



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

June 27, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Enid Greene
6691 Benecia Drive
Salt Lake City, UT 84121-3487

RE: MURs 4322 and 4650
Enid Greene

Dear Ms. Greene:

On 17 June, 1997, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("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. Statements should be submitted under oath. All responses to the enclosed Subpoena must be submitted within 20 days of your receipt of the subpoena. Any additional materials or statements you wish to submit should accompany the response to the subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to the subpoena. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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, requests for pre-probable cause conciliation will not be entertained 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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Kamau Philbert, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Sincerely,


John Warren McGarry
Chairman

Enclosures
Subpoena
Procedures
Designation of Counsel Form
Factual and Legal Analysis

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MURs 4322 and 4650
Enid Greene)

SUBPOENA

TO: Enid Greene
6691 Benecia Drive
Salt Lake City, UT 84121-3487

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to MURs 4322 and 4650. Notice is hereby given that the deposition is to be taken on 14 August, 1997, at a location in Salt Lake City, Utah to be designated by the Office of the General Counsel, beginning at 9:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents and responses must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 20 days of your receipt of this Subpoena.

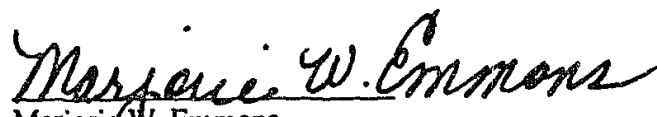
99-04-394-2424

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his
hand in Washington, D.C., on this *27th* day of June, 1997.

For the Commission,


John Warren McGarry
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachment
Request for Production of Documents with
Instructions and Definitions

99-04-394-2422

INSTRUCTIONS

In answering this 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.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by this request 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 December 1, 1992 to the present.

This request for production of documents is 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 this request for production of documents, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named witness to whom this request for production of documents is 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 vouchers, accounting statements, ledgers, records of electronic transfer of funds, checks, money orders or other commercial paper, books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, 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. For all types of documentary records requested, if any of these records are maintained on any storage format for computerized

information (e.g., hard drive, floppy disk, CD-ROM), provide copies of the records as maintained on that storage format in addition to hard (i.e., paper) copies.

"Assets" shall include, but is not limited to, property of all kinds, real and personal, tangible and intangible, including house, car, stocks, bonds, trade accounts, notes receivable, securities, cash, notes, accounts receivable, land and real estate.

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

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Produce all documents in your possession that refer, relate, or in any way pertain to any loans, gifts, bequests, or transfers of money or other assets made between you, D. Forrest Greene and Joseph Waldholtz during the period from December 1, 1992 to December 31, 1994.
2. Produce all documents that in any way contain or refer to any communication that took place between you, Joseph Waldholtz and D. Forrest Greene regarding any loans, gifts, bequests, or transfers of money or other assets.

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Enid Greene

MURs 4322 and 4650

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission and information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(1) and (2).

On 11 November, 1995, Joseph P. Waldholtz, treasurer of Enid '94 and Enid '96 and the husband of former U.S. Congresswoman Enid Greene Waldholtz, fled Washington, D.C. while the Enid '94 committee was under investigation by the Federal Bureau of Investigation and the U.S. Attorney's Office for the District of Columbia. Shortly thereafter, former Representative Greene Waldholtz removed Mr. Waldholtz as treasurer, assumed the position herself, and retained the national accounting firm of Coopers & Lybrand to conduct a forensic reconstruction of the campaign records of both committees. On 8 March, 1996, Michael H. Chanin, Esq., filed a complaint with the Commission on behalf of Enid '94, Enid '96, and Enid Greene Waldholtz, as treasurer. Based on the Coopers & Lybrand analysis, the complaint alleges numerous violations of federal election laws by former treasurer Joseph Waldholtz.

Prior to filing the complaint, on 31 January, 1996, Enid Greene Waldholtz, as treasurer of both of her committees, filed 1995 Year End Reports for Enid '94 and Enid '96 and notified the Commission of inaccuracies in the committees' reports. The Commission was advised of the

Coopers & Lybrand effort and that the committees would be filing amendments to the reports. Based on a review of the 1995 Year End Reports, Enid '94 and Enid '96 accepted excessive contributions from Mr. Waldholtz.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

On 21 December, 1993, former U.S. Representative Enid Greene Waldholtz (hereinafter "Ms. Greene") filed a Statement of Candidacy for the U.S. House of Representatives for the Second District of Utah and designated Enid '94 as her principal campaign committee for the 1994 election, which was held on 8 November, 1994. A Statement of Organization for Enid '94 was filed on 21 December, 1993 designating Mr. Waldholtz as treasurer and Custodian of Records, and KayLin Loveland as the assistant treasurer. Prior to that date, on 1 December, 1993, a campaign checking account for Enid '94 was established at First Security Bank in Salt Lake City, Utah. As treasurer of Enid '94, Mr. Waldholtz was the only person authorized to access the campaign account.

