



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

THIS IS THE BEGINNING OF MUR # 4402

DATE FILMED 1/16/98 CAMERA NO. 2

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U.S. Department of Justice

United States Attorney
District of Idaho

Pre Mur 323

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 27 12 36 PM '95

Mailing Address:

Box 32
Boise, ID 83707

Street Address:

First Interstate Center
877 W. Main, Suite 201
Boise, ID 83702

208/334-1211
FAX 208/334-1413

November 21, 1995

Mr. Lawrence Noble
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Dear Mr. Noble:

At the suggestion of Craig Donsanto of the Department of Justice's Public Integrity Section, I am referring a matter involving a Member of Congress from this District.

Recent news articles have reported that United States Representative Helen Chenoweth obtained a personal loan from West One Bank in Boise, Idaho. The loan was purportedly given on Mrs. Chenoweth's signature alone and, initially, was not reported in her required disclosures. According to news accounts, the loan was thereafter used for campaign matters and should have been reported. Apparently, the loan is now being reported and questions have arisen as to whether the loan was, in fact, an arms length transaction.

My initial review indicates that, while the loan was not reported, it was not necessarily made outside the normal course of banking business. At this juncture, the loan does not appear to be of a corrupt nature such as would normally warrant a criminal investigation. Thus, I am referring this matter for administrative review under Title 2 U.S.C. § 237(g)(a). Should you receive information that suggests that the loan was corrupt in any respect or made outside banking procedure as a favor to a Member of Congress, please advise me.

If this office can assist in any way, please do not hesitate to let me know.

Sincerely,

BETTY H. RICHARDSON
United States Attorney


TERRY L. DERDEN
Criminal Chief

TLD/lh



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 29, 1995

Betty H. Richardson, U.S. Attorney
U.S. Department of Justice
United States Attorney - District of Idaho
Box 32
Boise, Idaho 83707

RE: Pre-MUR 323
U.S. Representative
Helen Chenoweth

Dear Ms. Richardson:

This letter is to acknowledge receipt of your letter dated November 21, 1995, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), by U.S. Representative Helen Chenoweth. We are currently reviewing the matter and will advise you of the Commission's determination.

If you have any questions or additional information, please call at (202) 219-3690. Our file number for this matter is Pre-MUR 323.

Pursuant to 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), the Commission's review of this matter shall remain confidential until the file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION

999 E Street, N.W.

Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 4283
Pre-MUR 323
Date Complaint filed: November 21, 1995
Date Pre-MUR received: November 27, 1995
Date Activated: January 26, 1996
Staff Member: Stephan O. Kline

COMPLAINANT: William L. Mauk, Chair
Idaho Democratic Party

REFERRAL: U.S. Department of Justice

RESPONDENTS: Helen Chenoweth
Chenoweth for Congress Committee and
Wayne Crow, as treasurer
West One Bank
Consulting Associates, Inc.

RELEVANT STATUTES 2 U.S.C. § 434
2 U.S.C. § 439a
2 U.S.C. § 441b

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

MUR 4283 arose from a complaint received on November 21, 1995 by the Federal Election Commission ("Commission") William L. Mauk, Chair of the Idaho Democratic Party ("Complainant") alleged that Helen Chenoweth and her campaign committee, Chenoweth for Congress Committee and Wayne Crow, as treasurer, ("Chenoweth Committee" or "Committee") and West One Bank violated provisions of

the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA").

Respondents Helen Chenoweth, the Chenoweth Committee, and West One Bank were notified of the complaint on November 29, 1995. Respondents Helen Chenoweth and the Chenoweth Committee ("Chenoweth Respondents") responded to the complaint on December 15, 1995, and West One Bank responded to the complaint on January 18, 1996.

On November 27, 1995, the Commission received Pre-MUR 323, a referral from the Department of Justice, U.S. Attorney for the District of Idaho, concerning the same allegations arising in MUR 4283. On January 16, 1996, the Commission received an amended complaint in MUR 4283 addressing additional violations of the Act.

Respondents Helen Chenoweth, the Chenoweth Committee, and Consulting Associates, Inc. (collectively, with West One Bank, "Respondents") were notified of the amendment to the complaint on January 23, 1996. The Chenoweth Respondents responded on February 12, 1996.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

1. Corporate Contributions

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any candidate or political committee to knowingly accept any prohibited contribution. 2 U.S.C. § 441b(a). A contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money or any services, or anything of value. 2 U.S.C. § 441b(b)(2).

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The regulations exclude from the definition of contribution and expenditure "[a]ny activity which is specifically permitted by Part 114." 11 C.F.R. § 114.1(a)(2)(x). Activity which is permitted by Part 114 and which is particularly relevant in this case is the "[u]se of corporate or labor organization facilities" by certain persons under certain circumstances. Stockholders or employees of a corporation who engage in volunteer activity may make occasional, isolated or incidental use of corporate facilities in connection with a federal election without causing the corporation to make a contribution. 11 C.F.R. § 114.9(a)(1). For those activities fitting within this provision, stockholders or employees must reimburse the corporation to the extent that overhead is increased. If a stockholder or employee makes more than occasional, isolated, or incidental use of corporate facilities for individual volunteer activity, the stockholder or employee must reimburse the corporation within a commercially reasonable time for the normal and usual rental charge of the facilities.

11 C.F.R. § 114.9(c) provides that: "Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market." Similarly, persons, other than corporate employees or stockholders, who use corporate facilities such as telephones or typewriters in connection with federal elections must reimburse the corporation within a reasonable time for the normal and usual rental charge. 11 C.F.R. § 114.9(d). The term "usual and

normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution or expenditure.

11 C.F.R. § 100.7(a)(1)(iii)(B) and 11 C.F.R. § 100.8(a)(1)(iv)(B).¹

11 C.F.R. § 116.3(b), which is part of the regulatory scheme addressing debts owed by political committees or candidates, provides that a corporation in its capacity as a commercial vendor may extend credit to a candidate, political committee, or another person on behalf of a candidate or political committee provided that the credit is extended in the ordinary course of the corporation's business. 11 C.F.R. § 116.1(c) defines "commercial vendor" as "any person providing goods and services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services."

2. Bank Loans

Pursuant to 2 U.S.C. §§ 431(8)(B)(vii) and 441b(b)(2), and 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12), a loan by a bank is not a contribution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it meets four criteria: 1) the loan bears the usual and customary interest rate of the lending institution for the category of loan involved; 2) the loan is made on a basis which assures repayment; 3) the loan is evidenced by a written instrument; and 4) the

¹ Since the time the activities at issue in this MUR took place, the Commission has promulgated new regulations on corporate facilitation. These regulations appear at 11 C.F.R. § 114.2(f).

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loan is subject to a due date or amortization schedule. 2 U.S.C. § 431(8)(B)(vii) and 11 C.F.R. § 100.7(b)(41).

A loan will be considered to have been made on a basis which assures repayment if it is obtained using one of two sources of repayment or a combination of both. The first possible source of repayment is if the lending institution has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, and the fair market value of such collateral, less any liens, is equal to or greater than the loan amount. The second possible source of repayment is if the candidate or political committee provides the bank with a written agreement pledging future receipts such as public financing, contributions, or interest income, the amount of which is equal to the loan. 11 C.F.R. § 100.7(b)(11)(i). If these criteria are not met, the Commission will consider the totality of the circumstances on a case-by-case basis in determining whether a loan was made on a basis which assures repayment.

11 C.F.R. § 100.7(b)(11)(ii).

Pursuant to 11 C.F.R. § 101.2(a), any candidate who obtains any loan in connection with his or her campaign shall be considered as having obtained such a loan as an agent of his or her authorized committee.

3. Reporting Requirements

FECA requires the principal committee of each candidate for federal office to report each person who makes a loan to the reporting committee during the reporting period together with the identification of any endorser or guarantor of the loan, the date the loan was made, and the value of the loan. 2 U.S.C. § 434(b)(3)(E). In addition, the

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committee is required to report each person who receives a loan repayment from the reporting committee during the reporting period, along with the date and amount of each such loan repayment. 2 U.S.C. § 434(b)(5)(d). The term "person" is defined as "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. . . ." 2 U.S.C. § 431(11).

Under the Act, a bank loan obtained by a candidate is a receipt which must be reported to the Commission in the first report following a political committee's receipt of the loan. The regulations require that along with the report, the campaign must file a Schedule C-1 containing several types of information including: the date and amount of the loan; the interest rate and rate of repayment; the type and value of collateral used to secure the loan; whether the security is perfected; and an explanation of the basis upon which the loan was made if not made on the basis of traditional collateral or other permitted sources of repayment. The Schedule C-1 must also contain certification from the lending institution stating that the terms of the loan as reported are accurate; that the lending institution was aware of the Commission's loan regulations; that the loan is made on a basis that assures repayment; and that the loan was made with no more favorable rates or terms than other loans. 11 C.F.R. § 104.3(d). Pursuant to 2 U.S.C. § 434(b)(4), a committee must also report all disbursements made during the reporting period.

4. Personal Use

Excess campaign funds are those amounts received by a candidate as contributions which the candidate determines are in excess of any amount necessary to defray his or her campaign expenditures. 11 C.F.R. § 113.1(e). Pursuant to

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2 U.S.C. § 439a, excess campaign funds may be used to support any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office; and may be used for any other lawful purpose, including transfers without limitation to any national, state or local committee of any political party. No such excess funds may be converted by any person to any personal use. New regulations define "personal use" to include any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder.

11 C.F.R. § 113.1(g). The Commission has interpreted Section 439a so as to prohibit the use of campaign funds "to confer a direct or indirect financial benefit on such individual except in those situations where the financial benefit is in consideration of valuable services performed for the campaign." AO 1987-1 and AO 1986-39.

B. Complaint and Referral

Complainant William L. Mauk, Chair of the Idaho Democratic Party, filed a complaint with the Commission on November 21, 1995. He alleges that Helen Chenoweth, the Chenoweth for Congress Committee and Wayne Crow, as treasurer, and West One Bank violated FECA by receiving or making an "illegal" bank loan. Complainant alleges that Helen Chenoweth received a bank loan of \$40,400 from West One Bank, which was made without collateral or other security and thus did not meet the Act's requirement that it be "made on a basis which assures repayment." Complainant further alleges that the loan initially was reported on Committee reports as a personal loan from Helen Chenoweth to her campaign committee and not as a bank loan from West

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One Bank and originally was reported as bearing an interest rate of ten and one-quarter percent.

On November 27, 1995, Betty H. Richardson, United States Attorney for the District of Idaho, referred the same loan issue to the Commission as Pre-MUR 323. According to Ms. Richardson, "questions have arisen as to whether the loan was, in fact, an arms length transaction. . . . My initial review indicates that, while the loan was not reported, it was not necessarily made outside the normal course of banking business. At this juncture, the loan does not appear to be of a corrupt nature such as would normally warrant a criminal investigation." U.S. Department of Justice Referral (November 27, 1995).

On January 16, 1996, Complainant amended his complaint alleging that during the 1993-1994 election cycle, Congresswoman Chenoweth and her campaign committee were engaged in a series of transactions with Consulting Associates, Inc. ("Consulting Associates") involving corporate contributions and the conversion of campaign funds to the candidate's personal use. Complainant enclosed FEC reports filed by the Chenoweth for Congress Committee recording a \$1,750 loan by Consulting Associates to candidate Chenoweth which was later repaid with campaign funds. Complainant also included a copy of a FEC report containing a \$2,500 disbursement to Consulting Associates labeled "travel disbursement." Consulting Associates is an Idaho corporation and Helen Chenoweth is a principal owner, officer, and employee of this corporation. During the 1993-94 campaign, expenditures by the Chenoweth Committee to Consulting Associates totaled over \$35,000 and included payments for rental, phone expenses, office/equipment

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rental and consulting fees. During this period, "the candidate was the secretary and treasurer of the corporation and relied upon its consulting and other services as her principal, if not exclusive, source of income." Supplemental Complaint at 2 (January 16, 1996).

According to Complainant, during vigorous 1994 primary and general election campaigns, "Public appearances and reliable information from close observers are that these campaigns were virtually full-time commitments by the candidate. Despite this, surprisingly, the House Financial Disclosure Statements reflect that Ms. Chenoweth's salary from Consulting Associates increased during her 1994 campaign, as compared to the prior, non-election year." *Id.* at 3. Complainant notes the Committee first declared a \$8,349.11 debt to Consulting Associates in its 1994 year-end report but that this debt is labeled "consulting primary." Complainant concludes by stating: "All indications from the available public records are that Ms. Chenoweth was paying herself directly or indirectly for 'consulting' services to her own campaign. By funneling money from her campaign through Consulting Associates, Inc., it appears that Ms. Chenoweth was able to launder political contributions for her personal gain." *Id.*

C. Responses

1. **Helen Chenoweth Chenoweth for Congress Committee and Wayne Crow, as treasurer**

Helen Chenoweth and the Chenoweth Committee responded to the initial complaint on December 15, 1995. Counsel contends that the 1994 West One Bank loan "was not a contribution within the meaning of the FEC laws, as it was done in the normal course of the bank's business based upon Ms. Chenoweth's creditworthiness, her assets

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that far exceeded the obligations involved, and her long term relationship with the bank, and that the loan was in accordance with all applicable laws." Chenoweth Response at 1 (December 15, 1995).

According to this response, the listing of the loan at \$40,000 instead of \$40,400 (a base loan of \$40,000 and \$400 in transactional fees) on FEC forms was "inadvertent." The Committee also states that the loan's initial interest rate was 10%, which was the usual and customary interest rate for the loan. The Committee originally reported the loan as coming from Ms. Chenoweth; however, in January, 1995, the Committee treasurer obtained a statement from the West One Bank loan officer, provided the statement to the FEC, and disclosed details of the loan. "The record clearly shows that there was never any attempt to falsify or 'hide' the loan, and any errors made in reporting the loan were harmless mistakes based on a plain reading of the relevant guidelines." Id.

The Chenoweth Respondents state that Ms. Chenoweth had banked with West One Bank and its predecessor-in-interest (Idaho First National Bank) for twenty years, and she had received financing for various projects from the bank. "Her ability to obtain a loan of \$40,000.00 was nothing new with West One Bank." Id. The Chenoweth Respondents insist that Ms. Chenoweth's assets "far exceeded what she owed on such a loan," noting that she only owed \$30,000 on her home which was assessed at \$72,000 and is presently valued at \$91,000. Ms. Chenoweth contends that she met her interest obligations in 1995 and the loan was paid off by refinancing and securing the new loan with a second mortgage on her residence. Respondents note "that in response to concerns raised in the news media regarding the loan, Mrs. Chenoweth promptly went the extra

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mile by securing the loan with a second mortgage on her residence." *Id.* at 2. "Prior to becoming a candidate for Congress, it was not unusual for Ms. Chenoweth to sign a personal guarantee in the form of a promissory note for a loan, credit line, or credit card on behalf of the corporation she worked for and whom she was the secretary-treasurer." *Id.*

Counsel states that, although in news reports Ms. Chenoweth was quoted as saying her campaign was in touch with lawyers, in fact this was a misstatement and the Committee had received advice from the National Republican Congressional Committee. Counsel also states that he posed questions to a "non-lawyer on the FEC staff . . . regarding the same scenario involving the loan in question, and the response was that a loan involving only a promissory note was completely legal as long as it was in the normal course of business of the bank and bore the customary interest rate." *Id.*

On February 12, 1996, counsel for Ms. Chenoweth and the Chenoweth Committee responded to the amended complaint.² Counsel initially notes that the issue of the Chenoweth Committee's acceptance of loans from Consulting Associates was previously "asked and answered" in MUR 4034.³ The Chenoweth Respondents contend that the \$2,500 "travel reimbursement" to Consulting Associates was "a payment on account at Consulting Associates, Inc. for services and expenses relating to

² The Commission did not receive a response from Consulting Associates.

³ In MUR 4034, complainant Bill Mauk, Chair of the Idaho Democratic Party and the complainant in this matter, alleged that Helen Chenoweth and the Chenoweth for Congress Committee violated FECA by accepting two loans totaling \$1,750 from Consulting Associates, Inc. Because that matter involved less significant issues relative to other matters pending before the Commission, a limited amount of money, and because the respondents had undertaken remedial action, the Commission took no action and closed the file effective November 14, 1994.

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consultation. . . ." Chenoweth Response at 1 (February 12, 1996). Counsel denies that Ms. Chenoweth used corporate resources to circumvent campaign finance laws and states that payments by the campaign to Consulting Associates were not converted to Ms. Chenoweth's personal use.

Counsel included monthly billing records from Consulting Associates to the Chenoweth campaign. The following chart is derived from the records:

Bill Month	Rent	Receptionist	Supplies	Computers	Mr. Ravenscroft
September 1994	\$506.25 (75%) ⁴	\$782	\$187.50	\$2,400 11/93-10/94	--
October 1994	\$506.25 (75%)	\$782	\$187.50	--	--
November 1994	\$600	\$949.55 (90%)	\$200	\$200	\$1,208.42 (50%)
December 1994	\$600	\$1,042.02 (90%)	\$200	\$200	\$1,537.50 (75%)
January 1995	\$506.25 (75%)	\$332 (50%)	\$6.75	\$100	\$332 (15%)

Attachment 4.

The Chenoweth Respondents state that Consulting Associates had more than enough income to pay Ms. Chenoweth's salary from sources other than the Chenoweth Committee. These sources included prior political clients and current governmental affairs clients. Counsel refers to U.S. House of Representatives financial disclosure

⁴ The percentage within parentheses allegedly is the portion of the Consulting Associates' resources used by the Committee in that month. Apparently, Consulting Associates billed the Chenoweth Committee for a percentage of the amount that the corporation actually paid for the item.

statements which had been attached to the amended complaint to list Ms. Chenoweth's income received from Consulting Associates. In 1993 she earned \$25,350. In 1994 she earned \$33,150, \$23,450 prior to May 1, of that year. Counsel contends: "Mr. Mauk alleges that Rep. Chenoweth received a substantial increase in income and thereby creates an illusion Consulting Associates, Inc. had little or no income of its own during 1994, that Rep. Chenoweth was not working during the campaign, and that her private business had come to a complete halt. This is simply not true. Such bald assertions are not supported by the facts." *Id.* at 3.

Counsel then lists all income for 1993

and all income for 1994

. He

states:

Ms. Chenoweth continued to work full time well into the year at Consulting Associates, Inc. as a consultant helping with the clients of CA, Inc. Her chief client provided regular retainers to CA, Inc. for Mrs. Chenoweth's work. She managed that client's various efforts to work with the government on his projects and to manage his attorneys relative to a major lawsuit in question. She traveled quite a bit for this particular client and spent many, many hours during the 1994 campaign working for him. As her own campaign became more tense, she had to draw away from her full-time work in August/September, 1994, and she went into full-time campaigning for the U.S. Congress in September, 1994. Yet, even in September of 1994, she did some work for her client, assisting him in obtaining other consultants and in closing down her work for him.

Id. at 7. Counsel insists that in the last quarter of 1994 there were no salary payments or bonuses from Consulting Associates to Ms. Chenoweth and there have been none since she assumed office.

According to the response, the two principals of Consulting Associates -- Vern Ravenscroft and Helea Chenoweth -- "were politically involved. The company they started, Consulting Associates, Inc., used their expertise to consult and manage political campaigns, as well as lobbying the state legislature and dealing with governmental officials." *Id.* at 2. Consulting Associates was started in 1979 and began to wind down in January, 1995.⁵ Counsel contends it was difficult to gather information for this response because Mr. Ravenscroft lives 100 miles from him and Wayne Crow, the Committee treasurer, has had colon cancer and "has been out of commission" since early December, 1995.

2. West One Bank

West One Bank responded to the complaint on January 18, 1996. The bank contends that "if there was any violation of the FECA by West One Bank, such a violation was a technical one, at best, and now has been rectified" -- the loan to Ms. Chenoweth was restructured in November, 1995, when she obtained a second mortgage on her residence. West One Bank Response at 1, (January 18, 1995). Prior to receiving the 1994 bank loan from West One Bank, Ms. Chenoweth had been a customer of West One Bank for five years. During that period she maintained an account with the bank, took out two loans, and had a line of credit. "Her payment history as to those loans and the line of credit had been excellent." *Id.*

⁵ According to counsel, Consulting Associates, Inc. is no longer an operating business and counsel believes that it may have forfeited its corporate status late in 1995 by failing to pay a corporation tax. Dun & Bradstreet states that it was informed by a former corporate officer of Consulting Associates that the corporation was discontinued in the latter part of 1995.

On November 22, 1994, Ms. Chenoweth applied for a personal loan. According to West One Bank, "The loan officers who processed Ms. Chenoweth's loan application handled the application in the manner in which they would have handled any other individual's application for a personal loan for business purposes and followed the bank's routine procedures in processing the application." *Id.* at 2. The bank admits that this loan application may have been distinguished from others because the loan officers knew Ms. Chenoweth had been elected to Congress and thus would have a much higher guaranteed income. After reviewing Ms. Chenoweth's loan documents, the loan officers determined that she was qualified "under the bank's guidelines for the granting of personal loans," *id.*, to receive a \$40,400 unsecured loan (including \$400 for the bank's loan fee) at a variable interest rate, initially at 10%.

West One Bank contends that this loan complied with all requirements, "except, possibly, the requirement that the loan be 'made on a basis which assures repayment', since the loan was unsecured." *Id.* Although Ms. Chenoweth had advised the bank that the money would be partially repaid with proceeds from fund-raisers and that part or all of the loan proceeds would be used for campaign debts, "the loan officers were not, aware and did not believe that fact might make the loan subject to any special requirement other than the bank's guidelines for the granting of loans." *Id.* at 2-3. Until the loan became the subject of media coverage in the fall of 1995, the bank was unaware of any possible "technical" deficiencies in the loan. West One Bank states:

Once it appeared that the loan might not satisfy the "assurance of repayment" requirement, both the bank and Ms. Chenoweth took steps to rectify the situation. Ms. Chenoweth made a large principal payment against the November 23, 1994 loan. She then applied for, and received, a new loan from West One Bank that was secured by collateral in her

Idaho residence. The proceeds from that loan were used to retire the November 23, 1994 loan. . . . The new loan that West One Bank issued to Ms. Chenoweth on November 8, 1995 is fully collateralized and was subjected to the bank's normal and routine process for the granting of such loans.

Id. at 3. The bank contends that the new loan is in full compliance with the requirements of 11 C.F.R. § 100.7(b)(11). The bank also submitted certain documents relating to the 1994 and 1995 loans.

D. **Analysis**

1. **Making of the West One Bank Loans**

According to the regulations, a loan will be deemed to be made in the ordinary course of business if meets four criteria. The 1994 Chenoweth loan met two of the four criteria in that it was evidenced by a written instrument -- the promissory note -- and it was subject to a due date of November 23, 1995. However, this loan may not have been made in the ordinary course of business, as it appears that the loan neither met the assurance of repayment criterion nor bore the usual and customary interest rate of the lending institution for the category of loan involved. 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12). Although Helen Chenoweth applied for these loans in her own name, she received them as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a).

With respect to the assurance of repayment criterion, the bank did not receive either of the two alternative sources of repayment which automatically satisfy the assurance of repayment criterion as reflected in 11 C.F.R. § 100.7(b)(11)(i) -- it did not have a perfected security interest in collateral, the fair market value of which was greater than or equal to \$40,000, and there was no written agreement signed by the candidate or

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her committee pledging future receipts.⁶ Nor does the totality of the circumstances in this situation indicate that the loan was made on a basis which assured repayment.

11 C.F.R. § 100.7(b)(11)(ii).

West One Bank appears to concede that the 1994 loan probably would not meet the assurance of repayment requirement. The bank notes in its response that: "Once it appeared that the loan might not satisfy the 'assurance of repayment' requirement, both the bank and Ms. Chenoweth took steps to rectify the situation." West One Bank Response at 3. The bank acknowledges elsewhere: "As is readily apparent, the loan to Ms. Chenoweth complied with all of the requirements of 11 C.F.R. § 100.7(b)(11) except, possibly, the requirement that the loan be 'made on a basis which assures repayment', since the loan was unsecured." *Id.* at 2. Ms. Chenoweth appears to have restructured the loan using home equity after a number of newspaper articles commented unfavorably on this transaction.

Although West One Bank decided that Ms. Chenoweth was a good credit risk -- the loan memorandum recommending approval of the loan noted that Ms. Chenoweth has good repayment ability, good credit, limited debt, and a sure job for two years (Attachment 1 at 2) -- these factors do not satisfy the assurance of repayment criterion. In addition, it is not even clear that the bank memorandum supporting approval of the loan was accurate in stating that Ms. Chenoweth had good credit in 1994. Although the

⁶ Although Ms. Chenoweth had orally informed West One Bank that she would use campaign fund-raisers to repay a portion of the 1994 loan, this was not a pledge of future receipts required by 11 C.F.R. § 100.7(b)(11)(i)(B) and was not a basis to assure repayment, in particular because the Chenoweth Committee already had significant outstanding debts at the time this loan was made.

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bank did not attach Ms. Chenoweth's credit history to its response, there is no indication that the bank analyzed Ms. Chenoweth's credit history in 1994 or it would have noted that she had missed payments during the election year. In contrast, for the 1995 loan, the bank attached a consumer loan worksheet and checklist. This document noted on the "derogatory or insufficient credit history" section that "slow credit occurred during campaign year. Credit is now current." *Id.* at 11. Although there may have been different requirements for processing the unsecured 1994 loan and the 1995 secured loan, presumably this information would have appeared on a 1994 credit report which was ignored by the bank in its loan recommendation. Furthermore, in making the 1994 loan the bank received absolutely no collateral. Although the promissory note permitted a right of set off such that the bank could attach all funds held in Ms. Chenoweth's name at West One Bank, Ms. Chenoweth apparently had no personal accounts in the bank. On her financial statement dated November 23, 1994, Ms. Chenoweth listed her sole cash assets as \$6,322 held by the National Guard Credit Union. *Id.* at 3.⁷

⁷ Other evidence that the 1994 loan may not satisfy the assurance of repayment criterion arises from the amount of the loan when compared to her net worth.

Two newspaper articles focusing on this transaction, one by the Associated Press and one appearing in the Idaho Statesman, state that the industry "rule of thumb" for unsecured loans is to make a loan equal to no more than 10% of an individual's net worth. An Idaho Statesman article by a reporter who attempted to mimic Ms. Chenoweth by applying for an unsecured loan and got kicked out of West One Bank by its president, notes that "[w]hen I filled out my application with Joyce Brewer, manager of the Statehouse branch, she said the 'general rule' for unsecured loans is 10 percent of a borrower's assets. . . . She also said the 10 percent rule is flexible." Attachment 2 at 2 and 4. This Office will gather additional information about this issue during its investigation.

Respondents also do not appear to have satisfied the requirement that the loan bear the usual and customary interest rate of the lending institution for the category of loan involved. The 1994 \$40,000 unsecured loan was obtained at a variable rate equal to 1.5% over prime, initially at 10%. The 1995 loan was for \$30,400 loaned at a fixed rate of 9.67%; in October, 1995 the prime rate was 8.75%. West One Bank did not provide information showing that the rates in effect for the 1994 and 1995 bank loans were the customary interest rates for the time periods during which the two loans were made, but publicly available information obtained concerning the current practices of two banks raises questions as to whether the loans may have been made below market rate.⁸

Recent communications between the Committee and the Commission raise additional questions regarding the 1995 loan. Pursuant to a recent request for additional information from the Reports Analysis Division questioning in part the Chenoweth Committee's failure to submit a C-1 and accompanying loan document relating to the

⁸ In an effort to determine whether the interest rate was something this Office should examine, this Office contacted Crestar, a local District of Columbia bank, and West One Bank in Boise, Idaho to find out how a bank's lending rate for personal loans is currently related to the prime rate for both secured and unsecured loans. On February 7, 1996, when the prime lending rate was 8.25%, Crestar would have charged 10.25% interest on a \$40,000 secured loan (2% above prime) and would have charged 12.5% interest on a \$40,000 unsecured loan (4.25% above prime). There would be no additional loan fees. According to a West One Bank loan officer, for a loan secured with home equity, the rate on a \$40,000 loan would be either 9.68% (variable rate) or 10.15% (fixed rate), in addition to a \$500 flat loan fee. If the same loan were unsecured the bank would charge 12.13% (variable rate) or 14% (fixed rate), in addition to a 1% loan application fee. Thus, both Crestar and West One Bank currently charge at least 2% more for an unsecured loan than for a secured loan and West One Bank currently charges almost 4% over prime for an unsecured adjustable rate loan. Although not determinative of the interest criterion for the 1994 and 1995 loans, it appears that at present an unsecured loan with an interest rate of 1.5% over prime and a secured loan with an interest rate of .92% over prime would not satisfy that criterion. In discovery, this Office intends to elicit West One Bank's practices regarding interest rates at the time these loans were made.

