclusion of your investigation, I request you report to us the violations you found and the actions you have taken. I also request you send a copy of your findings to the appropriate officials at the Federal Bureau of Investigation and the US Department of Justice.

Sincerely,



Tom Coburn
United States Senator



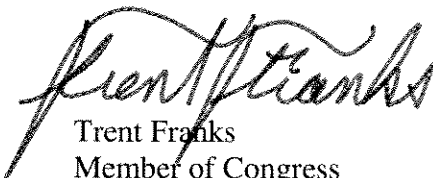
Sue Myrick
Member of Congress



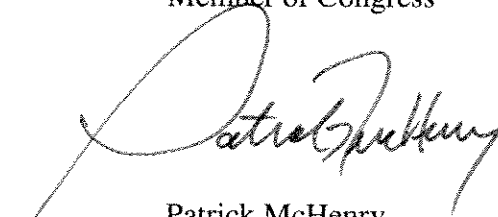
John Shadegg
Member of Congress



Paul Broun
Member of Congress



Trent Franks
Member of Congress



Patrick McHenry
Member of Congress

Cc: US Attorney, District of Columbia