According to newspaper reports, fundraising initially was slow for Ms. Greene's 1994 campaign. However, beginning in July, 1994, substantial amounts of money began to appear in her campaign account under her name: nearly \$800,000 in September; \$650,000 in October and another \$270,000 in November. These funds enabled Ms. Greene to buy substantial amounts of television time and send out personalized direct mailings targeting her competitors, incumbent Democrat Karen Shepherd and Independent candidate Merrill Cook. Ms. Greene won the 1994 election with 46 percent of the vote. Hers was the most expensive congressional campaign in that election cycle. In January, 1995, Ms. Greene was sworn in as a Member of

Congress, and she and Mr. Waldholtz moved to Washington, D.C. Subsequently, Ms. Greene opened two separate joint checking accounts at the Wright Patman Congressional Credit Union ("Congressional Credit Union").

On 9 February, 1995, a campaign checking account was established in the name of Enid '96 ("Enid '96 Account") at First Security Bank in Salt Lake City, Utah. Mr. Waldholtz and R. Aaron Edens were the only individuals authorized to access the account. On 31 July, 1995, Mr. Waldholtz filed a Statement of Organization establishing Enid '96 as Ms. Greene's principal campaign committee for the 1996 election. Mr. Waldholtz was the designated treasurer for the committee.

In the months following the 1994 election, newspaper reports show that questions were being raised in Utah about the source of the large sums of money Ms. Greene was reported to have spent on the 1994 campaign. Media within the Salt Lake City area reportedly discovered a long trail of bounced checks, unpaid rent and angry creditors of the Waldholtzs, who offered various explanations. Eventually, when the Congressional Credit Union complained about large overdrafts on the couple's accounts, federal investigators began an inquiry into the campaign and financial activities of Mr. and Mrs. Waldholtz.

According to newspaper reports, on 11 November, 1995, Mr. Waldholtz, as treasurer of Enid '94, had promised to clear up matters regarding the questionable contributions to Enid '94 by bringing in executors of his family's trust from Pittsburgh, Pennsylvania to show that the money consisted of legal marital assets. However, when Mr. Waldholtz went to National Airport to pick up the executors, he disappeared and a warrant was subsequently issued for his arrest. Mr. Waldholtz surrendered to federal authorities six days later on 17 November, 1995.

Ms. Greene filed for divorce on 14 November, 1995. The U.S. Attorney in Washington, D.C. initiated a formal investigation, and Mr. Waldholtz was indicted on 2 May, 1996 on 27 counts of bank fraud. He pleaded guilty to bank, election and tax fraud in the U.S. District Court in Washington, D.C. on 5 June, 1996. Ms. Greene was also granted a divorce from Mr. Waldholtz on 5 June, 1996. Mr. Waldholtz was sentenced to 37 months in prison for bank, election and tax fraud on 7 November, 1996.

B. Alleged Violations

The complaint alleges that Mr. Waldholtz knowingly and willfully made eighty excessive contributions totaling at least \$1,821,543 to Enid '94 and Enid '96. Each of the eighty contributions were over \$1,000. The contributions were concealed in several ways. Twenty-eight contributions totaling at least \$984,000 were reported in Ms. Greene's name. Eleven contributions totaling \$18,325 were made in cash and not reported to the Commission.¹ Forty-one contributions totaling at least \$819,218 were made by transferring funds directly from personal checking accounts under Mr. Waldholtz's control into Enid '94 and Enid '96 campaign accounts. These contributions were not reported to the Commission.²

The complaint also alleges that of the 41 contributions totaling \$819,218, transferred from personal checking accounts into campaign accounts, Mr. Waldholtz knowingly and willfully commingled at least \$91,957 of those funds with his own personal funds or those of his relatives. He also failed to report the disbursements. According to the complaint, Mr. Waldholtz

¹ Of this amount, \$15,825 was contributed to Enid '94 and \$2,500 was contributed to Enid '96.