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1995 loan, counsel for the Chenoweth Committee states that West One Bank has "taken a firm position that [the 1995 loan] is a personal loan, as it is secured that it was a personal loan to Helen Chenoweth and not to the Committee." Chenoweth Committee Response to Request for Additional Information (April 23, 1996). Although not yet argued in context of the instant matter, West One Bank may now argue, at least with respect to the 1995 loan, that it did not have to comply with the regulations governing loans made to candidates or their committees because it had only made personal loans to Ms. Chenoweth.

If the loan is made to the candidate and then it is used for campaign purposes, the loan must meet the FECA's requirements governing loans to candidates and committees. Ms. Chenoweth sought the original 1994 loan to pay off debts accrued by her committee and she received the loan as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a). Apparently, in 1995, after a great deal of publicity she and West One Bank decided to restructure the loan so that it would be secured by her personal residence. This restructuring however does not change this loan into a personal loan. The bank's unwillingness to sign a schedule C-1 certifying that the 1995 loan was made in the ordinary course of business substantiates concerns that the loan was not made in the ordinary course of business.⁹

⁹ There also may have been additional elements of the 1994 loan which indicate that it was not made in the ordinary course of business. Ms. Chenoweth applied for her loan on November 22, 1994, actually signed her application and financial statement on November 23, 1994, and received her loan payment on November 23, 1994. This seems remarkably swift, particularly when the loan memorandum recommending approval of the loan was dated December 2, 1994, even though the bank's response states that this is an internal document frequently prepared after the loan has been issued. West One Bank, Response at 2. In the same conversation this Office had with the West One Bank loan

For these reasons, it appears that there is reason to believe that neither West One Bank's 1994 loan nor the 1995 loan was made in the ordinary course of business.¹⁰ Accordingly, this Office recommends that the Commission find reason to believe that West One Bank violated 2 U.S.C. § 441b for making contributions in connection with an election to federal office. This Office also recommends that the Commission find reason to believe that the Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 441b for accepting these contributions. Because it is clear that the candidate personally applied for and received the loans, and presumably negotiated their favorable terms, this Office recommends that the Commission find reason to believe that Helen Chenoweth violated 2 U.S.C. § 441b for accepting these contributions in her personal capacity as a candidate.

officer on February 7, 1996, the loan officer stated that unsecured loans must be paid off in installments and that the bank does not customarily allow the loan recipient to make a single balloon payment. In this case, interest was paid in quarterly payments and the face value of the loan was paid off at the end of the loan cycle.

¹⁰ Counsel for the Chenoweth Respondents states that he "inquired of a non-lawyer on the FEC staff and posed the question regarding the same scenario involving the loan in question, and the response received was that a loan involving only a promissory note was completely legal as long as it was in the normal course of business of the bank and bore the customary interest rate." Chenoweth Response at 2. This Office contacted the FEC's Public Information Division and spoke with two public affairs specialists. Both said they would have been quite cautious with the information they divulged about loans and would have suggested that the caller make an advisory opinion request. The public affairs specialists said if the issue of collateral specifically came up they would have referred the caller to the two specific methods of satisfying the requirement at 11 C.F.R. § 100.7(b)(1)(i) and that the Commission would examine the assurance of repayment issue on a case-by-case basis if the means of assuring repayment did not comply with the requirement. The specialists insisted that they would never have said that the proposed loan obtained solely by a promissory note without collateral was completely legal. This Office also spoke to the Reports Analysis Division analyst who handles the Chenoweth Committee. She concurred with the information provided by the public affairs specialists.

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2. Reporting Issues

It appears that there were numerous requirements involving the reporting of both the 1994 and 1995 West One Bank loans with which the Chenoweth Committee failed to comply. The main violation appears to be that for almost 11 months on three separate reports -- the 30 Day Post-General Election Report, the 1994 Year End Report, and the 1995 Mid-Year Report -- the Committee failed to report the 1994 loan as a loan from West One Bank; instead, it stated that Helen Chenoweth was the source of the \$40,000 loan. The loan was made on November 23, 1994, and the campaign did not list the bank as the maker of the loan on its Schedule C form until October 20, 1995, almost eleven months after the loan was obtained; this delinquent reporting occurred only after the transaction had received substantial media attention. This is contrary to the Commission's regulations which clearly state that any candidate who obtains any loan in connection with his or her campaign is considered to have obtained such a loan as an agent of his or her authorized committee. 11 C.F.R. § 101.2(a).

Although on February 2, 1995 the campaign did submit a Schedule C-1 form concerning this loan and attached the 1994 promissory note indicating that West One Bank was the lender, even this form was not submitted until almost two months after it was due. Further, a crucial portion of the C-1 stating -- "if neither of the types of collateral described above was pledged for this loan, or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made and the basis on which it assures repayment" -- was not filled out. Finally, since a committee need only file a C-1 one time and since the Schedule C's on the next two reports

continued to identify Ms. Chenoweth as the source of the loan, rather than the bank, the public record contained misleading and inaccurate information even after the C-1 was filed.

The Committee appears to have correctly reported the 1995 Chenoweth loan, but it has failed to submit the Schedule C-1 form with its required documentation and certification for that loan. Indeed, prior to a March 1996 request for additional information on this point from the Reports Analysis Division, the Chenoweth Committee apparently had never attempted to comply with the provisions of 11 C.F.R. § 104.2(d)(1) and submit a completed Schedule C-1. Even if counsel's statement is correct that the West One Bank now contends Ms. Chenoweth's 1995 loan is personal and not campaign related, the Committee still remains in violation of the reporting provision.¹¹

The Chenoweth Respondents claim that these reporting violations were all "harmless" mistakes.¹² Although the misstatement of the interest rate and correct loan

¹¹ Counsel for the Chenoweth Committee now states that because he cannot obtain a signed C-1 from West One Bank, he is "directing the campaign to amend prior reports with regard to this loan, and show it as a personal loan from the bank to Helen Chenoweth, and that this has in turn been loaned to the campaign." Chenoweth Committee Response to Request for Additional Information (April 23, 1996). In a letter dated May 9, 1996, this Office informed the Committee that its "failure to timely submit a schedule C-1 is implicated in MUR 4283, and the Commission will address this issue within the context of the MUR. Please do not amend the Committee's reports to describe the 1995 loan as a personal loan from Congresswoman Chenoweth to the Chenoweth Committee until and unless you hear from the Commission." Office of General Counsel Response to Chenoweth Committee's April 23, 1996 Letter (May 9, 1996).

¹² The Chenoweth Committee apparently has misreported a number of other items in its past reports. The Committee consistently reported the 1994 loan rate as 10.25% when the interest rate, at least initially, was 10.00%. The loan amount actually became \$40,400 because of the addition of \$400 in extra loan fees which were rolled over into the loan principal, but the campaign reported it as a \$40,000 loan. In its 1994 Year End Report, the Chenoweth Committee first reported a debt owed to Consulting Associates of \$8,349.11 which was described as "consulting primary;" the Committee made a \$2,500

amount is minor, the misreporting of the source of the loan and the absence of collateral is clearly not harmless. Accordingly, this Office recommends that the Commission find reason to believe that the Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3.

3. Consulting Associates Loans

According to the Chenoweth Committee's 1993 Mid-Year Report, the Committee accepted two loans from Consulting Associates, Inc.¹³ -- \$1,250 on May 25, 1993 and \$500 on June 11, 1993. Attachment 3 at 2. The Committee repaid the loans on June 30, 1993. *Id.* at 3. The Reports Analysis Division wrote to the Committee and explained that corporate contributions are prohibited under FECA and requested clarification. *Id.* at 4. The treasurer responded: "Yes, we had a loan from a corporation which opened the bank account for the election committee. As soon as the committee got the campaign guide and read it, we realized the monies were prohibited and it was then immediately paid back. I hoped the report openly reflected this information and I regret the error." *Id.* at 5. The making of a loan by a corporation, which is not in the business of making loans, or the acceptance of such a loan is prohibited under the Act. Accordingly, this Office recommends that the Commission find reason to believe that Consulting Associates Inc. violated 2 U.S.C. § 441b for making \$1,750 in contributions to

payment on this debt during this reporting period. The Committee apparently failed to timely report this debt since the primary had occurred in May of 1994. Finally, in Schedule D of the 1995 Mid Year and 1995 Year End Reports, the beginning and ending debt balances for the Consulting Associates entries did not match from one report to another. After subsequent amendments in April 1996, these entries still appear to be incorrect.

¹³ Although we have no information suggesting that Consulting Associates, Inc. is a Sub-chapter S corporation, we plan to find out in discovery.

Chenoweth for Congress Committee. There is also reason to believe that the Chenoweth for Congress Committee violated 2 U.S.C. § 441b by accepting \$1,750 in contributions from Consulting Associates.

4. Consulting Associates Expenditures

The Chenoweth Committee may have received other corporate contributions from Consulting Associates stemming from the fact that the campaign used Consulting Associates' facilities. Information received to date indicates that the Committee may not always have paid the proper amount and may not always have paid Consulting Associates within a commercially reasonable time period. The Chenoweth Committee may also have misreported the purposes of some of its transactions with Consulting Associates.

During the course of the 1994 primary and general election campaigns, the Chenoweth Committee made numerous disbursements to Consulting Associates, a firm partially owned by Helen Chenoweth.¹⁴ The Committee reported miscellaneous expenditures which it identified as follows:

PURPOSE	DATE	AMOUNT
Office/Equipment Rental	8/12/94	\$2,255.00
Phone Expense	9/20/94	\$646.37
Rental	12/1/94	\$3,157.97
Rental	12/22/94	\$3,579.52
Travel	12/29/94	\$2,500.00
Total:		\$12,138.86

In addition, the campaign made more than \$23,000 in disbursements to Consulting Associates for which the stated purpose was "consulting fees":

¹⁴ Ms. Chenoweth owned 49.5% of Consulting Associates and was its secretary-treasurer. Vernon Ravenscroft also owned 49.5% of Consulting Associates and was its president. Bob Robson owned the final 1% of capital stock.

9/19/94		\$5,000.00
10/28/94	—	\$1,549.50
11/1/94		\$1,108.48
11/2/94		\$675.00
11/4/94		\$1,500.00
11/16/94		\$1,000.00
11/23/94		\$3,336.59
3/13/95		\$2,028.00
7/18/95		\$1,277.00
11/30/95		\$500.00
12/29/95		\$5,349.11
12/29/95		\$541.81
Total:		\$23,865.49

Counsel for the Chenoweth Respondents provided copies of monthly bills from

Consulting Associates to the Chenoweth Committee which reflected some but not all of the reported disbursements. Those records are summarized as follows:

<u>Bill Month</u>	<u>Rent</u>	<u>Receptionist</u>	<u>Supplies</u>	<u>Computers</u>	<u>V. Ravenscroft</u>	<u>Month Total</u>
September 1994	\$506.25	\$782	\$187.50	\$2,400	--	\$3,875.75
October 1994	\$506.25	\$782	\$187.50	--	--	\$1,475.75
November 1994	\$600	\$949.55	\$200	\$200	\$1,208.42	\$3,157.97
December 1994	\$600	\$1,042.02	\$200	\$200	\$1,537.50	\$3,579.52
January 1995	\$506.25	\$332	\$6.75	\$100	\$332	\$1,277
TOTAL	\$2,718.75	\$3,887.57	\$781.75	\$2,900	\$3,077.92	

Total, 9/94 - 1/95 = \$13,365.99

See Attachment 4.

Although it is possible to reconcile the amounts of some of the bills with the amounts of some of the reported disbursements, it is more difficult to match the basis listed in the bills for the fees charged with the reported purposes of disbursements. For example, monthly billing records supplied by counsel for the Chenoweth Respondents sometimes include charges for use of Consulting Associates facilities (rent, equipment, and supplies) together with a charge for partial use of a receptionist and the services of Vernon Ravenscroft, the president of Consulting Associates. This can be seen, for example, in the November 1994 and December 1994 bills.

While the Committee reported two disbursements in December 1994 that matched exactly the amounts of the November and December bills provided by the Chenoweth Respondents, the only purpose the Committee reported for these disbursements was "rental," even though the bills that appear to match include charges for supplies, the computers, and the time of Vernon Ravenscroft and a receptionist. Since disbursements to pay bills which included charges for Mr. Ravenscroft's time were sometimes reported as being for rental, this also raises questions about what may have been the actual purpose of the disbursements reported by the committee only as "consulting fees." In fact, the Chenoweth Respondents add to this confusion by contending that the \$2,500 "travel reimbursement" to Consulting Associates as reflected in the 1994 Year End Report was actually "a payment on account at Consulting Associates, Inc. for services and expenses relating to consultation. . . ." Chenoweth Response at 1 (February 12, 1996). The apparent erroneous statements of purpose for these disbursements made by the

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Committee to Consulting Associates at least appear to be violations of
2 U.S.C. § 434(b)(4).—

Since respondents have not provided us with all the bills, it is also unclear the extent to which Consulting Associates was reimbursed at the proper rate and within the proper time period. Indeed, given the questions about the accuracy of the reported purposes of the Chenoweth Committee's disbursements, it is not even clear whether these transactions are reflective of the Committee's use of corporate facilities pursuant to section 114.9(d) of the regulations, reflective of a consulting relationship pursuant to section 116.3, or both.¹⁵ The information provided by the Chenoweth Respondents and the Chenoweth Committee's reports raises these questions and warrants further investigation on whether the Committee used Consulting Associates' facilities or purchased consulting services.

Even the limited evidence received to date appears to indicate instances in which, under any measure, the Committee did not reimburse Consulting Associates on a timely basis. For instance, the September 1994 bill contains a charge of \$2,400 for "Rent two computers for one year. Nov. 1993 thru Oct. 1994." Attachment 4 at 1. Similarly, the January 1995 bill for \$1,277 was not paid until July 18, 1995 (the disbursement is listed as a consulting fee). Moreover, debts owed to Consulting Associates reflected in the

¹⁵ In addition, in instances when Ms. Chenoweth as a stockholder in Consulting Associates personally made more than occasional, isolated, or incidental use of Consulting Associates' facilities, she was required to personally reimburse Consulting Associates within a commercially reasonable time for the normal and usual rental charge. 11 C.F.R. § 114.9(a)(2).

1994 Year End report were not paid off until December 29, 1995 -- at least one year after they were accrued. —

Two other charges for which the Committee was billed or disbursed funds -- receptionist services and travel -- also appear to evidence violations of 2 U.S.C. § 441b unless Consulting Associates regularly extended credit for those services. The monthly reports provided by counsel show \$3,887.57 in bills for a receptionist between September, 1994 and January, 1995. A statement from the reception included by counsel, dated October 12, 1994, notes: "I have examined my work schedule and for the month of September find that I spent approximately 80% of my total work hours on campaign related efforts. For our records we certainly can justify at least a 75% charge to the campaign: 132 hours @ \$5.50 an hour for a total of \$726.00." Attachment 4 at 6.

11 C.F.R. § 114.9 "applies only to the use of corporate facilities and does not include the use of the paid services of corporate employees. Therefore, this section cannot be read as supporting or authorizing . . . reimbursement . . . regarding the compensation paid to . . . employees for the political services rendered to Federal candidates." Advisory Opinion 1984-24.¹⁶ The Committee also disbursed \$2,500 to Consulting Associates for "travel." In the absence of evidence that Consulting Associates extended credit for, or even provided, receptionist services or travel services to its customers in the ordinary course of its business, the provisions of 11 C.F.R. § 116.3 would not apply. As there is no evidence of advance payment by the campaign, Consulting Associates' payments of the

¹⁶ Under new regulations to appear at 11 C.F.R. § 114.2(f), a corporation which is not in the business of providing secretarial services may provide such services to a campaign to assist in fund-raising without violating 2 U.S.C. § 441b, if the campaign pays in advance for the fair market value of the services.

receptionist's salary and travel expenses appear to have constituted advances and thus may have been corporate contributions totaling \$6,387.57, in violation of 2 U.S.C. § 441b.

This conflicting information relating to the Chenoweth Committee's use of Consulting Associate's facilities and consulting services provides additional bases for reason to believe findings of 434 and 441b against the Committee and 441b against Consulting Associates. The evidence appears to show that the Chenoweth Committee may not always have paid the proper amount and may not always have paid Consulting Associates within a commercially reasonable time period. Furthermore, the Chenoweth Committee may have misreported the purposes of some of its transactions with Consulting Associates.

The amended complaint also raises questions concerning possible violations of 2 U.S.C. § 439a. In support of this allegation, Complainant notes the significant amounts of payments made by the Chenoweth Committee to Consulting Associates, and that Ms. Chenoweth relied on her Consulting Associates' salary as her sole source of income during the campaign. Complainant also notes that Ms. Chenoweth faced hotly contested primary and general elections in May and November 1994, both requiring virtually full-time commitments from the candidate; however, Ms. Chenoweth salary from Consulting Associates increased in 1994 as opposed to 1993.

A candidate and his or her campaign committee may exercise wide discretion in making expenditures, 2 U.S.C. § 441 (9), but that discretion is not unfettered. The candidate may not convert excess campaign funds to personal use. The Commission has

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interpreted Section 439a so as to prohibit the use of campaign funds "to confer a direct or indirect financial benefit on such individual except in those situations where the financial benefit is in consideration of valuable services performed for the campaign." AO 1987-1 and AO 1986-39.

The Chenoweth Respondents deny violating 2 U.S.C. § 439a and contend that Consulting Associates had more than enough income to pay Ms. Chenoweth's salary from other sources in both 1993 and 1994. Counsel includes monthly receipts for 1993 and 1994 to show that the corporation had income exceeding in 1993 and

in 1994, not including payments made by the Chenoweth Committee. Counsel also states that Ms. Chenoweth worked full time for Consulting Associates until August 1994, when she began campaigning, and part time in September 1994.

Despite denials by the Chenoweth Respondents, numerous issues need to be further examined. Prior to and during the 1994 campaign, Ms. Chenoweth was a corporate officer, 49.5% stockholder, and employee of Consulting Associates. The list of Consulting Associates 1993 income provided by counsel shows in part that less than 5% of the corporation's income was generated from political clients, and it is unclear whether any of these payments were actually for consulting in relationship to a campaign for public office. According to various newspaper articles and Dunn and Bradstreet, Consulting Associates were specialists in energy and timber issues, and this is clear from the 1993 and 1994 roster of income. It appears that Consulting Associates previously had done little or any consulting on behalf of political candidates, but the company received more than \$35,000 from the Chenoweth Campaign. While nothing prohibits a

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corporation from starting a new business specialty, and there is no FECA prohibition on a campaign's use of a new political consultant firm, these transactions raise questions that the Chenoweth Committee may have made disbursements for services it never received.

This Office also notes that Ms. Chenoweth indicated that she sometimes personally guaranteed financial commitments made by Consulting Associates. This Office does not know whether Ms. Chenoweth had any existing personal guarantees at the time she became a candidate that may have placed her at some financial risk if Consulting Associates were not able to repay those loans. In addition, this Office does not know what, if any, payments Ms. Chenoweth received at the time Consulting Associates ceased doing business. These circumstances raise numerous questions which this Office believes should be addressed in discovery. Accordingly, this Office recommends that, with respect to the transactions involving Consulting Associates,¹⁷ the Commission make an alternative finding that there is reason to believe that Helen Chenoweth, and Chenoweth for Congress Committee and Wayne Crow, as treasurer violated 2 U.S.C. § 439a.

5. Knowing and Willful Violations

Complainant alleged that the various violations discussed in complaint may meet the knowing and willful standard contained within FECA.¹⁸ There is insufficient

¹⁷ Cf. AO 95-8 and Commissioner Potter's concurring opinion which notes the correlation between contribution limitations and personal use limitations in property owned by the candidate. "The standard established by this Opinion requires the candidate to receive exactly market value for the rental premises: no more, and no less. A rental payment over market value would result in an illegal conversion of campaign funds to personal use, while a rental payment below market rate would result in a reportable (and limited by law) in-kind contribution to the campaign from the candidate and his spouse."

¹⁸ The Act addresses violations of law that are knowing and willful. See

evidence at this time to warrant knowing and willful findings against Helen Chenoweth, the Chenoweth Committee, Consulting Associates, and West One Bank.

III. DISCOVERY

It appears that further investigation is warranted in this matter to fully assess the facts and circumstances surrounding what appear to be corporate contributions made by West One Bank and Consulting Associates, Inc. to Helen Chenoweth and the Chenoweth Committee. To expedite this investigation, this Office recommends that the Commission approve the attached Subpoenas for the Production of Documents and Answers to Interrogatories.

Because the Commission is required to comply with the Right to Financial Privacy Act, 12 U.S.C. § 3401-3422, this Office recommends the issuance of two separate subpoenas to West One Bank. Under the Right to Financial Privacy Act, the Commission must notify Ms. Chenoweth that it has issued a subpoena to West One Bank seeking information relating to Ms. Chenoweth's financial records; these are the questions appearing in Attachment 6 at pages 17-22. Ms. Chenoweth would then be entitled to file suit to prevent the Commission's access to those records. Ms. Chenoweth

2 U.S.C. §§ 437g(a)(5)(C) and 437g(d). The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

The knowing and willful standard requires knowledge that one is violating the law. FEC v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." United States v. Hopkins, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful violation may be drawn "from the defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information they knew to be false to the Federal Election Commission." Id. at 214-15.

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is not entitled to this process regarding the questions in Attachment 6 at pages 23-28.

Those questions seek information relating to general banking practice or to the Chenoweth Committee, information which is not covered by the Right to Financial Privacy Act.

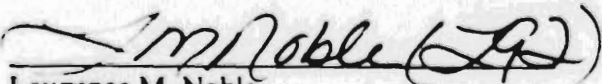
In addition, questions concerning Consulting Associates may appear particularly repetitive. This Office directed those questions to multiple persons because the corporation may be defunct, and it is unclear who can speak for it.

IV. RECOMMENDATIONS

1. Open a MUR in Pre-MUR 323.
2. Find reason to believe that Helen Chenoweth; Chenoweth for Congress Committee and Wayne Crow, as treasurer; Consulting Associates, Inc.; and West One Bank violated 2 U.S.C. § 441b.
3. Find reason to believe that Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3.
4. Find reason to believe that Helen Chenoweth; and Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 439a.
5. Approve the appropriate letters, attached Factual and Legal Analyses, and attached Subpoenas for the Production of Documents and Answers to Interrogatories.

Date

6-10-96


Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS *[Signature]*
COMMISSION SECRETARY

DATE: JUNE 17, 1996

SUBJECT: MUR 4283/PRE-MUR 323 - FIRST GENERAL COUNSEL'S
REPORT DATED JUNE 10, 1996.

The above-captioned document was circulated to the Commission
on Tuesday, June 11, 1996 at 4:00

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

Commissioner Aikens	<u>xxx</u>
Commissioner Elliott	<u>xxx</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Potter	<u> </u>
Commissioner Thomas	<u>xxx</u>

This matter will be placed on the meeting agenda for:
Tuesday, June 25, 1996

Please notify us who will represent your Division before the Commission
on this matter. Thank You!

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Helen Chenoweth;
Chenoweth for Congress Committee
and Wayne Crow, as treasurer;
West One Bank;
Consulting Associates, Inc.

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)
)
)
)
)
)

MUR 4283/Pre-MUR
323

MUR 4402

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 25, 1996, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 4283/Pre-MUR 323:

1. Open a MUR in Pre-MUR 323. MUR 4402
2. Find reason to believe that Helen Chenoweth; Chenoweth for Congress Committee and Wayne Crow, as treasurer; Consulting Associates, Inc.; and West One Bank violated 2 U.S.C. § 441b.
3. Find reason to believe that Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3.

(continued)

4. Take no action at this time with respect to recommendation number 4 in the General Counsel's June 10, 1996 report.
5. Approve the appropriate letters, the appropriate Factual and Legal Analyses, and Subpoenas for the Production of Documents and Answers to Interrogatories, as recommended in the General Counsel's Report dated June 10, 1996, subject to amendment as needed pursuant to the actions noted above and subject to amendment of the subpoena to West One Bank as agreed during the meeting discussion.

Commissioners Aikens, Elliott, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present.

Attest:

6-26-96
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 28, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arthur L. Herold
Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006

RE: MUR 4283
MUR 4402
West One Bank

Dear Mr. Herold and Mr. Northam:

beyond 20 days

On November 29, 1995 the Federal Election Commission notified your client, West One Bank, of an amended complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the amended complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 25, 1996, found that there is reason to believe West One Bank violated 2 U.S.C. § 441b, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions marked "No RFPA information," at the top of each page, within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

The questions which do not contain the "No REPA information" marking may be affected by the Right to Financial Privacy Act of 1978. The Right to Financial Privacy Act permits the customer whose records are sought ten days from the date of receipt of the Subpoena and Order to move to quash them. Upon the expiration of this period, the Commission will notify you that it has complied with the Right to Financial Privacy Act. In the absence of judicial intervention, it is then your obligation to comply with the terms of the Subpoena and Order in their entirety within 30 days of receipt of this letter. See 12 U.S.C. §§ 3405 and 3411.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Stephan Kline, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott
Chairman

Enclosures

Questions (2 sets)

Factual and Legal Analysis

980413860436

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) **MUR 4283**
) **MUR 4402**

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: West One Bank
c/o Arthur L. Herold
and Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her
hand in Washington, D.C. on this 22nd day of June, 1996.

For the Commission,

Lee Ann Elliott
Lee Ann Elliott
Chairman

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

98043860408

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1993 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION
INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 4283
MUR 4402
West One Bank

1. State whether it is your normal course of business to approve loans after the loan proceeds have been disbursed.
2. Please state the usual length of time between an initial loan application and final disbursement of loan funds for both an unsecured loan and a loan secured with real property in November of 1994 and in October of 1995.
3. Please state the meaning of the term "WOBRR," and explain how WOBRR is different from the prime lending rate. obtained
4. Please state the number of personal loans made by West One Bank in 1994 and 1995 which were either not secured or were secured only with a promissory note, and provide the following information for each such loan:
 - a. State whether the loan recipient had an account with West One Bank;
 - b. List the loan amount and interest rate;
 - c. State whether the interest rate was adjustable or fixed; and
 - d. Provide the prime rate and WOBRR in effect on the date the loan was made.
5. Please state the number of all secured personal loans made by West One Bank in 1994 and 1995, and provide the following information relating to such loans:
 - a. State the number of loans made which bore a fixed interest rate; and
 - b. State the number of loans made which bore a fixed interest rate that was 1 percent above the prime rate or WOBRR or lower. For each such loan state the loan amount, the interest rate, and provide the prime rate and WOBRR in effect on the date the loan was made.

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6. Is there a general rule in the banking industry for making unsecured loans so that a bank would only make such a loan if it were equal to no more than 10 percent of a borrower's assets? State whether this rule was in effect in 1994.

7. Please describe West One Bank's internal policy or procedure in determining whether to make an unsecured loan to an individual. In answering this interrogatory, please provide any written guidelines memorializing this policy or procedure.

8. State whether in November of 1994 an individual borrower of an unsecured loan could repay West One Bank with a single balloon payment rather than installment payments of principle. Please state the numbers of unsecured personal loans made by West One Bank from 1994 to 1996 where the borrower repaid with installment payments and where the borrower repaid with a single balloon payment. If West One Bank has a formal policy relating to this issue, please provide a copy of it.

9. Please identify each account, loan, line of credit, or other banking activity the Chenoweth for Congress Committee has had with West One Bank. For each, please provide the following information:

- a. List the date each account, loan, line of credit, or credit card was opened or obtained;
- b. List the date each account, loan, line of credit, or credit card was closed, paid off, or canceled; and
- c. Provide the terms and payment record for each loan or line of credit.

