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July 28, 1997

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FEDERAL ELECTION
COMMISSION
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VIA HAND DELIVERY

Kamau Philbert, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MURs 4322 and 4650

Dear Mr. Philbert:

Consistent with our understanding with your office and your letter to us of July 8, 1997, enclosed please find the Joint Response of D. Forrest Greene, Enid Greene, Enid '94 and Enid Greene, as Treasurer, and Enid '96 and Enid Greene as Treasurer, to FEC Findings of Reason to Believe, as well as five (5) three-ring binders which contain exhibits to the Response.

Also enclosed, please find the Joint Response of D. Forrest Greene and Enid Greene to the FEC's Request for Production of Documents. The response covers documents from January 1, 1994 to December 31, 1995. We are continuing to review our records, and will forward additional documents to you if found, should you want anything further.

If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,

Charles H. Roistacher

Brett G. Kappel

Enclosures

99-04-394-2302

Kamau Philbert, Esquire
July 28, 1997
Page 2

cc: Ms. Enid Greene (In Her Personal Capacity and as Treasurer of Enid
'94 and Enid '96) (w/encl.)
Mr. D. Forrest Greene (w/encl.)

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2025 RELEASE UNDER E.O. 14176

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matters of)

D. Forrest Greene, Enid Greene,)
Enid '94 and Enid Greene, as)
Treasurer, and Enid '96 and)
Enid Greene, as Treasurer)

MURS 4322 and 4650

JOINT RESPONSE OF D. FORREST GREENE,
ENID GREENE, ENID '94 AND ENID GREENE,
AS TREASURER, AND ENID '96 AND ENID GREENE,
AS TREASURER, TO FEC FINDINGS OF REASON TO BELIEVE

JUL 28 4 29 PM '97

RECEIVED
FEDERAL ELECTION
COMMISSION
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BEFORE THE FEDERAL ELECTION COMMISSION

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D. Forrest Greene, Enid Greene,) MURs 4322 and 4650
Enid '94 and Enid Greene, as)
Treasurer, and Enid '96 and)
Enid Greene, as Treasurer)

JOINT RESPONSE OF D. FORREST GREENE,
ENID GREENE, ENID '94 AND ENID GREENE,
AS TREASURER, AND ENID '96 AND ENID GREENE,
AS TREASURER, TO FEC FINDINGS OF REASON TO BELIEVE

I. Introduction

Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.6, D. Forrest Greene, Enid Greene, individually and as treasurer of both Enid '94 and Enid '96 (collectively "the Enid committees"), hereby file this joint response to the Federal Election Commission's ("FEC" or "the Commission") June 17, 1997 reason to believe findings.

D. Forrest Greene ("Mr. Greene") received notice of the Commission's reason to believe determination on July 3, 1997. In a telephone conversation with the Office of General Counsel on July 8, 1997, the undersigned agreed to accept service on behalf of Enid Greene ("Ms. Greene"), and the Enid committees, and to file a joint response on behalf of Mr. Greene, Ms. Greene, and the Enid committees by July 28, 1997. The undersigned also agreed to file a preliminary response to the subpoenas directed to Mr. and Ms. Greene by July 28, 1997 and to file supplemental responses as additional responsive material, if any, is identified. The Office of General Counsel agreed to review the

joint response and to meet with the undersigned within a short period of time after the filing of the joint response to discuss any further action by the Commission, including, the need, if any, for depositions of Mr. and Ms. Greene.

Mr. Greene is a 78-year-old retired stockbroker residing in Salt Lake City, Utah, and the father of Ms. Greene. Ms. Greene represented the Second District of Utah in the U.S. House of Representatives in the 104th Congress. Enid '94 was Ms. Greene's principal campaign committee in the 1994 congressional election. Enid '96 was established to be Ms. Greene's principal campaign committee in the 1996 congressional election, but on March 5, 1996, Representative Greene announced that she would not run for re-election.

Joseph P. Waldholtz -- Ms. Greene's former husband and Mr. Greene's former son-in-law -- served as treasurer of Enid '94 from its inception on December 21, 1993 until November 14, 1995, when he was removed from that position by Ms. Greene after she discovered that he had engaged in a pattern of fraudulent conduct and embezzled a substantial amount of money from the Enid '94 campaign accounts. Similarly, Joseph P. Waldholtz served as treasurer of Enid '96 from its inception on July 31, 1995 until November 14, 1995, when he was removed by Ms. Greene for fraudulent conduct and embezzling funds from the Enid '96 campaign accounts. Accordingly, Joseph P. Waldholtz was the treasurer of both Enid committees at all times relevant to the

above-referenced MURs. Ms. Greene personally assumed the position of treasurer of the Enid committees on January 26, 1996.