² The vast majority of the contributions, \$1,752,688, were made to Enid '94. Of that amount, \$1,569,413, consisting of 56 separate contributions, were made in 1994 and \$167,450 (consisting of seven separate contributions) were made to Enid '94 in 1995. A total of \$68,850 (consisting of 17 separate contributions) were made to Enid '96 in 1996.

carried out the commingling scheme in various ways. In a series of twenty-five transactions, Mr. Waldholtz transferred a total of \$63,374 directly from Enid '94 and Enid '96 campaign accounts into personal bank accounts. For example, on 4 April, 1994, Mr. Waldholtz authorized a wire transfer of \$4,200 from the Enid '94 account to his personal Merrill Lynch account in Pittsburgh. Similarly, on 31 March, 1994 and 25 May, 1995, respectively, Mr. Waldholtz authorized wire transfers of \$3,000 from Enid '94 account to his mother's account and \$2,000 from Enid '96 account to his grandmother's account. In addition, on four occasions, Mr. Waldholtz deposited 36 campaign contribution checks to Enid '94 totaling \$2,883 into his personal checking account. On twelve occasions, he withdrew a total of \$6,200 in cash from Enid '94 and Enid '96 by using checks made out to "Cash." On seven occasions, he withdrew a total of \$5,500 from Enid '94 and Enid '96 accounts by making checks out to himself and then either cashing them or depositing them into his personal accounts. On three occasions, he also withdrew a total of \$8,000 out of the Enid '94 and '96 accounts by writing checks payable to Ms. Greene and then depositing the checks into one of their joint personal accounts. Those checks were deposited into the Congressional Federal Credit Union account without Ms. Greene's endorsement. Finally, on two occasions, he used \$6,000 from campaign accounts to pay personal VISA credit card debt by using a debit memo to transfer \$5,000 and a \$1,000 counter check.

The complaint further alleges that on the 1994 April Quarterly Report, Mr. Waldholtz falsely identified as contributors forty-three (43) individuals who either do not exist or did not contribute to Enid '94. The inclusion of the "ghost contributors" caused that report to overstate the amount of contributions received by \$66,450. Mr. Waldholtz also failed to report two \$1,000

contributions to Enid '94 from two individuals and an additional eight contributions in excess of \$200. The complaint also alleges that Mr. Waldholtz accepted a \$1,000 corporate contribution from Keystone Promotions, Inc. as an individual contribution by F. Richard Call, the owner of Keystone.

Finally, the complaint alleges that Mr. Waldholtz may have improperly used his personal credit cards to pay for legitimate campaign expenses, but the complainants cannot provide the particulars of such transactions because they were unable to obtain appropriate records due to bank privacy laws.

The complaint acknowledges that the money which Mr. Waldholtz used to make the contributions at issue came from D. Forrest Greene, Ms. Greene's millionaire father, who had a seat on the Pacific Coast stock exchange. At some time earlier, Mr. Greene loaned Mr. Waldholtz approximately \$4,000,000 believing that Mr. Waldholtz himself was a millionaire whose funds were temporarily unavailable. The complaint states that Mr. Greene was unaware that the funds he had loaned Mr. Waldholtz were being transferred into the Enid '94 and Enid '96 campaign accounts. According to newspapers reports, Mr. Greene filed a lawsuit against Mr. Waldholtz for misuse of the \$4,000,000 at issue. A default judgment was entered against Mr. Waldholtz in July, 1996, and he was ordered to repay the \$4,000,000 to Mr. Greene.

In the complaint, Ms. Greene claims that she was unaware that the funds her father had loaned Mr. Waldholtz were being funneled into her campaigns. She believed that Mr. Waldholtz had given her \$5,000,000 to spend as she wished, which included spending the money on her campaign. She claims that Mr. Waldholtz told her that the \$5,000,000 wedding gift consisted of a trust fund made up mostly of real estate holdings which were tied up in litigation with other

family members and, therefore, could not be quickly liquidated. When she needed money for her 1994 campaign, she asserts that her husband also told her he had inherited property in Pennsylvania worth \$2,200,000 and, as his wife, she was legally entitled to half. Moreover, Ms. Greene asserts that her father gave the couple the \$4,000,000 with the understanding that they would reimburse him from the purported trust fund. Ms. Greene also asserts that she believed, due to alleged misrepresentations by Mr. Waldholtz regarding the marital assets, that she had a legal right to transfer the corresponding funds to her campaign accounts.