10. Regarding the FEC C-1 report signed by Wayne Crow on January 30, 1995, reflecting the making of a \$40,000 loan to the Chenoweth Committee, please provide the following information:

- a. Identify the individual who signed the C-1 on behalf of West One Bank;
- b. Describe any conversations West One Bank had with the Chenoweth Committee regarding the C-1; and
- c. Please identify all individuals associated with West One Bank who were responsible for filling out and/or reviewing the information on the C-1.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) **MUR 4283**
) **MUR 4402**

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: West One Bank
c/o Arthur L. Herold
and Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

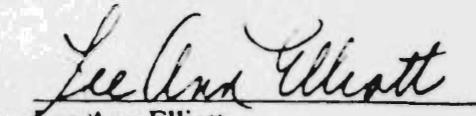
Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

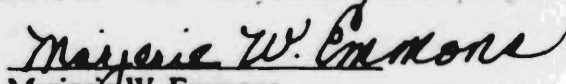
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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her
hand in Washington, D.C. on this 27th day of June, 1996.

For the Commission,


Lee Ann Elliott
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1993 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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each, please provide

BEFORE THE FEDERAL ELECTION COMMISSION
INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 4283
MUR 4402
West One Bank

1. With regard to Helen Chenoweth's banking history with West One Bank, please provide the following information:

- a. State the length of time Ms. Chenoweth has been a customer of West One Bank or its predecessors in interest;
- b. Please identify each account, credit card, or other banking activity (besides a loan or line of credit) that Ms. Chenoweth has had with West One Bank. For each, please provide the following information:
 - i. List the date each account, credit card, or other banking activity was opened or obtained; and
 - ii. List the date each account, credit card, or other banking activity was closed, paid off, or canceled.
- c. State whether Ms. Chenoweth had a bank account in her name at West One Bank on November 22, 1994 and/or October 20, 1995? If so, please provide the balance of each such account held in Ms. Chenoweth's name for both dates; and
- d. Please list and describe all loans (including a line of credit or any loans that Ms. Chenoweth guaranteed) Ms. Chenoweth has received from West One Bank, in either a personal capacity or professional capacity as an officer of Consulting Associates, Inc. Please provide copies of all promissory notes and other documents memorializing the loans or used to obtain them. For each such loan, describe the collateral which was used to secure it.

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2. Relating to the November 8, 1995 bank loan from West One Bank to Helen Chenoweth, a Consumer Loan Worksheet & Checklist, notes under "Derogatory or Insufficient Credit History" that "slow credit occurred during campaign year. Credit now current." With regard to this statement of past slow credit, state whether this information was known by West One Bank loan officers in 1994. If so, please provide copies of any 1994 documents containing this information and/or any analysis thereof. If not, please state why was this information not known by West One Bank.

3. Helen Chenoweth applied for a \$40,000 loan from West One Bank on November 22, 1994 and the loan funds were disbursed on November 23, 1994. Regarding this loan, please provide the following information:

a. Identify each person (including loan officers, supervisors, managers, and any other person) who worked on or approved this loan;

b. Describe in detail the specific task performed by each person identified in Interrogatory 3(a);

c. State the basis upon which approval was granted;

d. State the date approval was granted for the \$40,000 loan and provide any documentation memorializing that approval;

e. Please list the dates on which loan payments for the 1994 loan were due; and

f. Please provide documentation showing the dates and amounts of payments of interest and principal for the 1994 loan.

4. Identify each person employed by West One Bank (including loan officers, supervisors, managers, and any other person) who worked on or approved the loan that Ms. Chenoweth obtained from West One Bank on November 8, 1995.

5. Is there a general rule in the banking industry for making unsecured loans so that a bank would only make such a loan if it were equal to no more than 10 percent of a borrower's assets? State whether this rule was in effect in 1994. If so, state why you departed from this rule in making the 1994 loan to Helen Chenoweth.

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: West One Bank

**MUR 4283
MUR 4402**

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") on November 21, 1995. This matter was also generated based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(1). William L. Mauk, Chair of the Idaho Democratic Party ("Complainant") alleged that Helen Chenoweth and her campaign committee, Chenoweth for Congress Committee and Wayne Crow, as treasurer, ("Chenoweth Committee" or "Committee") and West One Bank violated provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). West One Bank was notified of the complaint on November 29, 1995 and responded to it on January 18, 1996.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

1. Corporate Contributions

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any candidate or political committee to knowingly accept any prohibited contribution. 2 U.S.C. § 441b(a). A contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money or any services, or anything of value. 2 U.S.C. § 441b(b)(2).

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2. Bank Loans

Pursuant to 2 U.S.C. §§ 431(8)(B)(vii) and 441b(b)(2), and

11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12), a loan by a bank is not a contribution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it meets four criteria: 1) the loan bears the usual and customary interest rate of the lending institution for the category of loan involved; 2) the loan is made on a basis which assures repayment; 3) the loan is evidenced by a written instrument; and 4) the loan is subject to a due date or amortization schedule. 2 U.S.C. § 431(8)(B)(vii) and 11 C.F.R. § 100.7(b)(11).

A loan will be considered to have been made on a basis which assures repayment if it is obtained using one of two sources of repayment or a combination of both. The first possible source of repayment is if the lending institution has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, and the fair market value of such collateral, less any liens, is equal to or greater than the loan amount. The second possible source of repayment is if the candidate or political committee provides the bank with a written agreement pledging future receipts such as public financing, contributions, or interest income, the amount of which is equal to the loan. 11 C.F.R. § 100.7(b)(11)(i). If these criteria are not met, the Commission will consider the totality of the circumstances on a case-by-case basis in determining whether a loan was made on a basis which assures repayment.

11 C.F.R. § 100.7(b)(11)(ii).

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Pursuant to 11 C.F.R. § 101.2(a), any candidate who obtains any loan in connection with his or her campaign shall be considered as having obtained such a loan as an agent of his or her authorized committee.

3. Reporting Requirements

Under the Act, a bank loan obtained by a candidate is a receipt which must be reported to the Commission in the first report following a political committee's receipt of the loan. The regulations require that along with the report, the campaign must file a Schedule C-1 containing several types of information including: the date and amount of the loan; the interest rate and rate of repayment; the type and value of collateral used to secure the loan; whether the security is perfected; and an explanation of the basis upon which the loan was made if not made on the basis of traditional collateral or other permitted sources of repayment. The Schedule C-1 must also contain certification from the lending institution stating that the terms of the loan as reported are accurate; that the lending institution was aware of the Commission's loan regulations; that the loan is made on a basis that assures repayment; and that the loan was made with no more favorable rates or terms than other loans. 11 C.F.R. § 104.3(d). Pursuant to 2 U.S.C. § 434(b)(4), a committee must also report all disbursements made during the reporting period.

B. Complaint

Complainant William L. Mauk, Chair of the Idaho Democratic Party, filed a complaint with the Commission on November 21, 1995. He alleges that Helen Chenoweth, the Chenoweth for Congress Committee and Wayne Crow, as treasurer, and West One Bank violated FECA by receiving or making an "illegal" bank loan. Complainant alleges that Helen Chenoweth received

a bank loan of \$40,400 from West One Bank, which was made without collateral or other security and thus did not meet the Act's requirement that it be "made on a basis which assures repayment." Complainant further alleges that the loan initially was reported on Committee reports as a personal loan from Helen Chenoweth to her campaign committee and not as a bank loan from West One Bank and originally was reported as bearing an interest rate of ten and one-quarter percent. This information in the initial complaint was also separately ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

C. Response

West One Bank responded to the complaint on January 18, 1996. The bank contends that "if there was any violation of the FECA by West One Bank, such a violation was a technical one, at best, and now has been rectified" -- the loan to Ms. Chenoweth was restructured in November, 1995, when she obtained a second mortgage on her residence. West One Bank Response at 1, (January 18, 1995). Prior to receiving the 1994 bank loan from West One Bank, Ms. Chenoweth had been a customer of West One Bank for five years. During that period she maintained an account with the bank, took out two loans, and had a line of credit. "Her payment history as to those loans and the line of credit had been excellent."

On November 22, 1994, Ms. Chenoweth applied for a personal loan. According to West One Bank, "The loan officers who processed Ms. Chenoweth's loan application handled the application in the manner in which they would have handled any other individual's application for a personal loan for business purposes and followed the bank's routine procedures in processing the application." The bank admits that this loan application may have been

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distinguished from others because the loan officers knew Ms. Chenoweth had been elected to Congress and thus would have a much higher guaranteed income. After reviewing Ms. Chenoweth's loan documents, the loan officers determined that she was qualified "under the bank's guidelines for the granting of personal loans," to receive a \$40,400 unsecured loan (including \$400 for the bank's loan fee) at a variable interest rate, initially at 10%.

West One Bank contends that this loan complied with all requirements, "except, possibly, the requirement that the loan be 'made on a basis which assures repayment', since the loan was unsecured." Although Ms. Chenoweth had advised the bank that the money would be partially repaid with proceeds from fund-raisers and that part or all of the loan proceeds would be used for campaign debts, "the loan officers were not aware, and did not believe that fact might make the loan subject to any special requirement other than the bank's guidelines for the granting of loans." Until the loan became the subject of media coverage in the fall of 1995, the bank was unaware of any possible "technical" deficiencies in the loan. West One Bank states:

Once it appeared that the loan might not satisfy the "assurance of repayment" requirement, both the bank and Ms. Chenoweth took steps to rectify the situation. Ms. Chenoweth made a large principal payment against the November 23, 1994 loan. She then applied for, and received, a new loan from West One Bank that was secured by collateral in her Idaho residence. The proceeds from that loan were used to retire the November 23, 1994 loan. The new loan that West One Bank issued to Ms. Chenoweth on November 8, 1995 is fully collateralized and was subjected to the bank's normal and routine process for the granting of such loans.

The bank contends that the new loan is in full compliance with the requirements of 11 C.F.R. § 100.7(b)(11). The bank also submitted certain documents relating to the 1994 and 1995 loans.

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D. Analysis

According to the regulations, a loan will be deemed to be made in the ordinary course of business if meets four criteria. The 1994 Chenoweth loan met two of the four criteria in that it was evidenced by a written instrument -- the promissory note -- and it was subject to a due date of November 23, 1995. However, this loan may not have been made in the ordinary course of business, as it appears that the loan neither met the assurance of repayment criterion nor bore the usual and customary interest rate of the lending institution for the category of loan involved. 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12). Although Helen Chenoweth applied for these loans in her own name, she received them as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a).

With respect to the assurance of repayment criterion, the bank did not receive either of the two alternative sources of repayment which automatically satisfy the assurance of repayment criterion as reflected in 11 C.F.R. § 100.7(b)(11)(i) -- it did not have a perfected security interest in collateral, the fair market value of which was greater than or equal to \$40,000, and there was no written agreement signed by the candidate or her committee pledging future receipts.¹ Nor does the totality of the circumstances in this situation indicate that the loan was made on a basis which assured repayment. 11 C.F.R. § 100.7(b)(11)(ii).

West One Bank appears to concede that the 1994 loan probably would not meet the assurance of repayment requirement. The bank notes in its response that: "Once it appeared that

¹ Although Ms. Chenoweth had orally informed West One Bank that she would use campaign fund-raisers to repay a portion of the 1994 loan, this was not a pledge of future receipts required by 11 C.F.R. § 100.7(b)(11)(i)(B) and was not a basis to assure repayment, in particular because the Chenoweth Committee already had significant outstanding debts at the time this loan was made.

the loan might not satisfy the 'assurance of repayment' requirement, both the bank and Ms. Chenoweth took steps to rectify the situation." West One Bank Response at 3. The bank acknowledges elsewhere: "As is readily apparent, the loan to Ms. Chenoweth complied with all of the requirements of 11 C.F.R. § 100.7(b)(11) except, possibly, the requirement that the loan be 'made on a basis which assures repayment', since the loan was unsecured." *Id.* at 2. Ms. Chenoweth appears to have restructured the loan using home equity after a number of newspaper articles commented unfavorably on this transaction.

Although West One Bank decided that Ms. Chenoweth was a good credit risk -- the loan memorandum recommending approval of the loan noted that Ms. Chenoweth has good repayment ability, good credit, limited debt, and a sure job for two years -- these factors do not satisfy the assurance of repayment criterion. In addition, it is not even clear that the bank memorandum supporting approval of the loan was accurate in stating that Ms. Chenoweth had good credit in 1994. Although the bank did not attach Ms. Chenoweth's credit history to its response, there is no indication that the bank analyzed Ms. Chenoweth's credit history in 1994 or it would have noted that she had missed payments during the election year. In contrast, for the 1995 loan, the bank attached a consumer loan worksheet and checklist. This document noted on the "derogatory or insufficient credit history" section that "slow credit occurred during campaign year. Credit is now current." Although there may have been different requirements for processing the unsecured 1994 loan and the 1995 secured loan, presumably this information would have appeared on a 1994 credit report which was ignored by the bank in its loan recommendation. Furthermore, in making the 1994 loan the bank received absolutely no collateral. Although the promissory note permitted a right of set off such that the bank could

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attach all funds held in Ms. Chenoweth's name at West One Bank, Ms. Chenoweth apparently had no personal accounts in the bank. On her financial statement dated November 23, 1994, Ms. Chenoweth listed her sole cash assets as \$6,322 held by the National Guard Credit Union.²

Respondents also do not appear to have satisfied the requirement that the loan bear the usual and customary interest rate of the lending institution for the category of loan involved. The 1994 \$40,000 unsecured loan was obtained at a variable rate equal to 1.5% over prime, initially at 10%. The 1995 loan was for \$30,400 loaned at a fixed rate of 9.67%; in October, 1995 the prime rate was 8.75%. West One Bank did not provide information showing that the rates in effect for the 1994 and 1995 bank loans were the customary interest rates for the time periods during which the two loans were made, but publicly available information obtained concerning the current practices of two banks raises questions as to whether the loans may have been made below market rate.³

² Other evidence that the 1994 loan may not satisfy the assurance of repayment criterion arises from the amount of the loan when compared to her net worth.

Two newspaper articles focusing on this transaction, one by the Associated Press and one appearing in the Idaho Statesman, state that the industry "rule of thumb" for unsecured loans is to make a loan equal to no more than 10% of an individual's net worth. An Idaho Statesman article by a reporter who attempted to mimic Ms. Chenoweth by applying for an unsecured loan and got kicked out of West One Bank by its president, notes that "[w]hen I filled out my application with Joyce Brewer, manager of the Statehouse branch, she said the 'general rule' for unsecured loans is 10 percent of a borrower's assets. . . . She also said the 10 percent rule is flexible."

³ In an effort to determine whether the interest rate was something the Commission should examine, the Office of General Counsel contacted Crestar, a local District of Columbia bank, and West One Bank in Boise, Idaho to find out how a bank's lending rate for personal loans is currently related to the prime rate for both secured and unsecured loans. On February 7, 1996, when the prime lending rate was 8.25%, Crestar would have charged 10.25% interest on a \$40,000 secured loan (2% above prime) and would have charged 12.5% interest on a \$40,000 unsecured loan (4.25% above prime). There would be no additional loan fees. According to a West One Bank loan officer, for a loan secured with home equity, the rate on a \$40,000 loan

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Recent communications between the Committee and the Commission raise additional questions regarding the 1995 loan. Pursuant to a recent request for additional information from the Reports Analysis Division questioning in part the Chenoweth Committee's failure to submit a C-1 and accompanying loan document relating to the 1995 loan, counsel for the Chenoweth Committee states that West One Bank has "taken a firm position that [the 1995 loan] is a personal loan, as it is secured that it was a personal loan to Helen Chenoweth and not to the Committee." Chenoweth Committee Response to Request for Additional Information (April 23, 1996). Although not yet argued in context of the instant matter, West One Bank may now argue, at least with respect to the 1995 loan, that it did not have to comply with the regulations governing loans made to candidates or their committees because it had only made personal loans to Ms. Chenoweth.

If the loan is made to the candidate and then it is used for campaign purposes, the loan must meet the FECA's requirements governing loans to candidates and committees.

Ms. Chenoweth sought the original 1994 loan to pay off debts accrued by her committee and she received the loan as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a).

Apparently, in 1995, after a great deal of publicity she and West One Bank decided to restructure the loan so that it would be secured by her personal residence. This restructuring however does not change this loan into a personal loan. The bank's unwillingness to sign a schedule C-1

would be either 9.68% (variable rate) or 10.15% (fixed rate), in addition to a \$500 flat loan fee. If the same loan were unsecured the bank would charge 12.13% (variable rate) or 14% (fixed rate), in addition to a 1% loan application fee. Thus, both Crestar and West One Bank currently charge at least 2% more for an unsecured loan than for a secured loan and West One Bank currently charges almost 4% over prime for an unsecured adjustable rate loan. Although not determinative of the interest criterion for the 1994 and 1995 loans, it appears that at present an unsecured loan with an interest rate of 1.5% over prime and a secured loan with an interest rate of .92% over prime would not satisfy that criterion.

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certifying that the 1995 loan was made in the ordinary course of business substantiates concerns that the loan was not made in the ordinary course of business.⁴

Accordingly, there is reason to believe that West One Bank violated 2 U.S.C. § 441b for making contributions in connection with an election to federal office.

Chenoweth Ltr
11/2/94

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Records
held by the State of California

⁴ There also may have been additional elements of the 1994 loan which indicate that it was not made in the ordinary course of business. Ms. Chenoweth applied for her loan on November 22, 1994, actually signed her application and financial statement on November 23, 1994, and received her loan payment on November 23, 1994. This seems remarkably swift, particularly when the loan memorandum recommending approval of the loan was dated December 2, 1994, even though the bank's response states that this is an internal document frequently prepared after the loan has been issued. West One Bank, Response at 2. In the same conversation the Office of General Counsel had with the West One Bank loan officer on February 7, 1996, the loan officer stated that unsecured loans must be paid off in installments and that the bank does not customarily allow the loan recipient to make a single balloon payment. In this case, interest was paid in quarterly payments and the face value of the loan was paid off at the end of the loan cycle.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 28, 1996

John C. Keenan, Esq.
Goicoechea Law Offices
P.O. Box 340
Nampa, Idaho 83653

RE: MUR 4283 and MUR 4402
The Honorable Helen P. Chenoweth
Chenoweth for Congress Committee
and Wayne Crow, as treasurer

Dear Mr. Keenan:

On November 29, 1995, the Federal Election Commission notified your clients, Representative Helen P. Chenoweth and the Chenoweth for Congress Committee and Wayne Crow, as treasurer, ("Chenoweth Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on June 25, 1996, found that there is reason to believe Representative Chenoweth violated 2 U.S.C. § 441b and the Chenoweth Committee violated 2 U.S.C. §§ 434(b) and 441b and 11 C.F.R. § 104.3, provisions of the Act or the Commission's regulations. The Factual and Legal Analyses, which formed a basis for the Commission's finding, are attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Stephan Kline, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott
Chairman

Enclosures
Questions
Factual and Legal Analyses

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) **MUR 4283**
) **MUR 4402**

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: The Honorable Helen Chenoweth
c/o John C. Keenan, Esq.
Goicoechea Law Offices
P.O. Box 340
Nampa, Idaho 83653

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her
hand in Washington, D.C. on this 27th day of June, 1996.

For the Commission,

Lee Ann Elliott
Lee Ann Elliott
Chairman

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1993 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION
INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 4283
MUR 4402
Helen Chenoweth

1. With regard to your banking history with West One Bank, please provide the following information:

- a. State the length of time you have been a customer of West One Bank or its predecessors in interest;
- b. Please identify each account, credit card, or other banking transaction (besides a loan or line of credit) that you have had with West One Bank. For each, please provide the following information:
 - i. List the date each account, credit card, or other banking transaction was opened, obtained, or took place; and
 - ii. List the date each account, credit card, or other banking transaction was closed, paid off, or canceled.
- c. State whether you had a bank account in your name with West One Bank on either November 22, 1994 or on October 20, 1995 or both. If so, please provide the balance of each such account held in your name for both dates;
- d. Please list and describe all loans (including a line of credit or any loans that you guaranteed) you have received from West One Bank or any other lending institution since 1989, in either a personal capacity or professional capacity as an officer of Consulting Associates, Inc. Please provide copies of all promissory notes and all other documents memorializing the loans or used to obtain them. For each such loan, describe the collateral which was used to secure it;
- e. Please identify each person (including loan officers, supervisors, managers, and any other person) associated with West One Bank with whom you discussed either the loan obtained on November 23, 1994 or the loan obtained on November 8, 1995 and describe the nature of the discussion;

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f. Please provide the following information relating to the 1994 loan with West One Bank:

- i. Please list the dates on which loan payments for the 1994 loan were due;
- ii. Please provide copies of checks (front and rear) used to pay interest and principal for the 1994 loan; and
- iii. Please identify the source of the money used to pay off the 1994 bank loan.

2. With regard to your relationship with Consulting Associates, Inc., please provide the following information:

- a. For each year from 1990 through 1993, please state your salary and please describe any non-salary payments you received from Consulting Associates;
- b. List each period from 1990 through 1993 when you did not work full time on behalf of Consulting Associates and state why you did not work full time.
- c. For each month from January 1, 1994 to the present, please state your salary received from Consulting Associates and please describe any non-salary payments you received from Consulting Associates. Estimate the number of hours you worked on behalf of Consulting Associates and the number of hours you worked on campaign related activities in each such month.
- d. Please describe any formal or informal arrangement between you and Consulting Associates, or between you and Vernon Ravenscroft, which states how your Consulting Associates salary or other non-salary payments were derived. State whether your salary was based on the number of hours you worked for Consulting Associates, based on a percentage of Consulting Associates' profits, or based on some other formula. If your salary was based on some other formula, please describe that formula. Please provide a copy of any formal agreement, or any other document that relates to the amount of salary or other payments you received from Consulting Associates.
- e. According to financial disclosure forms filed in your name with the U.S. House of Representatives, you received payments from Consulting Associates totaling \$25,350 in 1992 and 1993, and \$23,450 for the period January 1, 1994 through May 15 of 1994. Please explain why you received almost the same amount of income from Consulting Associates during the first quarter of 1994 you received for all of 1992 and 1993.

3. Please provide copies of your federal tax returns for the years 1992 through 1995.

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4. Please state whether Consulting Associates permitted the Chenoweth Committee, or you in your capacity as candidate for Congress, to use the facilities of Consulting Associates. If so, please provide the following information for each such facility used:

- a. the facility used by the Chenoweth Committee;
- b. whether the use of the facility was separate from consulting services provided by Consulting Associates;
- c. the date the facility was used by the Chenoweth Committee;
- d. the date the Chenoweth Committee was billed for the use of the facility;
- e. the amount that the Chenoweth Committee was billed for the facility;
- f. how the billing amount was calculated;
- g. Provide copies of any documentation relating to the billing or relating to the use of facilities;
- h. whether the amount charged by Consulting Associates for the use of the facility corresponded to the usual amount charged for that item in the commercial market. If so, please provide documentation showing the amount charged was the usual market charge;
- i. when was the bill paid for the use of Consulting Associates' facilities; and
- j. who paid for the use of the facilities.

5. Please describe in detail all goods and services, including consulting services, provided by Consulting Associates, as a vendor to the Chenoweth Committee, and/or to you in your capacity as candidate for Congress and for each such good or service, please state:

- a. The date on which it was provided and the date on which it was billed;
- b. The amount that the Chenoweth Committee was billed for it;
- c. The date on which the Chenoweth Committee paid Consulting Associates;
- d. Provide copies of any documents relating to the billing.
- e. For each service provided to the Chenoweth Committee, please list all Consulting Associates' personnel who provided the service.

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6. State whether Consulting Associates extended credit to clients other than the Chenoweth Committee. If so, please provide the following information:

- a. What was Consulting Associates' normal practice on providing extensions of credit to clients;
- b. What was Consulting Associates' standard billing cycle for services provided to clients; and
- c. List all instances between 1993 and 1995 when Consulting Associates extended credit to non-Chenoweth Committee clients for travel expenses.

7. State whether any of Consulting Associates' clients, other than the Chenoweth Committee, have used the facilities of Consulting Associates. If so, please state:

- a. All clients who used the facilities of Consulting Associates;
- b. All clients who were candidates for public office who used the facilities of Consulting Associates.
- c. Which facilities were used by each client; and
- d. How much each client was charged for each facility used.

8. State whether the services provided to the Chenoweth Committee by Vernon Ravenscroft, Diana Chenoweth, and any other Consulting Associates' employee, other than you, were provided pursuant to an agreement and provide a copy of any such agreement.

9. State whether Consulting Associates provided services to other, non-Chenoweth Committee clients, pursuant to consulting agreement and provide copies of all such agreements entered into between 1993 and 1995.

10. Please provide the following information about Consulting Associates:

- a. For the period from 1990 to the present, please state all owners and officers of Consulting Associates. Please describe any changes that took place in the ownership or control of Consulting Associates during that period;
- b. Please state whether at any time between January 1, 1993 and the present Consulting Associates received the sub-chapter S tax status under the Internal Revenue Code. If so, please provide documentation from the Internal Revenue Service evidencing this sub-chapter S status;

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- c. Please provide copies of Consulting Associates' federal tax return statements for the years 1990 to the present;
- d. Please identify the owner of the building at 1843 Broadway, Boise, Idaho occupied by Consulting Associates from 1993 to 1995 and state the amount of rent paid by Consulting Associates;
- e. Please list all persons employed by Consulting Associates from 1993 to 1995, other than you, and state the salary or wage paid to each individual;
- f. Please state whether you were personally liable for Consulting Associates rent or any other obligations between 1994 and 1995.
- g. Please state whether Consulting Associates retains its corporate status under Idaho law. If not, please provide the following information:
- i. When and why Consulting Associates ceased operations;
 - ii. How its assets were divided up among its shareholders; and
 - iii. List any payments you received in connection with this shut down;
 - iv. List any debts Consulting Associates owed at the time of the shut down and state to whom any such debts are owed;
 - v. Who is responsible for any remaining debts of Consulting Associates; and
 - vi. Who retains the corporate records of Consulting Associates;
- h. Who, other than yourself, is best able to answer questions about Consulting Associates' bills, billing practices, and/or services provided to clients.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) **MUR 4283**
) **MUR 4402**

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Chenoweth for Congress Committee and
Wayne Crow, as treasurer
c/o John C. Keenan, Esq.
Goicoechea Law Offices
P.O. Box 340
Nampa, Idaho 83653

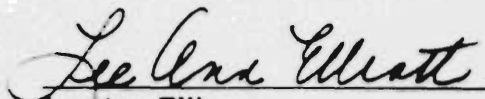
Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

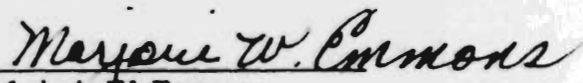
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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her
hand in Washington, D.C. on this 27th day of June, 1996.

For the Commission,


Lee Ann Elliott
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions and Document Requests

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1993 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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BEFORE THE FEDERAL ELECTION COMMISSION
INTERROGATORIES AND REQUESTS FOR DOCUMENTS

MUR 4283

MUR 4402

Chenoweth for Congress Committee and Wayne Crow, as treasurer

1. Please identify those individuals who worked for, volunteered for, or provided advice to the Chenoweth for Congress Committee ("Chenoweth Committee") and are best able to answer questions about the Chenoweth Committee's relationship with Consulting Associates, Inc.

2. On Chenoweth Committee reports filed with the Commission, the purpose lines for many disbursements to Consulting Associates are labeled "rental" or "consulting-primary." In connection with disbursements made to Consulting Associates, please separately describe what is included within the terms "rental" and "consulting." Identify the individuals responsible for deciding how to describe the purpose of the disbursements to Consulting associates on FEC reports.

3. Please state whether Consulting Associates permitted the Chenoweth Committee to use the facilities of Consulting Associates. If so, please provide the following information for each such facility used:

- a. the facility used by the Chenoweth Committee;
- b. whether the use of the facility was separate from consulting services provided by Consulting Associates;
- c. the date the facility was used by the Chenoweth Committee;
- d. the date the Chenoweth Committee was billed for the use of the facility;
- e. the amount that the Chenoweth Committee was billed for the facility;
- f. how the billing amount was calculated;
- g. Provide copies of any documentation relating to the billing or relating to the use of facilities;
- h. whether the amount charged by Consulting Associates for the use of the facility corresponded to the usual amount charged for that item in the

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commercial market. If so, please provide documentation showing the amount charged was the usual market charge;

- i. when was the bill paid for the use of Consulting Associates' facilities; and
- j. who paid for the use of the facilities.

4. Please describe in detail all goods and services, including consulting services, provided by Consulting Associates to the Chenoweth Committee, and for each such good or service, please state:

- a. The date on which it was provided and the date on which it was billed;
- b. The amount that the Chenoweth Committee was billed for it;
- c. The date on which the Chenoweth Committee paid Consulting Associates; and
- d. Provide copies of any documents relating to the billing.
- e. If a service was provided to the Chenoweth Committee, please list all Consulting Associates' personnel who provided the service.

5. Explain how the relationship developed between the Chenoweth Committee and Consulting Associates; and

- a. Provide any written agreement describing which services Consulting Associates would provide to the Chenoweth Committee;
- b. Describe in detail any oral agreement or understanding concerning the provision of services by Consulting Associates to the Chenoweth Committee; and
- c. State when the relationship commenced and concluded.

6. State whether the services provided to the Chenoweth Committee by Vernon Ravenscroft, Diana Chenoweth, and any other Consulting Associates' employee, other than Helen Chenoweth, were provided pursuant to an agreement and provide a copy of any such agreement.

7. Please identify each account, loan, line of credit, or other banking activity the Chenoweth Committee has had with West One Bank. For each, please provide the following information:

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- a. List the date each account, loan, line of credit, or credit card was opened or obtained;
- b. List the date each account, loan, line of credit, or credit card was closed, paid off, or canceled; and
- c. Provide the terms for each loan or line of credit.

8. Regarding the FEC C-1 report signed by Wayne Crow on January 30, 1995, describe any conversations the Chenoweth Committee had with West One Bank regarding the C-1. Please identify all individuals associated with the Chenoweth Committee who were responsible for filling out and/or reviewing the information on the C-1.

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR 4283

MUR 4402

RESPONDENTS: Chenoweth for Congress Committee and Wayne Crow, as treasurer

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This matter was generated by a complaint filed with the Federal Election Commission ("Commission") on November 21, 1995. This matter was also generated based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(1). William L. Mauk, Chair of the Idaho Democratic Party ("Complainant") alleged that Helen Chenoweth and her campaign committee, Chenoweth for Congress Committee and Wayne Crow, as treasurer, ("Chenoweth Committee" or "Committee") and West One Bank violated provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). Respondents Helen Chenoweth and the Chenoweth Committee (collectively, "Chenoweth Respondents") were notified of the complaint on November 29, 1995 and responded to the complaint on December 15, 1995. On January 16, 1996, the Commission received an amended complaint in MUR 4283 addressing additional violations of the Act. The Chenoweth Respondents were notified of the amendment to the complaint on January 23, 1996 and responded on February 12, 1996.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

1. Corporate Contributions

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any candidate or political committee to knowingly accept any prohibited contribution. 2 U.S.C. § 441b(a). A contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money or any services, or anything of value. 2 U.S.C. § 441b(b)(2).

The regulations exclude from the definition of contribution and expenditure "[a]ny activity which is specifically permitted by Part 114." 11 C.F.R. § 114.1(a)(2)(x). Activity which is permitted by Part 114 and which is particularly relevant in this case is the "[u]se of corporate or labor organization facilities" by certain persons under certain circumstances. Stockholders or employees of a corporation who engage in volunteer activity may make occasional, isolated or incidental use of corporate facilities in connection with a federal election without causing the corporation to make a contribution. 11 C.F.R. § 114.9(a)(1). For those activities fitting within this provision, stockholders or employees must reimburse the corporation to the extent that overhead is increased. If a stockholder or employee makes more than occasional, isolated, or incidental use of corporate facilities for individual volunteer activity, the stockholder or employee must reimburse the corporation within a commercially reasonable time for the normal and usual rental charge of the facilities.

11 C.F.R. § 114.9(c) provides that: "Any person who uses the facilities of a corporation or labor organization to produce materials in connection with a Federal election is required to

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reimburse the corporation or labor organization within a commercially reasonable time for the normal and usual charge for producing such materials in the commercial market." Similarly, persons, other than corporate employees or stockholders, who use corporate facilities such as telephones or typewriters in connection with federal elections must reimburse the corporation within a reasonable time for the normal and usual rental charge. 11 C.F.R. § 114.9(d). The term "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution or expenditure.

11 C.F.R. § 100.7(a)(1)(iii)(B) and 11 C.F.R. § 100.8(a)(1)(iv)(B).¹

11 C.F.R. § 116.3(b), which is part of the regulatory scheme addressing debts owed by political committees or candidates, provides that a corporation in its capacity as a commercial vendor may extend credit to a candidate, political committee, or another person on behalf of a candidate or political committee provided that the credit is extended in the ordinary course of the corporation's business. 11 C.F.R. § 116.1(c) defines "commercial vendor" as "any person providing goods and services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provision of those goods or services."

2. Bank Loans

Pursuant to 2 U.S.C. §§ 431(8)(B)(vii) and 441b(b)(2), and 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12), a loan by a bank is not a contribution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it

¹ Since the time the activities at issue in this MUR took place, the Commission has promulgated new regulations on corporate facilitation. These regulations appear at 11 C.F.R. § 114.2(f).

meets four criteria: 1) the loan bears the usual and customary interest rate of the lending institution for the category of loan involved; 2) the loan is made on a basis which assures repayment; 3) the loan is evidenced by a written instrument; and 4) the loan is subject to a due date or amortization schedule. 2 U.S.C. § 431(8)(B)(vii) and 11 C.F.R. § 100.7(b)(11).

A loan will be considered to have been made on a basis which assures repayment if it is obtained using one of two sources of repayment or a combination of both. The first possible source of repayment is if the lending institution has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, and the fair market value of such collateral, less any liens, is equal to or greater than the loan amount. The second possible source of repayment is if the candidate or political committee provides the bank with a written agreement pledging future receipts such as public financing, contributions, or interest income, the amount of which is equal to the loan. 11 C.F.R. § 100.7(b)(11)(i). If these criteria are not met, the Commission will consider the totality of the circumstances on a case-by-case basis in determining whether a loan was made on a basis which assures repayment.

11 C.F.R. § 100.7(b)(11)(ii).

Pursuant to 11 C.F.R. § 101.2(a), any candidate who obtains any loan in connection with his or her campaign shall be considered as having obtained such a loan as an agent of his or her authorized committee.

3. Reporting Requirements

FECA requires the principal committee of each candidate for federal office to report each person who makes a loan to the reporting committee during the reporting period together with the identification of any endorser or guarantor of the loan, the date the loan was made, and the

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value of the loan. 2 U.S.C. § 434(b)(3)(E). In addition, the committee is required to report each person who receives a loan repayment from the reporting committee during the reporting period, along with the date and amount of each such loan repayment. 2 U.S.C. § 434(b)(5)(d). The term "person" is defined as "an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. . . ." 2 U.S.C. § 431(11).

Under the Act, a bank loan obtained by a candidate is a receipt which must be reported to the Commission in the first report following a political committee's receipt of the loan. The regulations require that along with the report, the campaign must file a Schedule C-1 containing several types of information including: the date and amount of the loan; the interest rate and date of repayment; the type and value of collateral used to secure the loan; whether the security is perfected; and an explanation of the basis upon which the loan was made if not made on the basis of traditional collateral or other permitted sources of repayment. The Schedule C-1 must also contain certification from the lending institution stating that the terms of the loan as reported are accurate; that the lending institution was aware of the Commission's loan regulations; that the loan is made on a basis that assures repayment; and that the loan was made with no more favorable rates or terms than other loans. 11 C.F.R. § 104.3(d). Pursuant to 2 U.S.C. § 434(b)(4), a committee must also report all disbursements made during the reporting period.

B. Complaint

Complainant William L. Mauk, Chair of the Idaho Democratic Party, filed a complaint with the Commission on November 21, 1995. He alleges that Helen Chenoweth, the Chenoweth for Congress Committee and Wayne Crow, as treasurer, and West One Bank violated FECA by

receiving or making an "illegal" bank loan. Complainant alleges that Helen Chenoweth received a bank loan of \$40,400 from West One Bank, which was made without collateral or other security and thus did not meet the Act's requirement that it be "made on a basis which assures repayment." Complainant further alleges that the loan initially was reported on Committee reports as a personal loan from Helen Chenoweth to her campaign committee and not as a bank loan from West One Bank and originally was reported as bearing an interest rate of ten and one-quarter percent. This information in the initial complaint was also separately ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

On January 16, 1996, Complainant amended his complaint alleging that during the 1993-1994 election cycle, Congresswoman Chenoweth and her campaign committee were engaged in a series of transactions with Consulting Associates, Inc. ("Consulting Associates") involving corporate contributions and the conversion of campaign funds to the candidate's personal use. Complainant enclosed FEC reports filed by the Chenoweth for Congress Committee recording a \$1,750 loan by Consulting Associates to candidate Chenoweth which was later repaid with campaign funds. Complainant also included a copy of a FEC report containing a \$2,500 disbursement to Consulting Associates labeled "travel disbursement." Consulting Associates is an Idaho corporation and Helen Chenoweth is a principal owner, officer, and employee of this corporation. During the 1993-94 campaign, expenditures by the Chenoweth Committee to Consulting Associates totaled over \$35,000 and included payments for rental, phone expenses, office/equipment rental and consulting fees. During this period, "the candidate was the secretary and treasurer of the corporation and relied upon its consulting and other services as her principal, if not exclusive, source of income." Supplemental Complaint at 2 (January 16, 1996).

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According to Complainant, during vigorous 1994 primary and general election campaigns, "Public appearances and reliable information from close observers are that these campaigns were virtually full-time commitments by the candidate. Despite this, surprisingly, the House Financial Disclosure Statements reflect that Ms. Chenoweth's salary from Consulting Associates increased during her 1994 campaign, as compared to the prior, non-election year." Complainant notes the Committee first declared a \$8,349.11 debt to Consulting Associates in its 1994 year-end report but that this debt is labeled "consulting primary." Complainant concludes by stating: "All indications from the available public records are that Ms. Chenoweth was paying herself directly or indirectly for 'consulting' services to her own campaign. By funneling money from her campaign through Consulting Associates, Inc., it appears that Ms. Chenoweth was able to launder political contributions for her personal gain."

C. Response

Helen Chenoweth and the Chenoweth Committee responded to the initial complaint on December 15, 1995. Counsel contends that the 1994 West One Bank loan "was not a contribution within the meaning of the FEC laws, as it was done in the normal course of the bank's business based upon Ms. Chenoweth's creditworthiness, her assets that far exceeded the obligations involved, and her long term relationship with the bank, and that the loan was in accordance with all applicable laws." Chenoweth Response at 1 (December 15, 1995).

According to this response, the listing of the loan at \$40,000 instead of \$40,400 (a base loan of \$40,000 and \$400 in transactional fees) on FEC forms was "inadvertent." The Committee also states that the loan's initial interest rate was 10%, which was the usual and customary interest rate for the loan. The Committee originally reported the loan as coming from

Ms. Chenoweth; however, in January, 1995, the Committee treasurer obtained a statement from the West One Bank loan officer, provided the statement to the FEC, and disclosed details of the loan. "The record clearly shows that there was never any attempt to falsify or 'hide' the loan, and any errors made in reporting the loan were harmless mistakes based on a plain reading of the relevant guidelines."

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The Chenoweth Respondents state that Ms. Chenoweth had banked with West One Bank and its predecessor-in-interest (Idaho First National Bank) for twenty years, and she had received financing for various projects from the bank. "Her ability to obtain a loan of \$40,000.00 was nothing new with West One Bank." The Chenoweth Respondents insist that Ms. Chenoweth's assets "far exceeded what she owed on such a loan," noting that she only owed \$30,000 on her home which was assessed at \$72,000 and is presently valued at \$91,000. Ms. Chenoweth contends that she met her interest obligations in 1995 and the loan was paid off by refinancing and securing the new loan with a second mortgage on her residence. Respondents note "that in response to concerns raised in the news media regarding the loan, Mrs. Chenoweth promptly went the extra mile by securing the loan with a second mortgage on her residence." "Prior to becoming a candidate for Congress, it was not unusual for Ms. Chenoweth to sign a personal guarantee in the form of a promissory note for a loan, credit line, or credit card on behalf of the corporation she worked for and whom she was the secretary-treasurer."

Counsel states that, although in news reports Ms. Chenoweth was quoted as saying her campaign was in touch with lawyers, in fact this was a misstatement and the Committee had received advice from the National Republican Congressional Committee. Counsel also states that he posed questions to a "non-lawyer on the FEC staff . . . regarding the same scenario

involving the loan in question, and the response was that a loan involving only a promissory note was completely legal as long as it was in the normal course of business of the bank and bore the customary interest rate."

On February 12, 1996, counsel for Ms. Chenoweth and the Chenoweth Committee responded to the amended complaint. Counsel initially notes that the issue of the Chenoweth Committee's acceptance of loans from Consulting Associates was previously "asked and answered" in MUR 4034.² The Chenoweth Respondents contend that the \$2,500 "travel reimbursement" to Consulting Associates was "a payment on account at Consulting Associates, Inc. for services and expenses relating to consultation. . . ." **Chenoweth Response** at 1 (February 12, 1996). Counsel denies that Ms. Chenoweth used corporate resources to circumvent campaign finance laws and states that payments by the campaign to Consulting Associates were not converted to Ms. Chenoweth's personal use.

Counsel included monthly billing records from Consulting Associates to the Chenoweth campaign. The following chart is derived from the records:

Bill Month	Rent	Receptionist	Supplies	Computers	Mr. Ravenscroft
September 1994	\$506.25 (75%) ³	\$782	\$187.50	\$2,400 11/93-10/94	--
October	\$506.25	\$782	\$187.50	--	--

² In MUR 4034, complainant Bill Mauk, Chair of the Idaho Democratic Party and the complainant in this matter, alleged that Helen Chenoweth and the Chenoweth for Congress Committee violated FECA by accepting two loans totaling \$1,750 from Consulting Associates, Inc. Because that matter involved less significant issues relative to other matters pending before the Commission, a limited amount of money, and because the respondents had undertaken remedial action, the Commission took no action and closed the file effective November 14, 1994.

³ The percentage within parentheses allegedly is the portion of the Consulting Associates' resources used by the Committee in that month. Apparently, Consulting Associates billed the Chenoweth Committee for a percentage of the amount that the corporation actually paid for the item.

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1994	(75%)				
November 1994	\$600	\$949.55 (90%)	\$200	\$200	\$1,208.42 (50%)
December 1994	\$600	\$1,042.02 (90%)	\$200	\$200	\$1,537.50 (75%)
January 1995	\$506.25 (75%)	\$332 (50%)	\$6.75	\$100	\$332 (15%)

The Chenoweth Respondents state that Consulting Associates had more than enough income to pay Ms. Chenoweth's salary from sources other than the Chenoweth Committee.

These sources included prior political clients and current governmental affairs clients. Counsel refers to U.S. House of Representatives financial disclosure statements which had been attached to the amended complaint to list Ms. Chenoweth's income received from Consulting Associates. In 1993 she earned \$25,350. In 1994 she earned \$33,150, \$23,450 prior to May 1, of that year. Counsel contends: "Mr. Mauk alleges that Rep. Chenoweth received a substantial increase in income and thereby creates an illusion Consulting Associates, Inc. had little or no income of its own during 1994, that Rep. Chenoweth was not working during the campaign, and that her private business had come to a complete halt. This is simply not true. Such bald assertions are not supported by the facts."

Counsel then lists all income for 1993

and all income for 1994

He states: "Ms.

Chenoweth continued to work full time well into the year at Consulting Associates, Inc. as a consultant helping with the clients of CA, Inc. Her chief client provided regular retainers to CA, Inc. for Mrs. Chenoweth's work. She managed that client's various efforts to work with the

government on his projects and to manage his attorneys relative to a major lawsuit in question. She traveled quite a bit for this particular client and spent many, many hours during the 1994 campaign working for him. As her own campaign became more tense, she had to draw away from her full-time work in August/September, 1994, and she went into full-time campaigning for the U.S. Congress in September, 1994. Yet, even in September of 1994, she did some work for her client, assisting him in obtaining other consultants and in closing down her work for him." Counsel insists that in the last quarter of 1994 there were no salary payments or bonuses from Consulting Associates to Ms. Chenoweth and there have been none since she assumed office.

According to the response, the two principals of Consulting Associates -- Vern Ravenscroft and Helen Chenoweth -- "were politically involved. The company they started, Consulting Associates, Inc., used their expertise to consult and manage political campaigns, as well as lobbying the state legislature and dealing with governmental officials." Consulting Associates was started in 1979 and began to wind down in January, 1995.⁴ Counsel contends it was difficult to gather information for this response because Mr. Ravenscroft lives 100 miles from him and Wayne Crow, the Committee treasurer, has had colon cancer and "has been out of commission" since early December, 1995.

D. Analysis

1. Making of the West One Bank Loans

According to the regulations, a loan will be deemed to be made in the ordinary course of business if meets four criteria. The 1994 Chenoweth loan met two of the four criteria in that it

⁴ According to counsel, Consulting Associates, Inc. is no longer an operating business and counsel believes that it may have forfeited its corporate status late in 1995 by failing to pay a corporation tax. Dun & Bradstreet states that it was informed by a former corporate officer of Consulting Associates that the corporation was discontinued in the latter part of 1995.

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was evidenced by a written instrument -- the promissory note -- and it was subject to a due date of November 23, 1995. However, this loan may not have been made in the ordinary course of business, as it appears that the loan neither met the assurance of repayment criterion nor bore the usual and customary interest rate of the lending institution for the category of loan involved. 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12). Although Helen Chenoweth applied for these loans in her own name, she received them as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a).

With respect to the assurance of repayment criterion, the bank did not receive either of the two alternative sources of repayment which automatically satisfy the assurance of repayment criterion as reflected in 11 C.F.R. § 100.7(b)(11)(i) -- it did not have a perfected security interest in collateral, the fair market value of which was greater than or equal to \$40,000, and there was no written agreement signed by the candidate or her committee pledging future receipts.⁵ Nor does the totality of the circumstances in this situation indicate that the loan was made on a basis which assured repayment. 11 C.F.R. § 100.7(b)(11)(ii).

West One Bank appears to concede that the 1994 loan probably would not meet the assurance of repayment requirement. The bank notes in its response that: "Once it appeared that the loan might not satisfy the 'assurance of repayment' requirement, both the bank and Ms. Chenoweth took steps to rectify the situation." West One Bank Response at 3. The bank acknowledges elsewhere: "As is readily apparent, the loan to Ms. Chenoweth complied with all

⁵ Although Ms. Chenoweth had orally informed West One Bank that she would use campaign fund-raisers to repay a portion of the 1994 loan, this was not a pledge of future receipts required by 11 C.F.R. § 100.7(b)(11)(i)(B) and was not a basis to assure repayment, in particular because the Chenoweth Committee already had significant outstanding debts at the time this loan was made.

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of the requirements of 11 C.F.R. § 100.7(b)(11) except, possibly, the requirement that the loan be 'made on a basis which assures repayment', since the loan was unsecured." *Id.* at 2.

Ms. Chenoweth appears to have restructured the loan using home equity after a number of newspaper articles commented unfavorably on this transaction.

Although West One Bank decided that Ms. Chenoweth was a good credit risk -- the loan memorandum recommending approval of the loan noted that Ms. Chenoweth has good repayment ability, good credit, limited debt, and a sure job for two years -- these factors do not satisfy the assurance of repayment criterion. In addition, it is not even clear that the bank memorandum supporting approval of the loan was accurate in stating that Ms. Chenoweth had good credit in 1994. Although the bank did not attach Ms. Chenoweth's credit history to its response, there is no indication that the bank analyzed Ms. Chenoweth's credit history in 1994 or it would have noted that she had missed payments during the election year. In contrast, for the 1995 loan, the bank attached a consumer loan worksheet and checklist. This document noted on the "derogatory or insufficient credit history" section that "slow credit occurred during campaign year. Credit is now current." Although there may have been different requirements for processing the unsecured 1994 loan and the 1995 secured loan, presumably this information would have appeared on a 1994 credit report which was ignored by the bank in its loan recommendation. Furthermore, in making the 1994 loan the bank received absolutely no collateral. Although the promissory note permitted a right of set off such that the bank could attach all funds held in Ms. Chenoweth's name at West One Bank, Ms. Chenoweth apparently

had no personal accounts in the bank. On her financial statement dated November 23, 1994, Ms. Chenoweth listed her sole cash assets as \$6,322 held by the National Guard Credit Union.⁶

Respondents also do not appear to have satisfied the requirement that the loan bear the usual and customary interest rate of the lending institution for the category of loan involved. The 1994 \$40,000 unsecured loan was obtained at a variable rate equal to 1.5% over prime, initially at 10%. The 1995 loan was for \$30,400 loaned at a fixed rate of 9.67%; in October, 1995 the prime rate was 8.75%. West One Bank did not provide information showing that the rates in effect for the 1994 and 1995 bank loans were the customary interest rates for the time periods during which the two loans were made, but publicly available information obtained concerning the current practices of two banks raises questions as to whether the loans may have been made below market rate.⁷

⁶ Other evidence that the 1994 loan may not satisfy the assurance of repayment criterion arises from the amount of the loan when compared to her net worth.

Two newspaper articles focusing on this transaction, one by the Associated Press and one appearing in the Idaho Statesman, state that the industry "rule of thumb" for unsecured loans is to make a loan equal to no more than 10% of an individual's net worth. An Idaho Statesman article by a reporter who attempted to mimic Ms. Chenoweth by applying for an unsecured loan and got kicked out of West One Bank by its president, notes that "[w]hen I filled out my application with Joyce Brewer, manager of the Statehouse branch, she said 'he 'general rule' for unsecured loans is 10 percent of a borrower's assets. . . . She also said the 10 percent rule is flexible."

⁷ In an effort to determine whether the interest rate was something the Commission should examine, the Office of General Counsel contacted Crestar, a local District of Columbia bank, and West One Bank in Boise, Idaho to find out how a bank's lending rate for personal loans is currently related to the prime rate for both secured and unsecured loans. On February 7, 1996, when the prime lending rate was 8.25%, Crestar would have charged 10.25% interest on a \$40,000 secured loan (2% above prime) and would have charged 12.5% interest on a \$40,000 unsecured loan (4.25% above prime). There would be no additional loan fees. According to a West One Bank loan officer, for a loan secured with home equity, the rate on a \$40,000 loan would be either 9.68% (variable rate) or 10.15% (fixed rate), in addition to a \$500 flat loan fee. If the same loan were unsecured the bank would charge 12.13% (variable rate) or 14% (fixed

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Recent communications between the Committee and the Commission raise additional questions regarding the 1995 loan. Pursuant to a recent request for additional information from the Reports Analysis Division questioning in part the Chenoweth Committee's failure to submit a C-1 and accompanying loan document relating to the 1995 loan, counsel for the Chenoweth Committee states that West One Bank has "taken a firm position that [the 1995 loan] is a personal loan, as it is secured that it was a personal loan to Helen Chenoweth and not to the Committee." Chenoweth Committee Response to Request for Additional Information (April 23, 1996). Although not yet argued in context of the instant matter, West One Bank may now argue, at least with respect to the 1995 loan, that it did not have to comply with the regulations governing loans made to candidates or their committees because it had only made personal loans to Ms. Chenoweth.

If the loan is made to the candidate and then it is used for campaign purposes, the loan must meet the FECA's requirements governing loans to candidates and committees. Ms. Chenoweth sought the original 1994 loan to pay off debts accrued by her committee and she received the loan as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a). Apparently, in 1995, after a great deal of publicity she and West One Bank decided to restructure the loan so that it would be secured by her personal residence. This restructuring however does not change this loan into a personal loan. The bank's unwillingness to sign a schedule C-1

rate), in addition to a 1% loan application fee. Thus, both Crestar and West One Bank currently charge at least 2% more for an unsecured loan than for a secured loan and West One Bank currently charges almost 4% over prime for an unsecured adjustable rate loan. Although not determinative of the interest criterion for the 1994 and 1995 loans, it appears that at present an unsecured loan with an interest rate of 1.5% over prime and a secured loan with an interest rate of .92% over prime would not satisfy that criterion.

certifying that the 1995 loan was made in the ordinary course of business substantiates concerns that the loan was not made in the ordinary course of business.⁸

Accordingly there is reason to believe that the Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 441b for accepting these contributions.

2. Reporting Issues

It appears that there were numerous requirements involving the reporting of both the 1994 and 1995 West One Bank loans with which the Chenoweth Committee failed to comply. The main violation appears to be that for almost 11 months on three separate reports -- the 30 Day Post-General Election Report, the 1994 Year End Report, and the 1995 Mid-Year Report -- the Committee failed to report the 1994 loan as a loan from West One Bank; instead, it stated that Helen Chenoweth was the source of the \$40,000 loan. The loan was made on November 23, 1994, and the campaign did not list the bank as the maker of the loan on its Schedule C form until October 20, 1995, almost eleven months after the loan was obtained; this delinquent reporting occurred only after the transaction had received substantial media attention. This is contrary to the Commission's regulations which clearly state that any candidate who obtains any

⁸ There also may have been additional elements of the 1994 loan which indicate that it was not made in the ordinary course of business. Ms. Chenoweth applied for her loan on November 22, 1994, actually signed her application and financial statement on November 23, 1994, and received her loan payment on November 23, 1994. This seems remarkably swift, particularly when the loan memorandum recommending approval of the loan was dated December 2, 1994, even though the bank's response states that this is an internal document frequently prepared after the loan has been issued. West One Bank, Response at 2. In the same conversation the Office of General Counsel had with the West One Bank loan officer on February 7, 1996, the loan officer stated that unsecured loans must be paid off in installments and that the bank does not customarily allow the loan recipient to make a single balloon payment. In this case, interest was paid in quarterly payments and the face value of the loan was paid off at the end of the loan cycle.

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loan in connection with his or her campaign is considered to have obtained such a loan as an agent of his or her authorized committee. 11 C.F.R. § 101.2(a).

Although on February 2, 1995 the campaign did submit a Schedule C-1 form concerning this loan and attached the 1994 promissory note indicating that West One Bank was the lender, even this form was not submitted until almost two months after it was due. Further, a crucial portion of the C-1 stating -- "if neither of the types of collateral described above was pledged for this loan, or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made and the basis on which it assures repayment" -- was not filled out. Finally, since a committee need only file a C-1 one time and since the Schedule C's on the next two reports continued to identify Ms. Chenoweth as the source of the loan, rather than the bank, the public record contained misleading and inaccurate information even after the C-1 was filed.

The Committee appears to have correctly reported the 1995 Chenoweth loan, but it has failed to submit the Schedule C-1 form with its required documentation and certification for that loan. Indeed, prior to a March 1996 request for additional information on this point from the Reports Analysis Division, the Chenoweth Committee apparently had never attempted to comply with the provisions of 11 C.F.R. § 104.2(d)(1) and submit a completed Schedule C-1. Even if counsel's statement is correct that the West One Bank now contends Ms. Chenoweth's 1995 loan is personal and not campaign related, the Committee still remains in violation of the reporting provision.

The Chenoweth Respondents claim that these reporting violations were all "harmless" mistakes.⁹ Although the misstatement of the interest rate and correct loan amount is minor, the

⁹ The Chenoweth Committee apparently has misreported a number of other items in its past reports. The Committee consistently reported the 1994 loan rate as 10.25% when the interest

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misreporting of the source of the loan and the absence of collateral is clearly not harmless.

Accordingly, there is reason to believe that the Chenoweth for Congress Committee and Wayne Crow, as treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3.

3. Consulting Associates Loans

According to the Chenoweth Committee's 1993 Mid-Year Report, the Committee accepted two loans from Consulting Associates, Inc. -- \$1,250 on May 25, 1993 and \$500 on June 11, 1993. The Committee repaid the loans on June 30, 1993. The Reports Analysis Division wrote to the Committee and explained that corporate contributions are prohibited under FECA and requested clarification. The treasurer responded: "Yes, we had a loan from a corporation which opened the bank account for the election committee. As soon as the committee got the campaign guide and read it, we realized the monies were prohibited and it was then immediately paid back. I hoped the report openly reflected this information and I regret the error." The making of a loan by a corporation, which is not in the business of making loans, or the acceptance of such a loan is prohibited under the Act. Accordingly, there is reason to believe that the Chenoweth for Congress Committee violated 2 U.S.C. § 441b by accepting \$1,750 in contributions from Consulting Associates.