According to newspaper reports, however, Ms. Greene has given various explanations about the source of the \$4,000,000 and the extent of her knowledge of the violations at issue. According to those reports, Ms. Greene initially described the funds as family money and then expanded on the description of the funds to say that they came from a highly liquid account. Ms. Greene then told prosecutors that her father had swapped assets with her husband to help generate cash. She also claimed that only after examining her campaign and personal financial affairs after Mr. Waldholtz's disappearance did she discover that Mr. Waldholtz was a fraud and that the campaign money had not come from his gift to her but had actually come from her father. She further claims that her father had secretly lent the \$4,000,000 to Mr. Waldholtz without telling her.³ In any event, on 12 December, 1995, Ms. Greene held a five-hour news conference in Salt Lake City, Utah, declaring herself the unwitting victim of a con man husband who embezzled money, defrauded banks and violated federal election laws.

³ According to an article that appeared in the 12 December, 1995 issue of The Washington Post, Ms. Greene proposed to her father that he give her money for the campaign in exchange for being assigned her interest in the property. Her father did so without seeing the property, reviewing a deed, or signing any document.

The complaint alleges that Mr. Waldholtz was able to conceal the schemes discussed above, in part, by over-reporting or under-reporting the amounts he contributed in Ms. Greene's name, by reporting contributions from individuals who either did not exist or did not contribute to Ms. Greene's campaigns, and by failing to report the cash contributions and other contributions from individuals who did contribute to her campaigns. According to the complaint, Mr. Waldholtz also had access to several joint personal checking accounts with Ms. Greene in addition to the campaign accounts mentioned above. The checking accounts were opened initially either as joint accounts or were opened by Ms. Greene or Mr. Waldholtz individually, and the other was subsequently added to the accounts. Five of the bank accounts were with First Security Bank of Salt Lake City, Utah, and two of the bank accounts were with the Congressional Credit Union in Washington, D.C. The accounts generally were opened on or after 19 May, 1993 and were closed in November, 1995.⁴ Mr. Waldholtz also had access to, and control over, three additional personal banking accounts of relatives at financial institutions in his hometown, Pittsburgh, Pennsylvania. One of those bank accounts was in Mr. Waldholtz's name, the other bank account was in the name of his mother, Barbara Waldholtz, and the other bank account was in the name of his grandmother, Rebecca Levenson.

C. Law

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f.

⁴ One account was opened by Ms. Greene on 8 October, 1986, Mr. Waldholtz was added to the account on 29 October, 1993, and it was closed in November 1995.

The Commission's regulations at section 110.10 provides that candidates for Federal office may make unlimited expenditures from personal funds. Personal funds include assets jointly owned with the candidate's spouse. The portion of the joint asset that shall be considered personal funds of the candidate shall be that portion which is the candidate's share by instrument(s) of conveyance or ownership. If no specific share is designated, the value of one-half of the property used shall be considered as personal funds of the candidate.

11 C.F.R. § 110.10

D. Discussion

The complaint acknowledges that the \$1,800,000 used by Mr. Waldholtz to make the contributions at issue came from Mr. Greene. Almost \$1 million (\$984,000) of that money was reported to the Commission as contributions from Ms. Greene. As the candidate, Ms. Greene could contribute unlimited amounts of money to her own campaign, provided that the money constituted personal funds. 11 C.F.R. § 110.10. According to the complaint, Ms. Greene initially was unaware that funds from her father's loan to Mr. Waldholtz were being transferred to her '94 and '96 campaigns. She states that she later believed, due to misrepresentations by Mr. Waldholtz regarding her interest in a piece of property in Pennsylvania, that she had a legal right to transfer certain funds to her campaign accounts. The complaint asserts that Mr. Greene was also unaware that the money he loaned to Mr. Waldholtz would be used for Ms. Greene's campaign. In addition, Mr. Greene is reported to have asserted his innocence in his lawsuit against Mr. Waldholtz. Despite such assertions, the circumstances surrounding the loan remains unclear. It is not clear when or how the loan was made, what the terms of repayment were, and who initiated the loan request. What is clear is that the bulk of the contributions at issue were

made in the two months prior to the November, 1994 election. The complaint shows that \$460,000 was reported in September, \$742,000 in October, and \$270,000 in November of 1994. These contributions are significant considering that Ms. Greene lost her previous bid for the same congressional seat in the 1992 election ostensibly because of her lack of funds. Thus, in the 1994 election, Ms. Greene benefited significantly from the large amount of last minute contributions. Newspapers reported that she acknowledged that the contributions may have won her the election.

Based on the above factors, as well as the close relationship of the three individuals: Mr. Greene, the source of the money, Mr. Waldholtz, the person who effectuated the contributions, and Ms. Greene, the recipient of the largess, it is questionable whether Ms. Greene was unaware that the contributions reported in her name came from her father. Therefore, there is reason to believe that Enid Greene violated 2 U.S.C. § 441f by knowingly permitting her name to be used to effect the contributions at issue in this matter.