4. Consulting Associates Expenditures

rate, at least initially, was 10.00%. The loan amount actually became \$40,400 because of the addition of \$400 in extra loan fees which were rolled over into the loan principal, but the campaign reported it as a \$40,000 loan. In its 1994 Year End Report, the Chenoweth Committee first reported a debt owed to Consulting Associates of \$8,349.11 which was described as "consulting primary;" the Committee made a \$2,500 payment on this debt during this reporting period. The Committee apparently failed to timely report this debt since the primary had occurred in May of 1994. Finally, in Schedule D of the 1995 Mid Year and 1995 Year End Reports, the beginning and ending debt balances for the Consulting Associates entries did not match from one report to another. After subsequent amendments in April 1996, these entries still appear to be incorrect.

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The Chenoweth Committee may have received other corporate contributions from Consulting Associates stemming from the fact that the campaign used Consulting Associates' facilities. Information received to date indicates that the Committee may not always have paid the proper amount and may not always have paid Consulting Associates within a commercially reasonable time period. The Chenoweth Committee may also have misreported the purposes of some of its transactions with Consulting Associates.

During the course of the 1994 primary and general election campaigns, the Chenoweth Committee made numerous disbursements to Consulting Associates, a firm partially owned by Helen Chenoweth.¹⁰ The Committee reported miscellaneous expenditures which it identified as follows:

PURPOSE	DATE	AMOUNT
Office/Equipment Rental	8/12/94	\$2,255.00
Phone Expense	9/20/94	\$646.37
Rental	12/1/94	\$3,157.97
Rental	12/22/94	\$3,579.52
Travel	12/29/94	\$2,500.00
Total:		\$12,138.86

In addition, the campaign made more than \$23,000 in disbursements to Consulting Associates for which the stated purpose was "consulting fees":

9/19/94	\$5,000.00
10/28/94	\$1,549.50
11/1/94	\$1,108.48
11/2/94	\$675.00
11/4/94	\$1,500.00
11/16/94	\$1,000.00
11/23/94	\$3,336.59

¹⁰ Ms. Chenoweth owned 49.5% of Consulting Associates and was its secretary-treasurer. Vernon Ravenscroft also owned 49.5% of Consulting Associates and was its president. Bob Robson owned the final 1% of capital stock.

3/13/95	\$2,028.00
7/18/95	\$1,277.00
11/30/95	\$500.00
12/29/95	\$5,349.11
12/29/95	\$541.81
Total:	\$23,865.49

Counsel for the Chenoweth Respondents provided copies of monthly bills from Consulting Associates to the Chenoweth Committee which reflected some but not all of the reported disbursements.

Those records are summarized as follows:

	<u>Rent</u>	<u>Receptionist</u>	<u>Supplies</u>	<u>Computers</u>	<u>V. Ravenscroft</u>	<u>Month Total</u>
September 1994	\$506.25	\$782	\$187.50	\$2,400	--	\$3,875.75
October 1994	\$506.25	\$782	\$187.50	--	--	\$1,475.75
November 1994	\$600	\$949.55	\$200	\$200	\$1,208.42	\$3,157.97
December 1994	\$600	\$1,042.02	\$200	\$200	\$1,537.50	\$3,579.52
January 1995	\$506.25	\$332	\$6.75	\$100	\$332	\$1,277
TOTAL	\$2,718.75	\$3,887.57	\$781.75	\$2,900	\$3,077.92	

Total, 9/94 - 1/95 = \$13,365.99

Although it is possible to reconcile the amounts of some of the bills with the amounts of some of the reported disbursements, it is more difficult to match the basis listed in the bills for the fees charged with the reported purposes of disbursements. For example, monthly billing records supplied by counsel for the Chenoweth Respondents sometimes include charges for use of Consulting Associates facilities (rent, equipment, and supplies) together with a charge for

partial use of a receptionist and the services of Vernon Ravenscroft, the president of Consulting Associates. This can be seen, for example, in the November 1994 and December 1994 bills.

While the Committee reported two disbursements in December 1994 that matched exactly the amounts of the November and December bills provided by the Chenoweth Respondents, the only purpose the Committee reported for these disbursements was "rental," even though the bills that appear to match include charges for supplies, the computers, and the time of Vernon Ravenscroft and a receptionist. Since disbursements to pay bills which included charges for Mr. Ravenscroft's time were sometimes reported as being for rental, this also raises questions about what may have been the actual purpose of the disbursements reported by the committee only as "consulting fees." In fact, the Chenoweth Respondents add to this confusion by contending that the \$2,500 "travel reimbursement" to Consulting Associates as reflected in the 1994 Year End Report was actually "a payment on account at Consulting Associates, Inc. for services and expenses relating to consultation. . . ." Chenoweth Response at 1 (February 12, 1996). The apparent erroneous statements of purpose for these disbursements made by the Committee to Consulting Associates at least appear to be violations of 2 U.S.C. § 434(b)(4).

Since respondents have not provided us with all the bills, it is also unclear the extent to which Consulting Associates was reimbursed at the proper rate and within the proper time period. Indeed, given the questions about the accuracy of the reported purposes of the Chenoweth Committee's disbursements, it is not even clear whether these transactions are reflective of the Committee's use of corporate facilities pursuant to section 114.9(d) of the regulations, reflective of a consulting relationship pursuant to section 116.3, or both.¹¹ The

¹¹ In addition, in instances when Ms. Chenoweth as a stockholder in Consulting Associates personally made more than occasional, isolated, or incidental use of Consulting Associates'

information provided by the Chenoweth Respondents and the Chenoweth Committee's reports raises these questions and warrants further investigation on whether the Committee used Consulting Associates' facilities or purchased consulting services.

Even the limited evidence received to date appears to indicate instances in which, under any measure, the Committee did not reimburse Consulting Associates on a timely basis. For instance, the September 1994 bill contains a charge of \$2,400 for "Rent two computers for one year. Nov. 1993 thru Oct. 1994." Similarly, the January 1995 bill for \$1,277 was not paid until July 18, 1995 (the disbursement is listed as a consulting fee). Moreover, debts owed to Consulting Associates reflected in the 1994 Year End report were not paid off until December 29, 1994 -- at least one year after they were accrued.

Two other charges for which the Committee was billed or disbursed funds -- receptionist services and travel -- also appear to evidence violations of 2 U.S.C. § 441b unless Consulting Associates regularly extended credit for those services. The monthly reports provided by counsel show \$3,887.57 in bills for a receptionist between September, 1994 and January, 1995. A statement from the reception included by counsel, dated October 12, 1994, notes: "I have examined my work schedule and for the month of September find that I spent approximately 80% of my total work hours on campaign related efforts. For our records we certainly can justify at least a 75% charge to the campaign: 132 hours @ \$5.50 an hour for a total of \$726.00." 11 C.F.R. § 114.9 "applies only to the use of corporate facilities and does not include the use of the paid services of corporate employees. Therefore, this section cannot be read as supporting or authorizing . . . reimbursement . . . regarding the compensation paid to . . . employees for the

facilities, she was required to personally reimburse Consulting Associates within a commercially reasonable time for the normal and usual rental charge. 11 C.F.R. § 114.9(a)(2).

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political services rendered to Federal candidates." Advisory Opinion 1984-24.¹² The Committee also disbursed \$2,500 to Consulting Associates for "travel." In the absence of evidence that Consulting Associates extended credit for, or even provided, receptionist services or travel services to its customers in the ordinary course of its business, the provisions of 11 C.F.R. § 116.3 would not apply. As there is no evidence of advance payment by the campaign, Consulting Associates' payments of the receptionist's salary and travel expenses appear to have constituted advances and thus may have been corporate contributions totaling \$6,387.57, in violation of 2 U.S.C. § 441b.

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This conflicting information relating to the Chenoweth Committee's use of Consulting Associate's facilities and consulting services provides additional bases for reason to believe findings of 434 and 441b against the Committee. The evidence appears to show that the Chenoweth Committee may not always have paid the proper amount and may not always have paid Consulting Associates within a commercially reasonable time period. Furthermore, the Chenoweth Committee may have misreported the purposes of some of its transactions with Consulting Associates.

¹² Under new regulations to appear at 11 C.F.R. § 114.2(f), a corporation which is not in the business of providing secretarial services may provide such services to a campaign to assist in fund-raising without violating 2 U.S.C. § 441b, if the campaign pays in advance for the fair market value of the services.

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR 4283

MUR 4402

RESPONDENT: Helen Chenoweth

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This matter was generated by a complaint filed with the Federal Election Commission ("Commission") on November 21, 1995. See 2 U.S.C. § 437g(a)(1). William L. Mauk, Chair of the Idaho Democratic Party ("Complainant") alleged that Helen Chenoweth and her campaign committee, Chenoweth for Congress Committee and Wayne Crow, as treasurer, ("Chenoweth Committee" or "Committee") and West One Bank violated provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). Respondents Helen Chenoweth and the Chenoweth Committee (collectively, "Chenoweth Respondents") were notified of the complaint on November 29, 1995 and responded to the complaint on December 15, 1995. On January 16, 1996, the Commission received an amended complaint in MUR 4283 addressing additional violations of the Act. The Chenoweth Respondents were notified of the amendment to the complaint on January 23, 1996 and responded on February 12, 1996.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

It is unlawful for any corporation to make a contribution or expenditure in connection with a federal election, or for any candidate or political committee to knowingly accept any prohibited contribution. 2 U.S.C. § 441b(a). A contribution or expenditure includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money or any services, or anything of value. 2 U.S.C. § 441b(b)(2).

Pursuant to 2 U.S.C. §§ 431(8)(B)(vii) and 441b(b)(2), and 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12), a loan by a bank is not a contribution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it meets four criteria: 1) the loan bears the usual and customary interest rate of the lending institution for the category of loan involved; 2) the loan is made on a basis which assures repayment; 3) the loan is evidenced by a written instrument; and 4) the loan is subject to a due date or amortization schedule.

2 U.S.C. § 431(8)(B)(vii) and 11 C.F.R. § 100.7(b)(11).

A loan will be considered to have been made on a basis which assures repayment if it is obtained using one of two sources of repayment or a combination of both. The first possible source of repayment is if the lending institution has perfected a security interest in collateral owned by the candidate or political committee receiving the loan, and the fair market value of such collateral, less any liens, is equal to or greater than the loan amount. The second possible source of repayment is if the candidate or political committee provides the bank with a written agreement pledging future receipts such as public financing, contributions, or interest income, the amount of which is equal to the loan. 11 C.F.R. § 100.7(b)(11)(i). If these criteria are not met, the Commission will consider the totality of the circumstances on a case-by-case basis in determining whether a loan was made on a basis which assures repayment.

11 C.F.R. § 100.7(b)(11)(ii).

Pursuant to 11 C.F.R. § 101.2(a), any candidate who obtains any loan in connection with his or her campaign shall be considered as having obtained such a loan as an agent of his or her authorized committee.

B. Complaint

Complainant William L. Mauk, Chair of the Idaho Democratic Party, filed a complaint with the Commission on November 21, 1995. He alleges that Helen Chenoweth, the Chenoweth for Congress Committee and Wayne Crow, as treasurer, and West One Bank violated FECA by receiving or making an "illegal" bank loan. Complainant alleges that Helen Chenoweth received a bank loan of \$40,400 from West One Bank, which was made without collateral or other security and thus did not meet the Act's requirement that it be "made on a basis which assures repayment." Complainant further alleges that the loan initially was reported on Committee reports as a ~~personal~~ loan from Helen Chenoweth to her campaign committee and not as a bank loan from West One Bank and originally was reported as bearing an interest rate of ten and one-quarter percent. This information in the initial complaint was also separately ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

On January 16, 1996, Complainant amended his complaint alleging that during the 1993-1994 election cycle, Congresswoman Chenoweth and her campaign committee were engaged in a series of transactions with Consulting Associates, Inc. ("Consulting Associates") involving corporate contributions and the conversion of campaign funds to the candidate's personal use. Complainant enclosed FEC reports filed by the Chenoweth for Congress Committee recording a \$1,750 loan by Consulting Associates to candidate Chenoweth which was later repaid with campaign funds. Complainant also included a copy of a FEC report containing a \$2,500 disbursement to Consulting Associates labeled "travel disbursement." Consulting Associates is an Idaho corporation and Helen Chenoweth is a principal owner, officer, and employee of this corporation. During the 1993-94 campaign, expenditures by the Chenoweth Committee to

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Consulting Associates totaled over \$35,000 and included payments for rental, phone expenses, office/equipment rental and consulting fees. During this period, "the candidate was the secretary and treasurer of the corporation and relied upon its consulting and other services as her principal, if not exclusive, source of income." Supplemental Complaint at 2 (January 16, 1996).

According to Complainant, during vigorous 1994 primary and general election campaigns, "Public appearances and reliable information from close observers are that these campaigns were virtually full-time commitments by the candidate. Despite this, surprisingly, the House Financial Disclosure Statements reflect that Ms. Chenoweth's salary from Consulting Associates increased during her 1994 campaign, as compared to the prior, non-election year." Complainant notes the Committee first declared a \$8,349.11 debt to Consulting Associates in its 1994 year-end report but that this debt is labeled "consulting primary." Complainant concludes by stating: "All indications from the available public records are that Ms. Chenoweth was paying herself directly or indirectly for 'consulting' services to her own campaign. By funneling money from her campaign through Consulting Associates, Inc., it appears that Ms. Chenoweth was able to launder political contributions for her personal gain."

C. **Response**

Helen Chenoweth and the Chenoweth Committee responded to the initial complaint on December 15, 1995. Counsel contends that the 1994 West One Bank loan "was not a contribution within the meaning of the FEC laws, as it was done in the normal course of the bank's business based upon Ms. Chenoweth's creditworthiness, her assets that far exceeded the obligations involved, and her long term relationship with the bank, and that the loan was in accordance with all applicable laws." Chenoweth Response at 1 (December 15, 1995).

According to this response, the listing of the loan at \$40,000 instead of \$40,400 (a base loan of \$40,000 and \$400 in transactional fees) on FEC forms was "inadvertent." The Committee also states that the loan's initial interest rate was 10%, which was the usual and customary interest rate for the loan. The Committee originally reported the loan as coming from Ms. Chenoweth; however, in January, 1995, the Committee treasurer obtained a statement from the West One Bank loan officer, provided the statement to the FEC, and disclosed details of the loan. "The record clearly shows that there was never any attempt to falsify or 'hide' the loan, and any errors made in reporting the loan were harmless mistakes based on a plain reading of the relevant guidelines."

The Chenoweth Respondents state that Ms. Chenoweth had banked with West One Bank and its predecessor-in-interest (Idaho First National Bank) for twenty years, and she had received financing for various projects from the bank. "Her ability to obtain a loan of \$40,000.00 was nothing new with West One Bank." The Chenoweth Respondents insist that Ms. Chenoweth's assets "far exceeded what she owed on such a loan," noting that she only owed \$30,000 on her home which was assessed at \$72,000 and is presently valued at \$91,000. Ms. Chenoweth contends that she met her interest obligations in 1995 and the loan was paid off by refinancing and securing the new loan with a second mortgage on her residence. Respondents note "that in response to concerns raised in the news media regarding the loan, Mrs. Chenoweth promptly went the extra mile by securing the loan with a second mortgage on her residence." "Prior to becoming a candidate for Congress, it was not unusual for Ms. Chenoweth to sign a personal guarantee in the form of a promissory note for a loan, credit line, or credit card on behalf of the corporation she worked for and whom she was the secretary-treasurer."

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Counsel states that, although in news reports Ms. Chenoweth was quoted as saying her campaign was in touch with lawyers, in fact this was a misstatement and the Committee had received advice from the National Republican Congressional Committee. Counsel also states that he posed questions to a "non-lawyer on the FEC staff . . . regarding the same scenario involving the loan in question, and the response was that a loan involving only a promissory note was completely legal as long as it was in the normal course of business of the bank and bore the customary interest rate."

On February 12, 1996, counsel for Ms. Chenoweth and the Chenoweth Committee responded to the amended complaint. Counsel initially notes that the issue of the Chenoweth Committee's acceptance of loans from Consulting Associates was previously "asked and answered" in MUR 4034.¹ The Chenoweth Respondents contend that the \$2,500 "travel reimbursement" to Consulting Associates was "a payment on account at Consulting Associates, Inc. for services and expenses relating to consultation. . . ." Chenoweth Response at 1 (February 12, 1996). Counsel denies that Ms. Chenoweth used corporate resources to circumvent campaign finance laws and states that payments by the campaign to Consulting Associates were not converted to Ms. Chenoweth's personal use.

Counsel included monthly billing records from Consulting Associates to the Chenoweth campaign. The following chart is derived from the records:

¹ In MUR 4034, complainant Bill Mauk, Chair of the Idaho Democratic Party and the complainant in this matter, alleged that Helen Chenoweth and the Chenoweth for Congress Committee violated FECA by accepting two loans totaling \$1,750 from Consulting Associates, Inc. Because that matter involved less significant issues relative to other matters pending before the Commission, a limited amount of money, and because the respondents had undertaken remedial action, the Commission took no action and closed the file effective November 14, 1994.

Bill Month	Rent	Receptionist	Supplies	Computers	Mr. Ravenscroft
September 1994	\$506.25 (75%) ²	\$782	\$187.50	\$2,400 11/93-10/94	--
October 1994	\$506.25 (75%)	\$782	\$187.50	--	--
November 1994	\$600	\$949.55 (90%)	\$200	\$200	\$1,208.42 (50%)
December 1994	\$600	\$1,042.02 (90%)	\$200	\$200	\$1,537.50 (75%)
January 1995	\$506.25 (75%)	\$332 (50%)	\$6.75	\$100	\$332 (15%)

The Chenoweth Respondents state that Consulting Associates had more than enough income to pay Ms. Chenoweth's salary from sources other than the Chenoweth Committee. These sources included prior political clients and current governmental affairs clients. Counsel refers to U.S. House of Representatives financial disclosure statements which had been attached to the amended complaint to list Ms. Chenoweth's income received from Consulting Associates. In 1993 she earned \$25,350. In 1994 she earned \$33,150, \$23,450 prior to May 1, of that year. Counsel contends: "Mr. Mauk alleges that Rep. Chenoweth received a substantial increase in income and thereby creates an illusion Consulting Associates, Inc. had little or no income of its own during 1994, that Rep. Chenoweth was not working during the campaign, and that her

² The percentage within parentheses allegedly is the portion of the Consulting Associates' resources used by the Committee in that month. Apparently, Consulting Associates billed the Chenoweth Committee for a percentage of the amount that the corporation actually paid for the item.

private business had come to a complete halt. This is simply not true. Such bald assertions are not supported by the facts."

Counsel then lists all income for 1993

and all income for 1994.

He states:

Ms. Chenoweth continued to work full time well into the year at Consulting Associates, Inc. as a consultant helping with the clients of CA, Inc. Her chief client provided regular retainers to CA, Inc. for Mrs. Chenoweth's work. She managed that client's various efforts to work with the government on his projects and to manage his attorneys relative to a major lawsuit in question. She traveled quite a bit for this particular client and spent many, many hours during the 1994 campaign working for him. As her own campaign became more tense, she had to draw away from her full-time work in August/September, 1994, and she went into full-time campaigning for the U.S. Congress in September, 1994. Yet, even in September of 1994, she did some work for her client, assisting him in obtaining other consultants and in closing down her work for him.

Counsel insists that in the last quarter of 1994 there were no salary payments or bonuses from Consulting Associates to Ms. Chenoweth and there have been none since she assumed office.

According to the response, the two principals of Consulting Associates -- Vern Ravenscroft and Helen Chenoweth -- "were politically involved. The company they started, Consulting Associates, Inc., used their expertise to consult and manage political campaigns, as well as lobbying the state legislature and dealing with governmental officials." Consulting Associates was started in 1979 and began to wind down in January, 1995.³ Counsel contends it was difficult to gather information for this response because Mr. Ravenscroft lives 100 miles

³ According to counsel, Consulting Associates, Inc. is no longer an operating business and counsel believes that it may have forfeited its corporate status late in 1995 by failing to pay a corporation tax. Dun & Bradstreet states that it was informed by a former corporate officer of Consulting Associates that the corporation was discontinued in the latter part of 1995.

from him and Wayne Crow, the Committee treasurer, has had colon cancer and "has been out of commission" since early December, 1995.

D. Analysis

1. West One Bank Loans

According to the regulations, a loan will be deemed to be made in the ordinary course of business if meets four criteria. The 1994 Chenoweth loan met two of the four criteria in that it was evidenced by a written instrument -- the promissory note -- and it was subject to a due date of November 23, 1995. However, this loan may not have made in the ordinary course of business, as it appears that the loan neither met the assurance of repayment criterion nor bore the usual and customary interest rate of the lending institution for the category of loan involved. 11 C.F.R. §§ 100.7(b)(11) and 100.8(b)(12). Although Helen Chenoweth applied for these loans in her own name, she received them as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a).

With respect to the assurance of repayment criterion, the bank did not receive either of the two alternative sources of repayment which automatically satisfy the assurance of repayment criterion as reflected in 11 C.F.R. § 100.7(b)(11)(i) -- it did not have a perfected security interest in collateral, the fair market value of which was greater than or equal to \$40,000, and there was no written agreement signed by the candidate or her committee pledging future receipts.⁴ Nor

⁴ Although Ms. Chenoweth had orally informed West One Bank that she would use campaign fund-raisers to repay a portion of the 1994 loan, this was not a pledge of future receipts required by 11 C.F.R. § 100.7(b)(11)(i)(B) and was not a basis to assure repayment, in particular because the Chenoweth Committee already had significant outstanding debts at the time this loan was made.

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does the totality of the circumstances in this situation indicate that the loan was made on a basis which assured repayment. 11 C.F.R. § 100.7(b)(11)(ii).

West One Bank appears to concede that the 1994 loan probably would not meet the assurance of repayment requirement. The bank notes in its response that: "Once it appeared that the loan might not satisfy the 'assurance of repayment' requirement, both the bank and Ms. Chenoweth took steps to rectify the situation." West One Bank Response at 3. The bank acknowledges elsewhere: "As is readily apparent, the loan to Ms. Chenoweth complied with all of the requirements of 11 C.F.R. § 100.7(b)(11) except, possibly, the requirement that the loan be 'made on a basis which assures repayment', since the loan was unsecured." *Id.* at 2.

Ms. Chenoweth appears to have restructured the loan using home equity after a number of newspaper articles commented unfavorably on this transaction.

Although West One Bank decided that Ms. Chenoweth was a good credit risk -- the loan memorandum recommending approval of the loan noted that Ms. Chenoweth has good repayment ability, good credit, limited debt, and a sure job for two years -- these factors do not satisfy the assurance of repayment criterion. In addition, it is not even clear that the bank memorandum supporting approval of the loan was accurate in stating that Ms. Chenoweth had good credit in 1994. Although the bank did not attach Ms. Chenoweth's credit history to its response, there is no indication that the bank analyzed Ms. Chenoweth's credit history in 1994 or it would have noted that she had missed payments during the election year. In contrast, for the 1995 loan, the bank attached a consumer loan worksheet and checklist. This document noted on the "derogatory or insufficient credit history" section that "slow credit occurred during campaign year. Credit is now current." Although there may have been different requirements for

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processing the unsecured 1994 loan and the 1995 secured loan, presumably this information would have appeared on a 1994 credit report which was ignored by the bank in its loan recommendation. Furthermore, in making the 1994 loan the bank received absolutely no collateral. Although the promissory note permitted a right of set off such that the bank could attach all funds held in Ms. Chenoweth's name at West One Bank, Ms. Chenoweth apparently had no personal accounts in the bank. On her financial statement dated November 23, 1994, Ms. Chenoweth listed her sole cash assets as \$6,322 held by the National Guard Credit Union.⁵

Respondents also do not appear to have satisfied the requirement that the loan bear the usual and customary interest rate of the lending institution for the category of loan involved. The 1994 \$40,000 unsecured loan was obtained at a variable rate equal to 1.5% over prime, initially at 10%. The 1995 loan was for \$30,400 loaned at a fixed rate of 9.67%; in October, 1995 the prime rate was 8.75%. West One Bank did not provide information showing that the rates in effect for the 1994 and 1995 bank loans were the customary interest rates for the time periods during which the two loans were made, but publicly available information obtained concerning

⁵ Other evidence that the 1994 loan may not satisfy the assurance of repayment criterion arises from the amount of the loan when compared to her net worth.

Two newspaper articles focusing on this transaction, one by the Associated Press and one appearing in the Idaho Statesman, state that the industry "rule of thumb" for unsecured loans is to make a loan equal to no more than 10% of an individual's net worth. An Idaho Statesman article by a reporter who attempted to mimic Ms. Chenoweth by applying for an unsecured loan and got kicked out of West One Bank by its president, notes that "[w]hen I filled out my application with Joyce Brewer, manager of the Statehouse branch, she said the 'general rule' for unsecured loans is 10 percent of a borrower's assets. . . . She also said the 10 percent rule is flexible."

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the current practices of two banks raises questions as to whether the loans may have been made below market rate.⁶

Recent communications between the Committee and the Commission raise additional questions regarding the 1995 loan. Pursuant to a recent request for additional information from the Reports Analysis Division questioning in part the Chenoweth Committee's failure to submit a C-1 and accompanying loan document relating to the 1995 loan, counsel for the Chenoweth Committee states that West One Bank has "taken a firm position that [the 1995 loan] is a personal loan, as it is secured that it was a personal loan to Helen Chenoweth and not to the Committee." Chenoweth Committee Response to Request for Additional Information (April 23, 1996). Although not yet argued in context of the instant matter, West One Bank may now argue, at least with respect to the 1995 loan, that it did not have to comply with the regulations governing loans made to candidates or their committees because it had only made personal loans to Ms. Chenoweth.

⁶ In an effort to determine whether the interest rate was something the Commission should examine, the Office of General Counsel contacted Crestar, a local District of Columbia bank, and West One Bank in Boise, Idaho to find out how a bank's lending rate for personal loans is currently related to the prime rate for both secured and unsecured loans. On February 7, 1996, when the prime lending rate was 8.25%, Crestar would have charged 10.25% interest on a \$40,000 secured loan (2% above prime) and would have charged 12.5% interest on a \$40,000 unsecured loan (4.25% above prime). There would be no additional loan fees. According to a West One Bank loan officer, for a loan secured with home equity, the rate on a \$40,000 loan would be either 9.68% (variable rate) or 10.15% (fixed rate), in addition to a \$500 flat loan fee. If the same loan were unsecured the bank would charge 12.13% (variable rate) or 14% (fixed rate), in addition to a 1% loan application fee. Thus, both Crestar and West One Bank currently charge at least 2% more for an unsecured loan than for a secured loan and West One Bank currently charges almost 4% over prime for an unsecured adjustable rate loan. Although not determinative of the interest criterion for the 1994 and 1995 loans, it appears that at present an unsecured loan with an interest rate of 1.5% over prime and a secured loan with an interest rate of .92% over prime would not satisfy that criterion.

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If the loan is made to the candidate and then it is used for campaign purposes, the loan must meet the FECA's requirements governing loans to candidates and committees.

Ms. Chenoweth sought the original 1994 loan to pay off debts accrued by her committee and she received the loan as an agent of the Chenoweth Committee pursuant to 11 C.F.R. § 101.2(a).

Apparently, in 1995, after a great deal of publicity she and West One Bank decided to restructure the loan so that it would be secured by her personal residence. This restructuring however does not change this loan into a personal loan. The bank's unwillingness to sign a schedule C-1 certifying that the 1995 loan was made in the ordinary course of business substantiates concerns that the loan was not made in the ordinary course of business.⁷

Because it is clear that the candidate personally applied for and received the loans, and presumably negotiated their favorable terms, there is reason to believe that Helen Chenoweth violated 2 U.S.C. § 441b for accepting these contributions in her personal capacity as a candidate.

⁷ There also may have been additional elements of the 1994 loan which indicate that it was not made in the ordinary course of business. Ms. Chenoweth applied for her loan on November 22, 1994, actually signed her application and financial statement on November 23, 1994, and received her loan payment on November 23, 1994. This seems remarkably swift, particularly when the loan memorandum recommending approval of the loan was dated December 2, 1994, even though the bank's response states that this is an internal document frequently prepared after the loan has been issued. West One Bank, Response at 2. In the same conversation the Office of General Counsel had with the West One Bank loan officer on February 7, 1996, the loan officer stated that unsecured loans must be paid off in installments and that the bank does not customarily allow the loan recipient to make a single balloon payment. In this case, interest was paid in quarterly payments and the face value of the loan was paid off at the end of the loan cycle.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 28, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John C. Keenan, Esq.
Goicoechea Law Offices
P.O. Box 340
Nampa, Idaho 83653

RE: MUR 4283 and MUR 4402
The Honorable Helen P. Chenoweth

Dear Mr. Keenan:

Records or information concerning the transactions of your client, Helen P. Chenoweth, held by the financial institution named in the attached subpoena and order are being sought by this agency in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: to investigate possible violations of the Federal Election Campaign Act of 1971, as amended, by Ms. Chenoweth in connection with loans made by West One Bank to her.

If your client desires that such records or information not be made available, you or she must:

1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that your client is the customer whose records are being requested by the Commission and either giving the reasons you or your client believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.
2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts: United States District Court for the District of Idaho or the United States District Court for the District of Columbia.
3. Serve the Commission by mailing or delivering a copy of your motion and statement to: Federal Election Commission, Office of the General Counsel, 999 E Street, N.W., Washington, D.C. 20463.

4. Be prepared to come to court and present your position in further detail. If you or your client do not follow the above procedures, upon the expiration of ten days from the date of service or 14 days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other client will be notified after the transfer.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Stephan O. Kline
Attorney

Enclosures

Subpoena and Order to West One Bank
Motion to Quash Subpoena and Order
Affidavit

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
OR FOR THE DISTRICT OF IDAHO

Helen P. Chenoweth,
Petitioner

v.

FEDERAL ELECTION COMMISSION,
Respondent

)
)
) AFFIDAVIT
)
)
)

AFFIDAVIT

Idaho County

)
)

Helen Chenoweth, being duly sworn, makes the following her affidavit and states:

1. I hereby affirm that all of the statements in the Motion to Quash Commission Subpoena/Order are true and accurate to the best of my knowledge and belief.
2. Further the affiant sayeth not.

Helen P. Chenoweth

Subscribed and sworn to before me this _____ day of _____, 1996.

Notary Public

My Commission expires _____

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LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

GEORGE D. WEBSTER
ARTHUR L. HEROLD
ALAN P. DYE
EDWARD D. COLEMAN
BUDGETT VAN KIRK
FRANK M. NORTHAM
GERARD F. PANARO
JOHN W. HAZARD, JR.
CHARLES M. WATKINS
HUGH K. WEBSTER
DAVID P. GOCH
BRENNLEY LOCKE ELIAS

OF COUNSEL
J. COLEMAN BEAN
KENT MASTERSON BROWN
CHARLES E. CHAMBERLAIN

July 9, 1996

Lawrence M. Noble, Esquire
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4283
MUR 4402
West One Bank

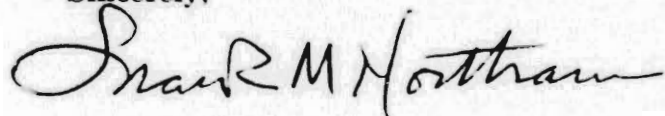
Dear Mr. Noble,

Please find enclosed the original and two copies of West One Bank's Motion to Quash and/or Modify Subpoena in the above-referenced MURs.

We have been negotiating with Stephan Kline in an attempt to narrow the scope of certain interrogatories and will continue those efforts. I am confident that Mr. Kline will advise you if we are unable to reach an agreement as to how West One Bank will respond to those interrogatories.

In the meantime, the bank is collecting the information sought in the other interrogatories and anticipates filing timely responses to those interrogatories.

Sincerely,



Frank M. Northam

FMN/jc

Enclosures

cc: Stephan Kline, Esquire
John Ward, Esquire

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 9 3 12 PM '96

2004-36046

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 4283
) MUR 4402

MOTION TO QUASH AND/OR MODIFY SUBPOENA

West One Bank, by counsel, pursuant to FEC Reg. § 111.15, moves to quash and/or modify the Subpoena to Produce Documents/Order to Submit Written Answers which was received by its counsel on July 2, 1996. The reasons for this motion are set forth below.

In the Interrogatories and Requests for Documents labeled "No RFPA Information", Interrogatories 4, 5, and 8 call for the retrieval and preparation of vast amounts of information, much of which would be irrelevant to the Commission's investigation. It would be unduly burdensome and oppressive for the Commission to require the bank to produce this information.

Interrogatory 4 seeks detailed information as to each personal loan, that was unsecured or secured only by a promissory note, made by West One Bank during 1994 and 1995. Interrogatory 5 seeks similarly detailed information concerning each secured personal loan issued by West One Bank in 1994 and 1995.

West One Bank estimates that, were it to respond to these interrogatories, the bank would have to review and collect information on approximately 40,000 loans. Additionally, the bank's information processing system is not set up in such a manner as to produce all of the information sought by the Commission; therefore, some of the information would have to be retrieved manually.

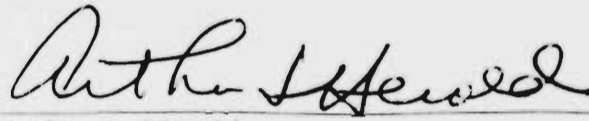
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COMMISSION
OFFICE OF GENERAL
COUNSEL

2004860437

Interrogatory 8 seeks information as to the repayment of unsecured loans through installment or balloon payments. That information can be provided. However, interrogatory 8 also seeks a breakdown for the years 1994 to 1996 showing how many unsecured loans were repaid in installments and how many were repaid with a balloon payment. As with interrogatories 4 and 5, this would require the review of thousands of loans, entailing a great amount of time, manpower, and expense.

Because of the undue burden and expense which would be imposed upon West One Bank were it required to respond to Interrogatories 4, 5 and 8 and because much of the information sought by those interrogatories is irrelevant to the Commission's investigation, the subpoena in regard to those interrogatories should be quashed or those interrogatories should be modified so as to reduce the burden and expense imposed on West One Bank in providing relevant information to the Commission.

Respectfully submitted,



Arthur L. Herold



Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006
(202)785-9500

Counsel for West One Bank

98047860439



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 18, 1996

Arthur L. Herold
Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006

RE: MUR 4283
MUR 4402
West One Bank

Dear Mr. Herold and Mr. Northam:

Enclosed is a Certificate of Compliance with the Right to Financial Privacy Act of 1978, issued in connection with the Subpoena and Order sent to your financial institution on June 28, 1996, seeking the financial records of Helen P. Chenoweth.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

Enclosure
Certificate



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**CERTIFICATION OF COMPLIANCE WITH
THE RIGHT TO FINANCIAL PRIVACY ACT**

TO: Arthur L. Herold
Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006

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

RE: MUR 4283
MUR 4402
West One Bank

I hereby certify, pursuant to Section 1103(b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. § 3403(b), that the provisions of the Act have been complied with as to the Subpoena to Produce Documents and Order to Submit Written Answers forwarded to you in the above-captioned matter, responses to which are being ordered pursuant to 12 U.S.C. §§ 3402 and 3405.

Sincerely,

Stephan O. Kline
Attorney

7/18/96
Date



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20546

JUL 11 11 00 AM '96

SENSITIVE

MEMORANDUM

July 11, 1996

JUL 16 1996

TO: The Commission

FROM: Lois G. Lerner *LL*
Associate General Counsel

**EXECUTIVE SESSION
SUBMITTED LATE**

SUBJECT: Request to Suspend the Rules with regard to the General Counsel's Report
in MUR 4283 and MUR 4402

The Attached General Counsel's Report contains recommendations regarding disposition of West One Bank's Motion to Quash. In order to expedite discovery and to ensure that Respondents have an answer from the Commission well before their August 1, 1996 deadline, the Office of General Counsel requests that this Report be placed on the July 16, 1996, Executive Session Agenda.

Attachment

General Counsel's Report with Attachments

Attorney assigned: Stephan O. Kline

98043860492

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

West One Bank

)
)
)
)

MUR 4283

MUR 4402

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 25, 1996, the Federal Election Commission ("Commission") found reason to believe that Helen Chenoweth: Chenoweth for Congress Committee and Wayne Crow, as treasurer; Consulting Associates, Inc; and West One Bank ("Respondents") violated various provisions of the Federal Election Campaign Act of 1971, as amended, ("Act" or "FECA"). The Commission specifically found reason to believe that West One Bank violated 2 U.S.C. § 441b through two loans to Helen Chenoweth which were possibly not made in the ordinary course of its business. On the same date the Commission also approved Subpoenas for the Production of Documents and Orders for Answers to Interrogatories to be sent to all Respondents.

On July 9, 1996, West One Bank filed a Motion to Quash and/or Modify Subpoena pertaining to three interrogatories. Attachment 1. This report recommends that the Commission deny West One Bank's Motion to Quash.

II. ANALYSIS

West One Bank seeks to quash or limit Interrogatories 4, 5, and 8 in the Subpoena to Produce Documents and Order to Submit Written Answers addressed to West One Bank. See

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Attachment 2. These interrogatories seek information pertaining to secured and unsecured loans made by West One Bank in 1994 and 1995. According to the Motion, these interrogatories:

call for the retrieval and preparation of vast amounts of information, much of which would be irrelevant to the Commission's investigation. It would be unduly burdensome and oppressive for the Commission to require the Bank to produce this information. . . . West One Bank estimates that, were it to respond to these interrogatories the Bank would have to review and collect information on approximately 40,000 loans. Additionally, the Bank's information processing system is not set up in such a manner as to produce all of the information sought by the Commission; therefore, some of the information would have to be retrieved manually.

Attachment 1 at 1. West One Bank is incorrect in its assertion that the information sought in these interrogatories is irrelevant. The information pertaining to the unsecured loan, the balloon payment issue, and interest rates for fixed rate secured loans is directly relevant and necessary in making the determination whether the loans to Helen Chenoweth were made in the ordinary course of business. For this reason, this Office recommends that the Commission make no formal changes to the subpoena.

At the same time, in recognition of the burden this request appears to place on the Bank, this Office is attempting to work out an informal solution with West One Bank, but at this point, this Office has not reached a preliminary agreement with the Bank. This Office recognizes that providing information relating to 40,000 loans could be burdensome to West One Bank, and may be far more extensive than the Commission may need for its investigation. In an effort to be accommodating, this Office has informed the Bank that, at least at the initial stage, this Office would be willing to accept less information and not recommend subpoena enforcement if this Office and the Bank could agree on a smaller universe of information that would enable the

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Commission to make the determination whether Congresswoman Chenoweth's 1994 and 1995 loans were made in the ordinary course of business.

As a starting point, this Office is prepared to suggest that West One Bank provide the information sought in Interrogatories 4 and 8 for whatever period of time would provide information about 100 unsecured personal loans on either side of the time period when West One Bank made its 1994 loan to Helen Chenoweth. West One Bank would also provide the information sought in Interrogatory 5 for 100 fixed rate secured personal loans over whatever the appropriate time period would be on either side of the time period when West One Bank made its 1995 loan to Congresswoman Chenoweth.¹ If this information does not appear to be sufficient, this Office would then plan to increase gradually the number of loans for which information is sought.²

Accordingly, this Office recommends that the Commission deny West One Bank's Motion to Quash and/or Modify Subpoena

¹ Counsel for West One Bank has informed this Office that the Bank has no problems turning over the general policy information sought in Interrogatory 8 pertaining to balloon payments for unsecured loans. This Office will still require this general information and will also request daily loan specification sheets which were distributed to loan officers during the relevant time periods in 1994 and 1995 and policy statements dictating the amount of authority that loan officers have in deviating from the terms listed on the loan specification sheets for unsecured personal loans and fixed rate personal loans secured with a second mortgage on real property.

² If necessary, this Office would also provide West One Bank with a reasonable extension of time relating to these specific interrogatories.

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III. RECOMMENDATIONS

1. Deny West One Bank's Motion to Quash and/or Modify Subpoena.
2. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

7/11/96
Date

BY:

[Signature]
Lois G. Lerner
Associate General Counsel

Attachments

1. West One Bank Motion to Quash and/or Modify Subpoena
2. Original West One Bank Subpoena

Attorney assigned: Stephan O. Kline

90043860496

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
West One Bank) MUR 4283 and
MUR 4402

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 16, 1996, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions with respect to MUR 4283 and MUR 4402:

1. Deny West One Bank's Motion to Quash and/or Modify Subpoena.
2. Approve the appropriate letter as recommended in the General Counsel's July 11, 1996 report.

Commissioners Aikens, Elliott, McDonald, and McGarry voted affirmatively for the decision; Commissioner Thomas was not present.

Attest:

7-16-96
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

98043860497



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FACSIMILE AND FIRST CLASS MAIL

July 19, 1996

Arthur L. Herold
Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006

RE: MUR 4283
MUR 4402
West One Bank

Dear Mr. Herold and Mr. Northam:

This letter is to confirm the Federal Election Commission's July 9, 1996 receipt of West One Bank's Motion to Quash and/or Modify Subpoena, relating to Interrogatories 4, 5, and 8 in the "No RFPA Information" Subpoena in the above-referenced matters. The Commission reviewed and denied the motion on July 16.

Although the Commission has denied your motion, this Office remains willing to work with you to arrange an informal and less burdensome solution which still provides the Commission with sufficient loan information. As you know, West One Bank's responses to the Commission's subpoenas are due on July 31. Accordingly, please contact me at (202) 219-3690 by Monday, July 22 to discuss this situation.

Sincerely,

Stephan O. Kline
Attorney

- d. Provide the prime rate and WOBRR in effect on the date the loan was made;
- e. State whether principal was repaid in installment payments or with a single balloon payment at the final repayment date for the loan;
- f. Provide loan specification sheets distributed to loan officers during this period; and
- g. Provide a copy of any West One Bank formal policy dictating the terms a loan officer can use in making an unsecured personal loan or a loan secured only with a promissory note.

5. Please state the number of personal loans secured with a second mortgage on residential real property made by West One Bank during a fifteen day period on either side of the date when the 1995 loan was made to Helen Chenoweth,² and provide the following information relating to such loans:

- a. State the number of loans made which bore a fixed interest rate;
- b. State the number of loans made which bore a fixed interest rate that was 1 percent above the prime rate or WOBRR or lower. For each such loan state the loan amount, the interest rate, and provide the prime rate and WOBRR in effect on the date the loan was made.
- c. Provide loan specification sheets distributed to loan officers during this period; and
- d. Provide a copy of any West One Bank formal policy dictating the terms a loan officer can use in making a fixed rate personal loan secured by a second mortgage on real property.

8. State whether in November of 1994 an individual borrower of an unsecured loan could repay West One Bank with a single balloon payment rather than installment payments of principle. If West One Bank has a formal policy relating to this issue, please provide a copy of it.

² If this time period does not result in information relating to approximately 100 fixed rate loans (greater than 75), West One Bank will continue adding additional week long periods on either side of the loan date until information pertaining to approximately 100 fixed rate loans has been accumulated.

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Pursuant to our conversation, you have also requested a fourteen day extension to the time period provided for in the Commission's Subpoena to Produce Documents and Order to Submit Written Answers, solely to comply with the three informally modified interrogatories described above. The Office of the General Counsel has granted the requested extension, and your response to these three interrogatories is due by the close of business on August 14, 1996.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Stephan O. Kline
Attorney

93043860501



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

VIA FACSIMILE AND FIRST CLASS MAIL

July 25, 1996

John C. Keenan, Esq.
Goicoechea Law Offices
P.O. Box 340
Nampa, Idaho 83653

RE: MUR 4283 and MUR 4402
The Honorable Helen P. Chenoweth

Dear Mr. Keenan:

Last week, the Office of the General Counsel received a phone call from Trent Marcus who stated that he would be representing Helen Chenoweth. Mr. Marcus further stated that he would request an extension of time to respond to the Commission's subpoena directed to Ms. Chenoweth. This Office informed Mr. Marcus that we would need to see a written designation of counsel and a written request for an extension of time. The sooner the request is formally made, the more likely it is to be approved. Moreover, unless we receive the request for extension, the subpoena deadline remains July 31, 1996.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

CLAUDE V. MARCUS
 CRAIG MARCUS
 BARRY MARCUS*
 GAIL M. MERRICK
 GARY L. MONTGOMERY
 ROBERT L. "BOB" DROZDA, J.D.
 C.P.A., LL.M., (TAXATION)*
 MICHAEL CHRISTIAN*
 JENNIFER MARCUS*
 TRENT MARCUS

LAW OFFICES
MARCUS, MERRICK & MONTGOMERY LLP
 THE MARCUS LAW BUILDING
 737 NORTH 7TH STREET
 BOISE, IDAHO 83702-6588

TELEPHONE
 (208) 342-8800
 TELEFAX
 (208) 342-2170

*Also Admitted to the California State Bar
 *Also Admitted to the Nebraska State Bar
 and the United States Tax Court
 *Also Admitted to the Washington State Bar

July 26, 1996

VIA FAX

Stephen O. Kline
 Federal Election Commission
 Office of the General Counsel
 999 L Street, NW
 Washington, D.C. 20463

Re: MUR Numbers 4283 and 4402
 U.S. Representative Helen Chenoweth

Dear Stephen:

This firm represents United States Representative Helen Chenoweth and the Chenoweth for Congress Committee with regard to Federal Election Commission MUR numbers 4283 and 4402. Our designation of counsel document for Representative Chenoweth is enclosed. We are in the process of obtaining a designation of counsel document for the Committee, and will forward it to you. These matters were recently referred to us by John C. Keenan, who previously represented Representative Chenoweth and the Committee in the matters.

We have received your letter to Mr. Keenan dated June 28, 1996, concerning the Subpoena to Produce Documents and Order to Submit Written Answers directed to Representative Chenoweth and Wayne Crow, Treasurer of Chenoweth for Congress Committee. Your letter directed Mr. Keenan to submit responses to the interrogatories and requests for production of documents to the FEC within thirty days of the date of receipt of the letter.

Mr. Keenan received the letter on July 3, 1996; thus, the thirty day limit is nearing expiration. I am writing to request an extension of time with regard to this deadline. As I stated, this matter was only recently referred to us. The requested information and documents are scattered between Boise, Idaho; Nampa, Idaho; Gooding, Idaho; and Washington, D.C. Several individuals have possession and control over the requested documents. These individuals are spread among the above mentioned locations as well. It will take a significant amount of time to

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JUL 26 1996 12:12 PM FROM: MARCUS, MERRICK & MONTGOMERY TO: 12022135523 P.03

Stephen O. Kline
July 26, 1996
Page 2

track them down, determine which documents they have that are germane to these investigations, assimilate and organize all the documents, and ultimately submit them to the FEC. Additionally, Representative Chenoweth has only recently returned from eastern Europe, and has not had the opportunity to analyze the interrogatories and prepare adequate responses to them.

Therefore, we would greatly appreciate an additional sixty days to respond to the interrogatories and requests for production of documents attached to your letter of June 28. Finally, if you have received any documents or responses to interrogatories from any other respondent involved in MUR numbers 4283 and 4402, we request that you send us copies of such information.

Thank you for your attention to these matters. We look forward to hearing from you.

Very truly yours,

MARCUS, MERRICK & MONTGOMERY

Barry Marcus
Barry Marcus

TM:bp

28043860504

STATEMENT OF DESIGNATION OF COUNSEL

BAR: 428384402 Barry Marcus, Esq. Trent Marcus, Esq.
NAME OF COUNSEL: Marcus, Merrick & Montgomery
ADDRESS: 757 N 7th St
Bosc Idaho 83702
TELEPHONE: 208 342-3563
342-2170

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

18 July 1996
DATE

Helen P. Chenoweth
SIGNATURE

RECOMMENDING AGENCY:

Helen P. Chenoweth, M.C.

ADDRESS:

PO Box 897

Bosc, Idaho 83701

HOME PHONE:

208-378-9750

WORKING PHONE:

202-225-8011

98043860505

CLAUDE V. MARCUS
 CRAIG MARCUS
 BARRY MARCUS
 RA. F. M. MERRICK
 GARY L. MONTGOMERY
 ROBERT L. "BOB" PROZDA, J.D., —
 C.P.A., LL.M. (TAXATION)
 MICHAEL CHRISTIAN
 JENNIFER MARCUS
 TRENT MARCUS

LAW OFFICES
MARCUS, MERRICK & MONTGOMERY, LLP
 THE MARCUS LAW BUILDING
 737 NORTH 7TH STREET
 MOISE, IOWA 52702-5595

TELEPHONE
 (408) 844-2000
 TELEFAX
 (708) 842-2110

* Also Admitted to the California State Bar
 * Also Admitted to the Missouri State Bar
 and the United States Tax Court
 * Also Admitted to the Washington State Bar

VIA FAX

August 1, 1996

Stephan O. Kline
 Federal Election Commission
 Office of the General Counsel
 999 E. Street, N.W.
 Washington, D.C. 20463

Re: MUR #'s 4283 & 4402 - U.S. Representative Helen Chenoweth

Dear Stephan:

Enclosed is the completed "Designation of Counsel" document designating this law firm as Counsel of the Chenoweth for Congress Committee for purposes of the above referenced MUR's. As requested in our fax to you dated July 26, 1996, we continue to request an extension of an additional sixty (60) days to respond to the Interrogatories and Request for Production of Documents which are attached to your letter to John Keenan dated June 28, 1996. It is my understanding that you will forward this request onto the "Commission." Furthermore, it is our intent to fully comply with these Discovery requests, and we will make all efforts within our power and abilities to respond to them.

We appreciate your assistance and cooperation in this matter. We look forward to hearing from you as soon as possible.

Very truly yours,

Marcus, Merrick & Montgomery

[Signature]
 Claude V. Marcus

/s/

Aug 1 3 49 PM '96
 FEDERAL ELECTION COMMISSION
 OFFICE OF THE GENERAL COUNSEL

28043860506

JUL-30-1996 10:33 FROM MARCUS MERRICK MONTGOMERY TO 3365531 P.02
FEC General Counsel: TEL 1202-219-3923 Jul 17 96 14:06 No.002 P.02

STATEMENT OF DESIGNATION OF COUNSEL

NOX #4283 & #4402

NAME OF COUNSEL: Barry Marvyn, Esq.

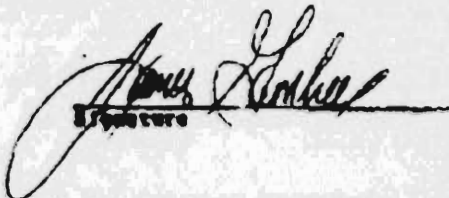
ADDRESS: 737 North 7th Street

Boise, Id. 83702

TELEPHONE: (208) 342-3563

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

7-30-96
Date


Signature

RESPONDENT'S NAME: Chenoweth for Congress Committee

ADDRESS: P.O. Box 897
BOISE ID 83702

HOME PHONE: 371 4539

OFFICE PHONE: 336 5525

Aug 1 3 39 PM '96

FILED
AUG 1 1996
FBI - BOISE

98043860507



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

VIA FACSIMILE AND FIRST CLASS MAIL

August 2, 1996

Barry Marcus and Trent Marcus
Marcus, Merrick & Montgomery
737 N. 7th Street
Boise, Idaho 83702

RE: MUR 428³ and MUR 4402
Representative Helen Chenoweth
Chenoweth for Congress and
Wayne Crow, as treasurer

Dear Mr. Marcus and Mr. Marcus:

This is in response to your letters dated July 26 and August 1, 1996, in part requesting a sixty day extension to respond to this Office's Subpoenas to Produce Documents and Orders to Submit Written Answers in the above-captioned matter. Because this Office is only permitted to give a thirty day extension, this Office will place your request for the full sixty day extension before the Commission for its determination.

After considering the circumstances presented in the letter and your representation that you intend to comply with the subpoena, the Office of General Counsel has granted you a thirty day extension. Accordingly, unless you receive notice to the contrary, your responses are due by the close of business on August 30, 1996.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Stephan O. Kline
Attorney

93043860508

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN

1747 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 785-9500

FAX (202) 835-0243

GEORGE B. WEBSTER
ARTHUR L. HEROLD
ALAN P. DYE
EDWARD B. COLEMAN
BURNETT VAN KIRK
FRANK M. NORTHAM
GERARDE DANARD
JOHN W. HAZARD, JR.
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HUGH W. WEBSTER
DAVID P. BOCH
BRENNER LOCKE, JR.

OF COUNSEL
COLEMAN BEAN
KENT MASTENSON BROWN
CHARLES E. CHAMBERLAIN

August 1, 1996

Stephan O. Kline, Esquire
Office of General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W., Sixth Floor
Washington, D.C. 20463

Re: MUR 4283
MUR 4402
West One Bank

Aug 1 5 00 PM '96

NO. 011
FEDERAL ELECTION
COMMISSION
OFFICE OF THE
CLERK

Dear Mr. Kline,

Enclosed are West One Bank's responses to the Commission's Interrogatories and Requests for Documents in the above-referenced MURs.

As we have discussed, the Bank periodically issues "green sheets" to its loan officers and other personnel involved in the approval of loans. While those particular forms were not requested in the FEC's interrogatories, I am attaching to this letter copies of the "green sheets" that were in effect during the time periods in question. It is my understanding that these forms provided loan - authorization officials with guidance as to the Bank's policies on the issuance of loans, but that each official had discretion (within the official's loan authorization capability) to diverge from the guidelines of the "green sheets".

If you have any questions in regard to these responses, please give me a call.

Sincerely,


Frank M. Northam

FMN/jc

cc: John Ward, Esquire/Enclosures

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 4283
) MUR 4402
)

RESPONDENT WEST ONE BANKS ANSWERS
TO INTERROGATORIES AND REQUESTS
FOR DOCUMENTS

Comes now the Respondent, West One Bank, and for its responses to the Interrogatories and Requests for Documents issued by the Commission by subpoena dated June 22, 1996, states as follows:

Question 1: With regard to Helen Chenoweth's banking history with West One Bank, please provide the following information: (a) state the length of time Ms. Chenoweth has been a customer of West One Bank or its predecessors in interest; (b) please identify each account, credit card, or other banking activity (besides line of credit or loan) that Ms. Chenoweth has had with West One Bank. For each, please provide the following information: (i) list the date each account, credit card, or other banking activity was opened or obtained; and (ii) list the date each account, credit card or other banking activity was closed, paid off or canceled; (c) state whether Ms. Chenoweth had a bank account in her name at West One Bank on 11-22-94 and/or 10-20-95. If so, please provide the balance of each such account held in Ms. Chenoweth's name for both dates; and (d) please list and describe all loans (including a line of credit or any loan Ms. Chenoweth guaranteed) Ms. Chenoweth has received from West One Bank, in either a personal capacity or

professional capacity as an officer of Consulting Associates, Inc. Please provide copies of all promissory notes and other documents memorializing the loans or used to obtain them. For each such loan, describe the collateral which was used to secure it.

Answer 1:

(a) West One Bank records indicate that Ms. Chenoweth has been a customer of the Bank since May 14, 1980.

(b) Information on when each account was opened and closed is as follows:

Checking Acct

Savings Acct

Credit Card

Opened
Closed

Opened
Closed

Opened
Paid Off

Opened
Paid Off

Opened
Closed

(c) Ms. Chenoweth had a bank account in her name at West One Bank on November 22, 1994, with a balance of

Ms. Chenoweth did not have a bank account in her name at West One Bank on October 20, 1995.

(d) Other than the loans of October, 1994, and November, 1995, no other loans have been made by West One Bank to Ms. Chenoweth individually.

A total of 13 loans were made to Consulting Associates from March 2, 1990, to February 8, 1994, with the highest borrowing amount being Each loan was secured by Savings Certificates. Ms. Chenoweth did not personally guarantee any of the Consulting Associate loans.

Question 2: Relating to the November 8, 1995 bank loans from West One Bank to Helen Chenoweth, a Consumer Loan Worksheet & Checklist notes under "Derogatory or Insufficient Credit History" that "slow credit occurred during campaign year. Credit now current". With regard to this statements of past slow credit, state whether this information was known by West One Bank loan officers in 1994. If so, please provide copies of any 1994 documents containing this information and/or any analysis thereof. If not, please state why this information was not known by West One Bank.

Answer 2: The information about "slow credit" was not available to West One Bank in November, 1994. The "slow credit" did not occur until 1995.

Question 3: Helen Chenoweth applied for a \$40,000 loan from West One Bank on 11-22-94 and the loan funds were disbursed on 11-23-94. Regarding this loan, please provide the following information: (a) identify each person who worked on or approved this loan; (b) describe the specific task performed by each person identified in Interrogatory 3(a); (c) state the basis upon which approval was

granted; (d) state the date approval was granted for the \$40,000 loan and provide any documentation memorializing that approval; (e) please list the dates on which loan payments for 1994 loan were due; and, (f) please provide documentation showing the dates and amounts for payments of interest and principal for the 1994 loan.

Answer 3:

(a) Jerry Wray, Regional Branch Administrator, and Kerrie Quinn, Manager, were the individuals who worked on the loan request of November 22, 1994.

(b) The initial loan request was made in person by Ms. Chenoweth on November 21, 1994, to Jerry Wray. Mr. Wray informed Ms. Chenoweth that Kerrie Quinn, manager of the Plaza Office of West One, would be handling the loan request. Ms. Chenoweth's accountant FAXed to Mr. Wray certain documents regarding her financial status. These documents were forwarded to Ms. Quinn who completed a financial and debt service analysis. Ms. Quinn and Mr. Wray then discussed the analysis and agreed that approval of the loan request should be granted. On November 23, 1994, Ms. Chenoweth came to the Plaza Branch where she met with Mr. Wray and Ms. Quinn, signed the appropriate documents and a cashier's check in the amount of the loan was issued.

(c) The bases for the approval of the November 23, 1994 loan are as follows:

1. Good payment record on prior obligations with the Bank.

2. Satisfactory credit report;
3. Satisfactory Bank relationship for many years;
4. Limited debt;
5. Job stability during the loan term;
6. Satisfactory debt service coverage; and
7. Secondary repayment available from real estate equities.

(d) The loan request was approved on November 23, 1994.

(e) The loan was established with interest payments due quarterly and the principal balance being due on November 23, 1995.

(f) The payment history on the November 23, 1994 loan is attached as Exhibit 3.a.

Question 4: Identify each person employed by West One Bank who worked on or approved the loan that Ms. Chenoweth obtained from West One Bank on November 8, 1995.

Answer 4: The following individuals are the primary persons who worked on and/or approved the loan made November 8, 1995, and their respective positions at that time:

Jerry Wray, Regional Branch Administrator;

Kerrie Quinn, Manager - Plaza Branch;

Tracy McKinney, Loan Officer - Plaza Branch; and

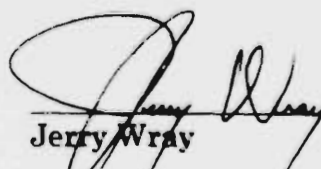
Tom Ripke, Chief Credit Administrator.

Question 5: Is there a general rule in the banking industry for making unsecured loans so that a bank would only make such a loan if it were equal to no more than 10% of a borrower's assets? State whether this rule was in effect in 1994. If so, state why you departed from this rule in making the 1994 loan to Helen Chenoweth.

Answer 5: West One Bank is not aware of any general rule in the banking industry that unsecured loans should be limited to 10% of a borrower's assets. West One Bank uses a subjective analysis for each loan it makes which includes the character, capital and capacity of each borrower.

West One Bank is aware that a columnist for The Idaho Statesman attributed a quote to a West One Bank manager regarding a "10% general rule". Attached as Exhibit 5.a is West One Bank's response to this columnist, dated November 3, 1995, which states, among other things, "[i]t is definitely not a policy of West One Bank that unsecured loans area limited to 10% of assets".

I swear that the foregoing Answers to Interrogatories and responses to requests for documents are true and correct to the best of my information, knowledge and belief.


Jerry Wray

SUBSCRIBED and SWORN to before me this 29 day of July, 1996.


Notary Public

My Commission expires 7-30-98.

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P/N - TH CUS 15 LOAN 9001 DATA BANK 001 BRANCH 0067
TRANSACTION HISTORY 07-08-96 PAGE 1

***BACKDATE LIMIT:

INTEREST SCHEDULE + DATE:

PRINCIPAL SCHEDULE + DATE:

PROC DTE	EFF DTE	I-RTE	AC	TR PC	PRINCIPAL	INTEREST	LOAN BALANCE
06-01-95	05-31-95	10.500	30		0.00	1,034.35	40,400.00
08-31-95	08-29-95	10.250	30		0.00	1,056.21	40,400.00
10-16-95	10-13-95	10.250	30A		5,000.00	0.00	35,400.00
11-02-95	11-01-95	10.250	30A		5,000.00	0.00	30,400.00
11-15-95	11-08-95	10.250	30		30,400.00	827.24	0.00

FINAL PAGE

Exhibit "B"

Exhibit 3.a.

6.a.

November 3, 1995

WESTONE
BANK

Mr. Dan Popkey, Columnist
The Idaho Statesman
1200 N. Curtis Road
Boise, ID 83707

Dear Mr. Popkey:

Mr. Lane is currently out of the Bank until next week. Your letter of November 2 to Mr. Lane has been forwarded to me for a response.

I'm sure you are aware that banking relationships between individuals including political candidates and their banks is a confidential relationship. To discuss any information whatsoever concerning the details of a customer's relationship with the Bank would be entirely inappropriate and a breach of confidence between the Bank and the customer. Any questions concerning a customer's relationship with the Bank should be addressed to the customer themselves.

It has always been and continues to be the policy of West One Bank to comply with all laws and regulations. As you well know, loans to political candidates are required to be made in the ordinary course of business and on no more favorable terms than might otherwise be available to other comparable individuals.

In your letter you make reference to a statement attributed to Joyce Brewer, Manager of West One Bank's Statehouse Office, that as a "general rule", unsecured loans are 10% of assets. To draw any conclusions regarding such a general statement is entirely inappropriate unless you have full and complete information concerning the specific makeup of an individual's assets, liabilities, income sources and credit record. It is definitely not a policy of West One Bank that unsecured loans are limited to 10% of assets.

We realize your interest in the subject matter, but also know you appreciate the importance of confidentiality in personal banking relationships and will understand the necessity of our inability to disclose the information you have requested.

Cordially,



Thomas F. Ripke, Jr.

110395.1TR

Exhibit 5.a.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 4283
)
) MUR 4402
)

RESPONDENT WEST ONE BANK'S ANSWERS
TO INTERROGATORIES AND REQUESTS
FOR DOCUMENTS

Comes now the Respondent, West One Bank, and for its responses to the Interrogatories and Requests for Documents issued by the Commission by subpoena dated June 22, 1996 (and as modified by letter dated July 22, 1996 from Stephan O. Kline to Arthur L. Herold), states as follows:

Question 1: State whether it is your normal course of business to approve loans after the loan proceeds have been disbursed.

Answer 1: It would not be in the normal course of business for West One Bank to approve loans after the loan proceeds have been disbursed if, in fact, approval was necessary. However, approval is not necessary for all loans and was not a requirement for the November, 1994, loan to Ms. Chenoweth.

Lending limits are established within West One Bank for each lending unit or office. When a loan to a borrower exceeds the limit established for the lending unit or office then approval must be obtained from the Credit Approval department.

The November, 1994, loan to Ms. Chenoweth was made by Kerrie Quinn, the Plaza office manager. The lending limits for Ms. Quinn, without requiring prior approval, in November, 1994, were \$250,000 for an existing customer and \$150,000

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for a new customer. The \$40,000 loan to Ms. Chenoweth was well within these limits and was made without prior approval of the Credit Approval department.

While approval was unnecessary, all loans are documented utilizing the Loan Approval Application form. Ms. Quinn therefore completed the form and entered it in the loan file as her work schedule permitted.

Attached as Exhibit 1.a. is the policy of West One Bank concerning lending limits and the requirements for when prior approval must be obtained. Attached as Exhibit 1.b. is the lending authority delegated to Ms. Quinn.

Question 2: Please state the usual length of time between an initial loan application and final disbursement of loan funds for both an unsecured loan and a loan secured with real property in November of 1994 and in October of 1995.

Answer 2: Where no loan approval is necessary, the usual length of time between an initial loan application and final disbursement of loan funds for a personal unsecured loan in both November, 1994 and October, 1995 was 24 hours.

The usual length of time between an initial loan application and final disbursement of loan funds for a loan secured with real property in both November, 1994, and October, 1995 was between five (5) and ten (10) days.

Question 3: Please state the meaning of the term "WOBRR", and explain how WOBRR is different from the prime lending rate.

Answer 3: "WOBRR" is the acronym for West One Bank Reference Rate. The "WOBRR" is used by West One Bank in lieu of a prime lending rate. The bank does

not utilize a rate designated "prime" on any of its loans. The "WOBRR" is an internal index rate determined by West One Bank in its sole discretion and is based on a number of factors including the cost of money to West One Bank.

Question 4: Please state the number of personal loans made by West One Bank during a fifteen day period on either side of the date when the 1994 loan was made to Helen Chenoweth, which were either not secured or were secured only with a promissory note, and provide the following information for each such loan:

- a. State whether the loan recipient had an account with West One Bank;
- b. List the loan amount and interest rate;
- c. State whether the interest rate was adjustable or fixed;
- d. Provide the prime rate and WOBRR in effect on the date the loan was made;
- e. State whether principal was repaid in installment payments or with a single balloon payment at the final repayment date for the loan;
- f. Provide loan specification sheets distributed to loan officers during this period; and
- g. Provide a copy of any West One Bank formal policy dictating the terms a loan officer can use in making an unsecured personal loan or a loan secured only with a promissory note.

Answer 4: Most of the information sought by Interrogatory 4 is contained in the printouts of loans attached as Exhibits 4.a. and 4.b.:

9 0 0 4 7 8 6 0 5 2 2

West One Bank utilizes accounting software whereby loans are posted into its asset ledger as either commercial loans or consumer loans. Loans are designated as consumer loans if the repayment is amortized on a monthly installment basis. If loans are repaid by a single payment they are designated as "commercial" loans because the commercial loan ledger, unlike the consumer loan ledger, is programmed to accept single pay notes. Because the November, 1994, loan to Ms. Chenoweth contained a single payment, it was posted as a commercial loan along with all other single payment loans. Since the interrogatory was directed to consumer loans and single payment loans, consumer loans are included with the commercial loans. Printouts of both consumer loans and commercial loans for the periods in question have been provided.

The consumer loan printouts contain the following information:

Note Date: The date the loan was executed.

Coll: Contains a code for the type of collateral securing the loan. The code number 410 represents the loan was unsecured.

Account Number: The Account Number was supplied instead of a customer name to protect the names of the bank's customers.

Loan Amount: The face amount of the loan.

Rate: The actual interest rate charged.

Term: The term of the loan in months.

Maturity Date: the date the loan will mature.

Fees: The amount of fees charged to process the loan.

F/A: Whether the interest rate was fixed (F) or adjustable (A).

The commercial loan printouts contain the following information:

Customer remarks: The account number was supplied instead of a customer name to protect the names of the Bank's customers.

Loan number: Number assigned to the loan.

Original balance: The face amount of the loan.

Note Date: The date the loan was executed.

Rate: The actual interest rate charged.

F/A: Whether the interest rate was fixed (F) or adjustable (A).

Fees paid: The amount of fees charged to process the loan.

Single pay: Y = "balloon" payment; Blank space - installment payments.

a. The Bank does not maintain records that correlate loans with account holders at the Bank. Therefore, no information can be provided in response to this request.

b. Exhibits 4.a. and 4.b. reflect this information.

c. Exhibits 4.a. and 4.b. reflect this information.

d. As stated in response to Interrogatory 3, the Bank does not use a "prime rate" for any of its loans. The WOBRR in effect at the time the November, 1994, loan was made was 7.75% and on November 15, 1994, increased to 8.50%. The loan made to Ms. Chenoweth on November 22, 1994, was at 1.5% over the WOBRR with a \$400 fee. The effective rate of this loan with the fee amortized over the one year loan period was slightly over 11%.

e. Exhibits 4.a. and 4.b. reflect this information.

- 0 8 0 4 3 8 6 0 5 2 4
- f. West One Bank does not utilize loan specification sheets.
 - g. Excerpts from the Bank's loan policy manual are attached as Exhibit 7.a.

Question 5: Please state the number of personal loans secured with a second mortgage on residential real property made by West One Bank during a fifteen day period on either side of the date when the 1995 loan was made to Helen Chenoweth, and provide the following information relating to such loans:

- a. State the number of loans made which bore a fixed interest rate;
- b. State the number of loans made which bore a fixed interest rate that was 1% above the prime rate or WOBRP or lower. For each loan state the loan amount, the interest rate, and provide the prime rate and WOBRP in effect on the date the loan was made;
- c. Provide loan specification sheets distributed to loan officers during this period; and
- d. Provide a copy of any West One Bank formal policy dictating the terms a loan officer can use in making a fixed rate personal loan secured by a second mortgage on real property.

Answer 5: Most of the information sought by Interrogatory 5 is contained in the printouts of loans attached as Exhibits 5.a.

- a. The information sought may be gleaned from Exhibits 5.a.

b. As stated in response to Interrogatory 3, the Bank does not use a "prime rate" for any of its loans. The "WOBRR" in effect at the time the October, 1995, loan was made was 8.75%. The rate had no bearing on the loan to Ms. Chenoweth in October, 1995, as the loan was granted at a fixed rate of 9.67%. The remaining information sought may be gleaned from Exhibits 5.a.

c. West One Bank does not utilize loan specification sheets.

d. Excerpts from the Bank's loan policy manual are attached as Exhibit 5.b.

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Question 6: Is there a general rule in the banking industry for making unsecured loans so that a bank would only make such a loan if it were equal to no more than 10% of a borrower's assets? State whether this rule was in effect in 1994.

Answer 6: West One Bank is unaware of any general rule in the banking industry that unsecured loans should be limited to 10% of a borrower's assets. West One Bank uses a subjective analysis for each loan it makes which includes the character, capital and capacity of each borrower.

West One Bank is aware that a columnist for The Idaho Statesman attributed a quote to a West One Bank manager regarding a "10% general rule". Attached as Exhibit 6.a. is West One Bank's response to this columnist, dated November 3, 1995, which states, among other things, "[i]t is definitely not a policy of West One Bank that unsecured loans are limited to 10% of assets".

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Question 7: Please describe West One Bank's internal policy or procedure in determining whether to make an unsecured loan to an individual. In answering this Interrogatory, please provide any written guidelines memorializing this policy or procedure.

Answer 7: West One Bank's guidelines for retail, unsecured loans are attached as Exhibit 7.a. The guidelines provide both general information and credit evaluation guidelines for unsecured loans.

Question 8: State whether in November of 1994 an individual borrower of an unsecured loan could repay West One Bank with a single balloon payment rather than installment payments of principle. If West One Bank has a formal policy relating to this issue, please provide a copy of it.

Answer 8: The terms of repayment of any loan made by West One Bank are determined at the time the loan is made. The Bank often makes loans which are to be repaid with a "balloon" payment rather than by fully amortized installments, because repayment is tailored to an individual's expected cash flow. West One Bank has no formal policy statements on "balloon" payments.

Question 9: Please identify each account, loan, line of credit, or other banking activity the "Chenoweth for Congress Committee" has had with West One Bank. For each, please provide the following information: (a) list the date each account, loan, line of credit or credit card was opened or obtained; (b) list the date

each account, loan, line of credit or credit card was closed, paid off or canceled; and
(c) provide the terms and payment record for each loan or line of credit.

Answer 9: The only banking relationship the "Chenoweth for Congress Committee" has had or currently has with West One Bank are the following active accounts:

- (a) Demand Deposit Account #1396897 opened May 25, 1993.
- (b) Money Market Account #5318882 opened May 23, 1996.

Question 10: Regarding the FEC C-1 report signed by Wayne Crow on 1-30-95, reflecting the making of a \$40,000 loan to the Chenoweth Committee, please provide the following information: (a) identify the individual who signed the C-1 on behalf of West One Bank; (b) describe any conversations West One Bank had with the Chenoweth Committee regarding the C-1; and (c) please identify all individuals associated with West One Bank who were responsible for filling out and/or reviewing the information on the C-1.

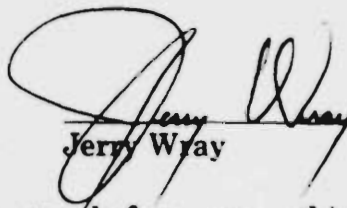
Answer 10: Question 10 contains an inaccurate statement. The \$40,000 loan made in November, 1994, was made to Ms. Chenoweth in her individual capacity not to the "Chenoweth Committee" as stated in the question.

(a) The individual who signed the FEC C-1 report on behalf of West One Bank was Jerry Wray.

(b) The only conversation a West One Bank employee had with a member of the Chenoweth Committee was a short phone call from Mr. Crow to Mr. Wray regarding the FEC C-1 report.

(c) No other individuals from West One Bank were involved with the preparation, review or filing of the FEC C-1 report.

I swear that the foregoing Answers to Interrogatories and responses to requests for documents are true and correct to the best of my information, knowledge and belief.


Jerry Wray

SUBSCRIBED and SWORN to before me this 24 day of July, 1996.


Notary Public

My Commission expires 5 - 31 - 98.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

RECEIVED
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

AUG 5 10 27 AM '96

August 5, 1996

MEMORANDUM

SENSITIVE

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner *LL*
Associate General Counsel

SUBJECT: MUR 4283 and MUR 4402
Requests for Extension of Time

By letters dated July 26 and August 1, 1996, Congresswoman Helen P. Chenoweth and the Chenoweth for Congress Committee and Wayne Crow, as Treasurer, ("Respondents") have requested an extension of 60 days in which to respond to the Commission's Subpoenas to Produce Documents and Orders to Submit Written Answers. Attachments 1 and 2. The letters explain that an extension is necessary because new counsel has recently been obtained and the requested information and documents are scattered between several locations in Idaho and Washington, D.C. Furthermore, Congresswoman Chenoweth has only recently returned from Eastern Europe and has not had the opportunity to analyze the interrogatories and prepare adequate responses to them. In their second letter, Respondents assure this Office that they intend to fully comply with the subpoenas and orders. This Office has contacted counsel telephonically and has been informed that 30 additional days is insufficient to respond to these interrogatories.

As an interim measure, and to help prevent these Respondents from being out of compliance with the subpoenas, this Office has granted Respondents a 30 day extension. Ordinarily this Office might argue that an extension longer than 30 days is unwarranted and that Respondents waited until the last minute to make their request. However, because of the in depth nature of the questions, the length of time it may take Respondents to locate the requested materials, and the importance of the responses to the investigation, on balance, an additional 30 day extension appears worthwhile. Accordingly, the Office of the General Counsel recommends that the Commission grant an extension totaling 60 days.

RECOMMENDATIONS

1. Grant an extension totaling 60 days to respond to the Commission's Subpoenas to Produce Documents and Orders to Submit Written Answers to Congresswoman Helen P. Chenoweth and Chenoweth for Congress Committee and Wayne Crow, as treasurer.
2. Approve the appropriate letter.

Attachments

1 and 2. Requests for Extension of Time

Attorney Assigned: Stephan O. Kline

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Congresswoman Helen P. Chenoweth;
Chenoweth for Congress Committee
and Wayne Crow, as treasurer--
Requests for Extension of Time.

)
)
) MURs 4283 and
) 4402
)
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 8, 1996, the Commission decided by a vote of 5-0 to take the following actions in MURs 4283 and 4402:

1. Grant an extension totaling 60 days to respond to the Commission's Subpoenas to Produce Documents and Orders to Submit Written Answers to Congresswoman Helen P. Chenoweth and Chenoweth for Congress Committee and Wayne Crow, as treasurer.
2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated August 5, 1996.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

E-9-96

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., Aug. 05, 1996 10:27 a.m.
Circulated to the Commission: Mon., Aug. 05, 1996 4:00 p.m.
Deadline for vote: Thurs., Aug. 08, 1996 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20425

VIA FACSIMILE

August 13, 1996

Barry Marcus and Trent Marcus
Marcus, Merrick & Montgomery
737 N. 7th Street
Boise, Idaho 83702

RE: MUR 4284 and MUR 4402
Representative Helen Chenoweth
Chenoweth for Congress and
Wayne Crow, as treasurer

Dear Mr. Marcus and Mr. Marcus:

This is a second response to your letters dated July 26 and August 1, 1996, in part requesting a sixty day extension to respond to this Office's Subpoenas to Produce Documents and Orders to Submit Written Answers in the above-captioned matter. On August 8, 1996, the Commission granted your request for the full sixty day extension. Accordingly, your responses are due by the close of business on September 30, 1996.

If you have any questions, please contact me at (202) 219-3690

Sincerely,

Stephen O. L.

Stephan O. Kline
Attorney

BEFORE THE FEDERAL ELECTION COMMISSION

RESPONSE TO INTERROGATORIES
AND REQUESTS FOR DOCUMENTS

SEP 30 10 20 AM '96

FEDERAL ELECTION
COMMISSION
OFFICE OF LEGAL
COUNSEL

MUR 4283

MUR 4402

Chenoweth for Congress Committee and Wayne Crow, as treasurer

1. Please identify those individuals who worked for, volunteered for, or provided advice to the Chenoweth for Congress Committee ("Chenoweth Committee") and are best able to answer questions about the Chenoweth Committee's relationship with Consulting Associates, Inc.

RESPONSE:

This respondent does not understand what is meant by the term "relationship" as used in the above interrogatory. If the term "relationship" refers generally to the Chenoweth Committee's use of space, office equipment and supplies in Consulting Associates' offices, and Consulting Associates' provision of consulting services to the Committee, the individual best able to answer questions about the Committee's relationship with Consulting Associates is Vernon Ravenscroft.

2. On Chenoweth Committee reports filed with the Commission, the purpose lines for many disbursements to Consulting Associates are labeled "rental" or "consulting-primary." In connection with disbursements made to Consulting Associates, please separately describe what is included within the terms "rental" and "consulting." Identify the individuals responsible for deciding how to describe the purpose of the disbursements to Consulting Associates on FEC reports.

RESPONSE:

The term "rental" included use of Consulting Associates' premises, receptionist and use of Consulting Associates' office equipment, such as the adding machine, photocopier, typewriters, computer, and office supplies. The term "consulting" included campaign finance consulting, performed primarily by Vernon Ravenscroft. The individual responsible for deciding how to describe the purpose of disbursements to Consulting Associates on FEC reports was Wayne Crow.

3. Please state whether Consulting Associates permitted the Chenoweth Committee to use the facilities of Consulting Associates. If so, please provide the following information for each such facility used:

(a) The facility used by the Chenoweth Committee;

- 9 8 0 4 3 8 6 0 5 3 5
- (b) Whether the use of the facility was separate from consulting services provided by Consulting Associates;
 - (c) The date the facility was used by the Chenoweth Committee;
 - (d) The date the Chenoweth Committee was billed for the use of the facility;
 - (e) The amount that the Chenoweth Committee was billed for the facility;
 - (f) How the billing amount was calculated;
 - (g) Provide copies of any documentation relating to the billing or relating to the use of facilities;
 - (h) whether the amount charged by Consulting Associates for the use of the facility corresponded to the usual amount charged for that item in the commercial market. If so, please provide documentation showing the amount charged was the usual market charge;
 - (i) when was the bill paid for the use of Consulting Associates' facilities; and
 - (j) who paid for the use of the facilities.

RESPONSE:

This respondent does not understand what is meant by the term "facilities" in the above interrogatory. If the term "facilities" means Consulting Associates' business premises, the Chenoweth Committee did use Consulting Associates' facilities. The additional information requested is as follows:

a. 1843 Broadway Avenue, Suite 102, Boise, Idaho 83706.

b. Respondent does not understand what is meant by the phrase "separate from consulting services provided by Consulting Associates." If the phrase means billed separately from Consulting Associates' consulting services, the Chenoweth Committee's use of the facilities was separate from Consulting Associates' consulting services. All billings to the Committee by Consulting Associates were itemized and separated for the Chenoweth Committee's use of Consulting Associates' space and office equipment and supplies from the charges for consulting services performed by Consulting Associates for the Chenoweth Committee.

c-f. The Chenoweth Committee's rental of space and use of office equipment and supplies in Consulting Associates' offices are set forth in Vernon Ravenscroft's responses to FEC interrogatories, previously provided by Mr. Ravenscroft to the FEC, at pages 6-7.

g. Bills from Consulting Associates to the Chenoweth Committee are attached to the Ravenscroft responses and documents relating to Consulting Associates billings to the Chenoweth Committee for office space, equipment and supplies are being provided with these responses.

h. Yes. Vern Ravenscroft obtained written quotes for computer rentals, and charged the Chenoweth Committee the same rate as the lowest of three quotes for two computers used exclusively by the Committee during its occupancy of Consulting Associates space. The documentation of that process has been provided as Exhibit #7 to Mr. Ravenscroft's responses to FEC interrogatories. The Chenoweth Committee paid the same rent as Consulting Associates paid for its space, with the total rent paid by the Chenoweth Committee based on the proportion of space in Consulting Associates' offices used by the Committee. Vernon Ravenscroft was responsible for billing the Committee for its use of office equipment and supplies, based on his evaluation of the degree of use by the Committee and his knowledge of the cost to Consulting Associates. The Committee requested no special treatment, and to this respondent's knowledge received none, in its use of Consulting Associates' space, office equipment and supplies.

i. Payments for rent of Consulting Associates' space was made directly to the landlord from July 1993 to December 1993. From January 1994 through January 1995, Consulting Associates billed the Committee for its use of space on a monthly basis.

4. Please describe in detail all goods and services, including consulting services, provided by Consulting Associates to the Chenoweth Committee, and for each such good or service, please state:

- (a) The date on which it was provided and the date on which it was billed;
- (b) The amount that the Chenoweth Committee was billed for it;
- (c) The date on which the Chenoweth Committee paid Consulting Associates; and
- (d) Provide copies of any documents relating to the billing.
- (e) If a service was provided to the Chenoweth Committee, please list all Consulting Associates' personnel who provided the service.

RESPONSE:

This respondent does not understand the meaning of the term "goods," as used in the above interrogatory. If the term "goods" means use of office space, equipment and supplies, see response to interrogatory number 3 for the details of the provision of such items and documentation of the same. With respect to the provision of services to the Chenoweth

Committee by Consulting Associates, such service can be broken into two categories: (1) consulting services, and (2) secretarial services.

a. As to consulting services: Consulting services were provided to the Chenoweth Committee principally by Vern Ravenscroft. Mr. Ravenscroft conceived and created the finance plan for the campaign following the primary, and provided ongoing campaign finance advise. His work in this regard took place from 1993, but generally between June 1994 and November 1994. This was similar to Mr. Ravenscroft and Consulting Associates work in the past. Mr. Ravenscroft is a former chairman of the Idaho State Republican Party, was a state legislator for twelve years, and ran a number of political campaigns previously. His provision of services to the Chenoweth Committee was not a departure from his usual services to other political clients. With respect to Consulting Associates' billings for these services, see Mr. Ravenscroft's responses to identical FEC interrogatories. Documents relating to Consulting Associates' billings are being provided with these responses.

b. As to secretarial services: Secretarial and receptionist services were provided substantially from approximately September 1994 through January 1995. The Chenoweth committee was billed for a pro rata portion of Diana Chenoweth's salary. Documents relating to the billings for secretarial services are being provided with these responses.

5. Explain how the relationship developed between the Chenoweth Committee and Consulting Associates; and

- a. Provide any written agreement describing which services Consulting Associates would provide to the Chenoweth Committee;
- b. Describe in detail any oral agreement or understanding concerning the provision of services by Consulting Associates to the Chenoweth Committee; and
- c. State when the relationship commenced and concluded.

RESPONSE:

This respondent does not understand what is meant by the term "relationship," or the phrase "how the relationship developed," as used in the above interrogatory. If the term "relationship" means the manner in which the Chenoweth Committee used, was billed for and paid for space, office equipment and supplies in Consulting Associates' offices, no written agreement exists between the Committee and Consulting Associates, nor was there any specific and detailed oral agreement regarding the "relationship" between the two. The description in the Ravenscroft responses (at pp. 4-6) of the evolution of the "relationship" between the Committee and Consulting Associates is accurate. The "relationship" concluded largely by November 8, 1994, the date of the general election, and certainly by December 1995, when the Committee paid off the last amounts owing to Consulting Associates and Consulting Associates had ceased

doing business. With respect to consulting services provided by Consulting Associates to the Committee, again, no written or specific oral agreement existed, but Consulting Associates provided campaign finance consulting services to the Committee on an as-needed basis, and billed and was paid for its services accordingly.

6. State whether the services provided to the Chenoweth Committee by Vernon Ravenscroft, Diana Chenoweth, and any other Consulting Associates' employee, other than Helen Chenoweth, were provided pursuant to an agreement and provide a copy of any such agreement.

RESPONSE:

This respondent does not understand the meaning of the term "agreement" as used in the above interrogatory. If the term "agreement" means a written agreement, the answer is no.

7. Please identify each account, loan, line of credit, or other banking activity the Chenoweth Committee has had with West One Bank. For each, please provide the following information:

- a. List the date each account, loan, line of credit, or credit card was opened or obtained;
- b. List the date each account, loan, line of credit, or credit card was closed, paid off, or canceled; and
- c. Provide the terms for each loan or line of credit.

RESPONSE:

The description of the Chenoweth Committee's accounts contained in West One Bank Idaho's responses to FEC interrogatories is accurate.

8. Regarding the FEC C-1 report signed by Wayne Crow on January 30, 1995, describe any conversations the Chenoweth Committee had with West One Bank regarding the C-1. Please identify all individuals associated with the Chenoweth Committee who were responsible for filling out and/or reviewing the information on the C-1.

RESPONSE:

The respondent cannot remember any conversation with West One Bank employees regarding C-1, but does not dispute the description of a short conversation between Wayne Crow and Jerry Wray, contained in West One Bank Idaho's responses. Wayne Crow was responsible for filling out and reviewing information on the C-1.

STATE OF IDAHO)
 : ss.
County of Ada)

Wayne Crow, being first duly sworn, upon oath, deposes and says:

That he has read the foregoing Responses to FEC MUR 4283 and MUR 4402 and knows the contents thereof and that the same are true as he verily believes.

Wayne Crow
Wayne Crow

SUBSCRIBED AND SWORN to before me this 26 day of September, 1996.

Sandra Ann Pittenger
Notary Public for Idaho
Residing at Buze, Idaho
My Commission Expires: 6-6-2002

(SEAL)

93043860539

BEFORE THE FEDERAL ELECTION COMMISSION

RESPONSES TO INTERROGATORIES
AND REQUESTS FOR DOCUMENTS

OCT 2 12 03 PM '96

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERALMUR 4283
MUR 4402
Helen Chenoweth

1. With regard to your banking history with West One Bank, please provide the following information:

- a. State the length of time you have been a customer of West One Bank or its predecessors in interest;
- b. Please identify each account, credit card, or other banking transaction (besides a loan or line of credit) that you have had with West One Bank. For each, please provide the following information:
 - i. List the date each account, credit card, or other banking transaction was opened, obtained, or took place; and
 - ii. List the date each account, credit card, or other banking transaction was closed, paid off, or canceled.
- c. State whether you had a bank account in your name with West One Bank on either November 22, 1994 or on October 20, 1995 or both. If so, please provide the balance of each such account held in your name for both dates;
- d. Please list and describe all loans (including a line of credit or any loans that you guaranteed) you have received from West One Bank or any other lending institution since 1989, in either a personal capacity or professional capacity as an officer of Consulting Associates, Inc. Please provide copies of all promissory notes and all other documents memorializing the loans or used to obtain them. For each such loan, describe the collateral which was used to secure it;
- e. Please identify each person (including loan officers, supervisors, managers, and any other person) associated with West One Bank with whom you discussed either the loan obtained on November 23, 1994 or the loan obtained on November 8, 1995 and describe the nature of the discussion;

- f. Please provide the following information relating to the 1994 loan with West One Bank:
- i. Please list the dates on which loan payments for the 1994 loan were due;
 - ii. Please provide copies of checks (front and rear) used to pay interest and principal for the 1994 loan; and
 - iii. Please identify the source of the money used to pay off the 1994 bank loan.

RESPONSE:

a-d. The information contained in West One Bank Idaho's response to identical FEC interrogatories 1(a)-(d) propounded to it, regarding my banking history with West One, appears to be accurate.

c. With respect to the loan I obtained on November 23, 1994, I spoke with Jerry Wray on November 21, 1994, and with Jerry Wray and Kerry Quinn on November 23, 1994. My discussion with Jerry Wray was brief, and involved the information the bank needed from me to make the loan. I explained to him that the loan was needed to cover outstanding bills from the campaign, and to cover expenses of my transition into office, since I would not receive a paycheck as a member of Congress until the end of January in 1995. My conversation with Mr. Wray and Kerry Quinn on November 23, 1994 was very brief, as the loan was funded at that time. Ms. Quinn took me through the loan papers, interest rate and charges applicable to the loan.

With respect to the loan I obtained on November 8, 1995, I did not speak with anyone at West One Bank Idaho. I understand that John Keenan, my attorney, dealt only with Jerry Wray of West One in arranging the loan.

i. (i)-(ii). The information provided in West One Bank Idaho's response to FEC interrogatory 3(e)-(f) propounded to it, regarding the due dates and amounts of payments on the November 1994 loan, appears to be accurate. As far as I know, all of the payments were timely, and we even paid the loan principal down ahead of the payment schedule. Copies of the checks for the payments made prior to the refinance in November 1995 are being provided with these responses.

(iii) Initial payments on the November 1994 loan were made with campaign contributions. The loan was paid off via the refinance and new loan by West One in November 1995.

2. With regard to your relationship with Consulting Associates, Inc., please provide the following information:

- 9 8 0 4 3 8 6 0 5 4 2
- a. For each year from 1990 through 1993, please state your salary and please describe any non-salary payments you received from Consulting Associates;
 - b. List each period from 1990 through 1993 when you did not work full time on behalf of Consulting Associates and state why you did not work full time.
 - c. For each month from January 1, 1994 to the present, please state your salary received from Consulting Associates and please describe any non-salary payments you received from Consulting Associates. Estimate the number of hours you worked on behalf of Consulting Associates and the number of hours you worked on campaign related activities in each such month.
 - d. Please describe any formal or informal arrangement between you and Consulting Associates, or between you and Vernon Ravenscroft, which states how your Consulting Associates salary or other non-salary payments were derived. State whether your salary was based on the number of hours you worked for Consulting Associates, based on a percentage of Consulting Associates' profits, or based on some other formula. If your salary was based on some other formula, please describe that formula. Please provide a copy of any formal agreement, or any other document that relates to the amount of salary or other payments you received from Consulting Associates.
 - e. According to financial disclosure forms filed in your name with the U.S. House of Representatives, you received payments from Consulting Associates totaling \$25,350 in 1992 and 1993, and \$23,450 for the period January 1, 1994 through May 15 of 1994. Please explain why you received almost the same amount of income from Consulting Associates during the first quarter of 1994 you received for all of 1992 and 1993.

RESPONSE:

a. Please see attached income tax returns for 1990-1993. Non-salary payments included bonuses and reimbursements for business expenses. Note that the amounts stated by Vern Ravenscroft in his response to an identical FEC interrogatory regarding my 1990-1993 income from Consulting Associates is inaccurate, and appears to count bonus payments twice. My bonuses were included in the gross amounts listed by Mr. Ravenscroft under "salary." My gross income from Consulting Associates, including salary and bonus payments, was as follows:

1990:
1991:
1992:
1993:

b. This respondent does not understand the meaning of the term "full time" as used in the above interrogatory. If the term "full time" means a forty-hour work week, the answer is none. I worked full-time on Consulting Associates business from 1990 through 1993.

c. My monthly income from Consulting Associates from January 1994 to the present was as follows:

January 1994:

February 1994:

March 1994:

April 1994:

May 1994:

June 1994:

July 1994:

August:

September:

I received no salary or bonus payments from Consulting Associates after September 1994. I received a payment of approximately _____ when Consulting Associates was finally dissolved and liquidated.

While it is difficult to give an exact description of my time spent on Consulting Associates business and campaigning for each month in 1994, I estimate that from January 1994 through March 1994, I worked approximately 60 hours per week on Consulting Associates business, while campaigning evenings and weekends. From April 1994 through July 1994, I estimate that I worked approximately 40 hours per week on Consulting Associates business, and an equal amount of time campaigning. In August 1994, because the congressional race was becoming more heated and because Vern Rovenscroft and I were winding down Consulting Associates, I switched my focus and worked most of the time, approximately 80 hours per week, campaigning. However, I spent what little extra time I had available time doing final work for my main client at Consulting Associates, for which neither I nor Consulting Associates received any substantial payments. Most of my income for 1994 was generated, and paid, prior to August of 1994, when Consulting Associates began billing the Chenoweth Committee for its campaign finance consulting work.

d. The information provided in Mr. Rovenscroft's response to FEC interrogatories regarding our salary arrangement is correct. We informally determined appropriate salaries and bonuses over time during our 16-year business relationship, without applying a specific formula. We considered, at various times, all relevant factors, including time worked, client satisfaction and results achieved, and revenue produced.

e. The suggestion by the FEC's legal staff that I received a disproportionately large salary for 1994 from Consulting Associates given my campaign activities later in the year is simply wrong. Likewise, State Democratic Party Chairman Mark's

suggestion that I somehow funneled campaign funds to my personal use through Consulting Associates billings to the Chenoweth Committee is offensive and has absolutely no basis in fact. I put in a substantial amount of time on Consulting Associates business until August of 1994, while also somehow finding nearly as much time to campaign evenings and weekends. Between Consulting Associates business and campaigning, it was not unusual for my workday to reach sixteen or eighteen hours. After that point, while I campaigned more intensively, I also worked on final Consulting Associates business. Most of my pay for 1994 came from services billed and paid for by July 1994 or earlier, before Consulting Associates began billing the Chenoweth Committee for its campaign finance consulting work, which was performed principally by Vern Ravenscroft. Because we were winding down Consulting Associates, other income came from collection of outstanding receivables and extraordinary one-time payments, such as those described in Mr. Ravenscroft's responses to FEC interrogatories on the same subject. The bonus payments I received in the first quarter of 1994 were directly related to the liquidation of Consulting Associates' business and my work during that time. The bonus income came months before Consulting Associates billed and was paid by the Chenoweth Committee for its campaign finance consulting work, and have no relationship whatsoever to those billings and payments. In fact, I received no salary or bonus payments from Consulting Associates after September 1994, during the time when the Chenoweth Committee was paying for Consulting Associates services.

3. Please provide copies of your federal tax returns for the years 1992 through 1995.

RESPONSE:

The requested returns are being provided with these responses.

4. Please state whether Consulting Associates permitted the Chenoweth Committee, or you in your capacity as candidate for Congress, to use the facilities of Consulting Associates. If so, please provide the following information for each such facility:

- a The facility used by the Chenoweth Committee;
- b Whether the use of the facility was separate from consulting services provided by Consulting Associates;
- c The date the facility was used by the Chenoweth Committee;
- d The date the Chenoweth Committee was billed for the use of the facility;
- e The amount that the Chenoweth Committee was billed for the facility;
- f How the billing amount was calculated;
- g Provide copies of any documentation relating to the billing or relating to the use of facilities;

- h. Whether the amount charged by Consulting Associates for the use of the facility corresponded to the usual amount charged for that item in the commercial market. If so, please provide documentation showing the amount charged was the usual market charge;
- i. When was the bill paid for the use of Consulting Associates' facilities; and
- j. Who paid for the use of the facilities

RESPONSE:

This respondent does not understand the meaning of the term "facility" or the phrase "separate from consulting services," as used in the above interrogatories. See the response of Wayne Crow, treasurer of the Chenoweth Committee, to identical FEC interrogatories, and the responses of Vernon Ravenscroft to identical FEC interrogatories. The information provided in those responses appears to be accurate.

5. Please describe in detail all goods and services, including consulting services, provided by Consulting Associates, as a vendor to the Chenoweth Committee, and/or to you in your capacity as candidate for Congress and for each such good or service, please state:

- a. The date on which it was provided and the date on which it was billed;
- b. The amount that the Chenoweth Committee was billed for it;
- c. The date on which the Chenoweth Committee paid Consulting Associates;
- d. Provide copies of any documents relating to the billing.
- e. For each service provided to the Chenoweth Committee, please list all Consulting Associates' personnel who provided the service.

RESPONSE:

See the responses of Mr. Crow and Mr. Ravenscroft to identical FEC interrogatories. The information contained in those responses appears to be accurate.

6. State whether Consulting Associates extended credit to clients other than the Chenoweth Committee. If so, please provide the following information:

- a. What was Consulting Associates' normal practice on providing extensions of credit to clients;
- b. What was Consulting Associates' standard billing cycle for services provided to clients; and

- u. List all instances between 1993 and 1995 when Consulting Associates extended credit to non-Chenoweth Committee clients for travel expenses.

RESPONSE:

Yes. See the response of Mr. Ravenscroft to identical FEC interrogatories. The information contained in those responses appears to be accurate.

7. State whether any of Consulting Associates' clients, other than the Chenoweth Committee, have used the facilities of Consulting Associates. If so, please state:

- a. All clients who used the facilities of Consulting Associates;
- b. All clients who were candidates for public office who used the facilities of Consulting Associates.
- c. Which facilities were used by each client; and
- d. How much each client was charged for each facility used.

RESPONSE:

Yes. See the responses of Mr. Ravenscroft to identical FEC interrogatories. The information contained in those responses is correct. With respect to secretarial services in particular, while the Chenoweth Committee was charged at a different rate for secretarial services than other clients were charged for incidental use of secretaries (i.e., up to a few hours), the Chenoweth Committee was in long-term residence at Consulting Associates' office, used secretarial resources heavily, and paid a pro-rata share of Consulting Associates' rent. Because of the extent of use involved, a different arrangement, under which Committee paid for the actual cost of the secretarial services, was warranted. Had the Committee hired its own secretary to work at the Consulting Associates offices, the expense would be similar to that actually charged to the Committee by Consulting Associates. Consulting Associates did not contribute unpaid or subsidized secretarial services to the Committee.

8. State whether the services provided to the Chenoweth Committee by Vernon Ravenscroft, Diana Chenoweth, and any other Consulting Associates' employee, other than you, were provided pursuant to an agreement and provide a copy of any such agreement.

RESPONSE:

This respondent does not understand the meaning of the term "agreement" as used in the above interrogatory. If the term "agreement" means a written agreement, the answer is no.

9. State whether Consulting Associates provided services to other, non-Chenoweth Committee clients, pursuant to consulting agreement and provide copies of all such agreements entered into between 1993 and 1995.

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RESPONSE:

This respondent does not understand the term "consulting agreement" as it is used in the above interrogatory. If the term "consulting agreement" means a written agreement for services, no such agreements were entered into between 1993 and 1995. See the response of Mr. Ravenscroft to an identical FEC interrogatory. The information contained in that response appears to be accurate.

10. Please provide the following information about Consulting Associates:

- a. For the period from 1990 to the present, please state all owners and officers of Consulting Associates. Please describe any changes that took place in the ownership or control of Consulting Associates during that period;
- b. Please state whether at any time between January 1, 1993 and the present Consulting Associates received the sub-chapter S tax status under the Internal Revenue Code. If so, please provide documentation from the Internal Revenue Service evidencing this sub-chapter S status;
- c. Please provide copies of Consulting Associates' federal tax return statements for the years 1990 to the present;
- d. Please identify the owner of the building at 1843 Broadway, Boise, Idaho occupied by Consulting Associates from 1993 to 1995 and state the amount of rent paid by Consulting Associates;
- e. Please list all persons employed by Consulting Associates from 1993 to 1995, other than you, and state the salary or wage paid to each individual;
- f. Please state whether you were personally liable for Consulting Associates rent or any other obligations between 1994 and 1995.
- g. Please state whether Consulting Associates retains its corporate status under Idaho law. If not, please provide the following information:
 - i. When and why Consulting Associates ceased operations;
 - ii. How its assets were divided up among its shareholders; and
 - iii. List any payments you received in connection with this shut down;
 - iv. List any debts Consulting Associates owed at the time of the shut down and state to whom any such debts are owed;

- v. Who is responsible for any remaining debts of Consulting Associates; and
- vi. Who retains the corporate records of Consulting Associates;
- h. Who, other than yourself, is best able to answer questions about Consulting Associates' bills, billing practices, and/or services provided to clients

RESPONSE:

See the responses of Mr. Ravenscroft to identical FEC interrogatories. The information contained in those responses is accurate. In addition, I received a payment of approximately \$10,000 on the final dissolution of Consulting Associates in 1996.

STATE OF IDAHO)
)
) ss
County of Ada)

Helen Chenoweth, being first duly sworn, upon oath, deposes and says:

That she has read the foregoing Responses to FEC MUR 4283 and MUR 4402 and knows the contents thereof and that the same are true as she verily believes.

Helen Chenoweth
Helen Chenoweth

SUBSCRIBED AND SWORN to before me this 1 day of October, 1996.

Notary Public for Idaho
Residing at 1200-666903, Idaho
My Commission Expires: 9/13/97

(SEAL)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
)
)

ENFORCEMENT PRIORITY

May 10 10 01 AM '97
SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

This is the first Enforcement Priority Report that reflects the impact of the 1996 election cycle cases on the Commission's enforcement workload. We have identified cases that are stale which are recommended for dismissal at this time. This is the highest number of cases identified as stale in a single report, and the highest number of stale cases recommended for closure at one time, since the inception of EPS in 1993.

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II. CASES RECOMMENDED FOR CLOSURE.

A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission

EPS was created to identify pending cases which, due to the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria, resulting in a numerical rating for each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters.³ Attachment I to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of this fact, EPS provides us with the

³ These cases are:

RAD 97L-10 (*Citizens for Randy Borow*); RAD 97L-16 (*Republican State Central Committee of South Dakota*); Pre-MUR 347 (*Producers Lloyds Insurance Company*); Pre-MUR 348 (*Peoples National Bank of Commerce*); Pre-MUR 349 (*Trump Plaza*); Pre-MUR 350 (*Citibank, N.A.*); Pre-MUR 355 (*Feingold Senate Committee*); MUR 4494 (*Georgianna Lincoln*);

MUR 4586 (*Friends of Zach Wamp*); MUR 4590 (*Oklahoma Education Association*); MUR 4600 (*San Diego Police Officers Assoc.*); MUR 4612 (*Teresa Doggett for Congress*); MUR 4615 (*Catholic Democrats for Christian Values*); MUR 4616 (*American Legislative Exchange Council*); MUR 4620 (*Eastern Connecticut Chamber of Commerce*); MUR 4622 (*Telles for Mayor*); MUR 4628 (*Gulkecht for Congress*); MUR 4629 (*Janice Schakowsky*); MUR 4636 (*IBEW Local 505*); MUR 4637 (*Dettman for Congress*); MUR 4639 (*Larson for Congress*); MUR 4641 (*Becker for Congress*); MUR 4644 (*Detroit City Council*); MUR 4651 (*Mike Ryan*); MUR 4653 (*Pritzker for Congress*); MUR 4656 (*H. Carroll for Congress*); and MUR 4657 (*Buchanan for President*).

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means to identify those cases which, though earning a higher rating when received, remained unassigned for a significant period due to a lack of staff resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We are recommending the closure of cases based on staleness.⁶

* These cases are: MUR 4283 (*Chenoweth for Congress*); MUR 4341 (*Juan Soliz for Congress*); MUR 4402 (*U.S. Representative Helen Chenoweth*); MUR 4435 (*Lincoln for Congress*); MUR 4439 (*UAW*); MUR 4442 (*Lipinski for Congress*); MUR 4444 (*Roberts for Congress*); MUR 4445 (*Randy Tate for Congress*); MUR 4446 (*Clinton/Gore '96 Primary*); MUR 4447 (*Random House, Inc.*); MUR 4449 (*Clinton Administration*); MUR 4453 (*Mike Ward for Congress*); MUR 4454 (*Ralph Nader*); MUR 4459 (*Clinton/Gore '96*); MUR 4474 (*Saltri for Senate*); MUR 4477 (*BBDO-New York*); MUR 4481 (*Diamond Bar Caucus*); MUR 4485 (*Perot '92 Petition Committee*); MUR 4486 (*Bunda for Congress*); MUR 4495 (*Pennsylvania PACE for Federal Elections*); MUR 4496 (*Norwood for Congress*); MUR 4497 (*Pease for Congress*); MUR 4510 (*Stabenow for Congress*); MUR 4511 (*Bob Coffin for Congress*); MUR 4514 (*Friends for Franks*); MUR 4515 (*Clinton Investigative Commission*); MUR 4521 (*AMAL 630 AM*); MUR 4525 (*Senator Larry Pressler*); MUR 4527 (*Brennan for Senate*); MUR 4536 (*Signature Properties, Inc.*); MUR 4540 (*Tim Johnson for SD*); MUR 4542 (*Dan Frisa for Congress*); MUR 4552 (*Charles W. Norwood*); MUR 4554 (*John Byron for Congress*); MUR 4556 (*Jim Wiggins for Congress*); MUR 4561 (*Jay Hoffman for Congress*); MUR 4564 (*National Republican Congressional Committee*); MUR 4567 (*DNC Services Corp.*); MUR 4569 (*McGovern Committee*); RAD 96L-11 (*New York Republican County Committee*); Pre-MUR 343 (*NRSC*); and Pre-MUR 312 (*Joseph Demio*). The Demio case involves fundraising related to former Congresswoman Mary Rose Oaker's 1992 congressional campaign. It was held as a courtesy to the Department of Justice pending resolution of a parallel criminal matter in the District Court for the District of Columbia. Mr. Demio recently entered into a plea agreement with the Department of Justice (on which we were not consulted) in which he agreed, among other things, to waive the statute of limitations regarding civil violations of the FECA. Considering the age of the case and activity, the fact that DOJ has not formally referred this matter to us, and the Commission's continuing resource constraints, dismissal is the appropriate disposition of this matter.

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We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective November 17, 1997. Closing these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective November 17, 1997, and approve the appropriate letters in the following matters:

RAD 96L-11

Pre-MUR 312

Pre-MUR 349

Pre-MUR 343

Pre-MUR 350

RAD 97L-10

Pre-MUR 347

Pre-MUR 355

RAD 97L-16

Pre-MUR 348

20043860552

B. Take no action, close the file effective November 17, 1997, and approve the appropriate letters in the following matters:

MUR 4283
MUR 4341
MUR 4402
MUR 4435
MUR 4439
MUR 4442
MUR 4444
MUR 4445
MUR 4446
MUR 4447
MUR 4449
MUR 4453
MUR 4454
MUR 4459
MUR 4474
MUR 4477
MUR 4481
MUR 4485
MUR 4486

MUR 4494

MUR 4495
MUR 4496
MUR 4497
MUR 4510
MUR 4511
MUR 4514
MUR 4515

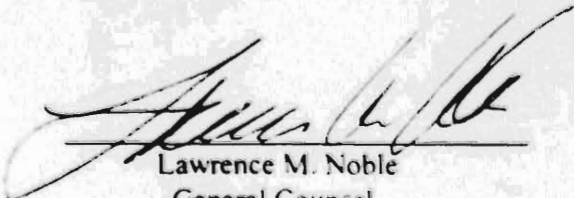
MUR 4521
MUR 4525
MUR 4527
MUR 4536
MUR 4540
MUR 4542
MUR 4552
MUR 4554
MUR 4556
MUR 4561

MUR 4564
MUR 4567

MUR 4569
MUR 4586
MUR 4590
MUR 4600
MUR 4612
MUR 4615
MUR 4616
MUR 4620
MUR 4622
MUR 4628
MUR 4629
MUR 4636
MUR 4637
MUR 4639
MUR 4641
MUR 4644
MUR 4651
MUR 4653
MUR 4656
MUR 4657

93043860533
Date

7/97


Lawrence M. Noble
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) Agenda Document No. X97-77
Enforcement Priority)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 2, 1997, do hereby certify that the Commission took the following actions with respect to Agenda Document No. X97-77:

1. Decided by a vote of 5-0 to

A. Decline to open a MUR, close the file effective December 15, 1997, and approve the appropriate letters in the following matters:

- | | |
|----------------|-----------------|
| 1. RAD 96L-11 | 7. Pre-MUR 347 |
| | 8. Pre-MUR 348 |
| 3. RAD 97L-10 | 9. Pre-MUR 349 |
| 4. RAD 97L-16 | 10. Pre-MUR 350 |
| 5. Pre-MUR 312 | 11. Pre-MUR 355 |
| 6. Pre-MUR 343 | |

B. Take no action, close the file effective December 15, 1997, and approve the appropriate letters in the following matters:

- | | |
|-------------|--------------|
| 1. MUR 4283 | 6. MUR 4442 |
| 2. MUR 4341 | 7. MUR 4444 |
| 3. MUR 4402 | 8. MUR 4445 |
| 4. MUR 4435 | 9. MUR 4446 |
| 5. MUR 4439 | 10. MUR 4447 |

(continued)

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Federal Election Commission
Certification: Agenda Document
No. X97-77
December 2, 1997

Page 2

11.	MUR 4449	36.	MUR 4556
12.	MUR 4453	37.	MUR 4561
13.	MUR 4454	38.	MUR 4564
14.	MUR 4459	39.	MUR 4567
15.	MUR 4474	40.	MUR 4569
16.	MUR 4477	41.	MUR 4586
17.	MUR 4481	42.	MUR 4590
18.	MUR 4485	43.	MUR 4600
19.	MUR 4486	44.	MUR 4612
20.	MUR 4494	45.	MUR 4615
21.	MUR 4495	46.	MUR 4616
22.	MUR 4496	47.	MUR 4620
23.	MUR 4497	48.	MUR 4622
24.	MUR 4510	49.	MUR 4628
25.	MUR 4511	50.	MUR 4629
26.	MUR 4514	51.	MUR 4636
27.	MUR 4515	52.	MUR 4637
28.	MUR 4521	53.	MUR 4639
29.	MUR 4525	54.	MUR 4641
30.	MUR 4527	55.	MUR 4644
31.	MUR 4536	56.	MUR 4651
32.	MUR 4540	57.	MUR 4653
33.	MUR 4542	58.	MUR 4656
34.	MUR 4552	59.	MUR 4657
35.	MUR 4554		

Commissioners Aikens, Elliott, McDonald, McGarry,
and Thomas voted affirmatively for the decision.

Attest:

12-4-97
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Betty H. Richardson, U.S. Attorney
U.S. Department of Justice
United States Attorney - District of Idaho
Box 32
Boise, Idaho 83707

RE: MUR 4402

Dear Ms. Richardson:

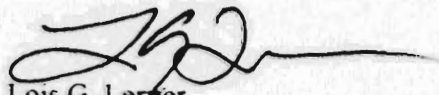
This is in reference to the matter involving U.S. Representative Helen Chenoweth which your office referred to the Federal Election Commission on November 27, 1995. After considering the circumstances of the matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents.

Accordingly, the Commission closed its file in this matter on December 15, 1997. This matter will become a part of the public record within 30 days.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Federal Election Campaign Act of 1971, as amended. If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

2304386056



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Barry Marcus and Trent Marcus
Marcus, Merrick & Montgomery
737 N. Seventh Street
Boise, Idaho 83702

RE: MUR 4402

Representative Helen Chenoweth; Chenoweth for Congress; and Richard W.
Jackson, CPA, as treasurer

Dear Messrs. Marcus:

On November 29, 1995, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on December 15, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

98043860557



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Arthur L. Herold
Frank M. Northam
Webster, Chamberlain & Bean
1747 Pennsylvania Ave., N.W., Suite 1000
Washington, D.C. 20006

RE: MUR 4402
West One Bank

Dear Messrs. Herold and Northam:

On November 29, 1995, the Federal Election Commission notified your client of an amended complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your client. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on December 15, 1997.

The confidentiality provisions of 2 U.S.C. § 437g(a)(2) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 219-3400.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4402
DATE FILMED 1/16/93 CAMERA NO. 2
CAMERAMAN EES

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