On March 8, 1996, Ms. Greene, as treasurer of the Enid committees, filed with the Commission the complaint against Joseph P. Waldholtz that initiated MUR 4322. Along with the complaint, the committees provided extensive and compelling evidence that, during the time he served as treasurer of the Enid committees, Joseph P. Waldholtz committed well in excess of 850 violations of the Federal Election Campaign Act ("FECA") and applicable FEC regulations.

The central allegation in the complaint was that, during the time he served as treasurer of Enid '94, Joseph P. Waldholtz, on twenty-eight (28) separate occasions, using funds he had obtained by fraud from Mr. Greene, knowingly and willfully contributed to Enid '94 a total of nine hundred eighty-four thousand dollars (\$984,000) in the name of Enid Greene. Complaint at ¶¶ 4, 26(a), 29, 31, and 32. These contributions by Joseph P. Waldholtz violated FECA's prohibition on making contributions in the name of another (2 U.S.C. § 441f), as well as the prohibition on contributing more than \$1,000 to a single candidate for any one election (2 U.S.C. § 441a(a)(1)(A)) and the prohibition on contributing more than \$25,000 in any one calendar year (2 U.S.C. § 441a(a)(3)).

Ms. Greene and the Enid committees provided the U.S. Attorney for the District of Columbia with a copy of the complaint in MUR 4322 on the same day the complaint was filed

with the FEC. By that point in time, Mr. Greene, Ms. Greene and the Enid committees had already been cooperating with an investigation by the U.S. Attorney's Office into the criminal activities of Joseph P. Waldholtz for more than four months.

On June 5, 1996, Joseph P. Waldholtz pleaded guilty to a three count information alleging, inter alia, that, as treasurer of Enid '94, he had knowingly and willfully filed a report with the FEC in which he falsely and fraudulently certified that Enid Greene had contributed approximately \$1,800,000 of her personal funds to Enid '94 when, in fact, Joseph P. Waldholtz knew that the 1,800,000 had not come from Ms. Greene's personal funds but, instead, had been taken from funds that Joseph P. Waldholtz had, by various schemes and devices, obtained from Mr. Greene.^{1/}

Information at 1-2; Plea Agreement at 3-4 (Exhibit Vol. 1, Tabs 3 & 2). Based on a number of false representations made by Joseph P. Waldholtz before and during their marriage, Ms. Greene believed that the funds being contributed to her campaign were

^{1/} Joseph P. Waldholtz also pleaded guilty to one count of a twenty-seven count indictment for bank fraud (18 U.S.C. § 1344) for carrying out a \$3 million check-kiting scheme using a joint checking account he shared with Ms. Greene at the Wright Patman Congressional Federal Credit Union. Indictment at 1-8 (Exhibit Vol. 1, Tab 1); Plea Agreement at 1-3 (Exhibit Vol. 1, Tab 2). Joseph P. Waldholtz also pleaded guilty to the remaining count in the information, willfully aiding in the filing of a false tax return (26 U.S.C. § 7206(2)) for knowingly providing Ms. Greene with false information regarding the value of stock he had supposedly given to her, knowing that she would incorporate that false information on her 1993 tax return. Information at 3 (Exhibit Vol. 1, Tab 3); Plea Agreement at 4 (Exhibit Vol. 1, Tab 2).

legally hers, lawfully contributed to her campaign in accordance with 11 C.F.R. § 110.11.^{2/}

As part of his plea agreement, Joseph P. Waldholtz agreed to "cooperate" with the U.S. Attorney's investigation of Ms. Greene's 1994 congressional election campaign. This investigation was aimed primarily at discovering whether there was any credible evidence that Mr. Greene and/or Ms. Greene had conspired with Joseph P. Waldholtz to violate 2 U.S.C. § 441f. Plea Agreement at 7 (Exhibit Vol. 1, Tab 2).

On October 31, 1996, the U.S. Attorney for the District of Columbia took the virtually unprecedented step of issuing a press release to announce that, after a year-long investigation into Ms. Greene's 1994 congressional election campaign, the U.S. Attorney would not pursue criminal charges against either Mr. Greene or Ms. Greene. Press Release at 1 (Exhibit Vol. 4, Tab 1).

One week later, on November 7, 1996, Joseph P. Waldholtz stood before U.S. District Court Judge Norma Holloway Johnson for sentencing. During his allocution, Joseph P. Waldholtz stated not once, but twice, that he and he alone was responsible for these FECA violations. Partial Transcript of Sentencing Proceedings at 1B-2 (Exhibit Vol. 1, Tab 15).

Incredibly, nearly a year after Mr. Greene and Ms. Greene were exonerated, and Joseph P. Waldholtz was convicted, the

^{2/} The basis for Ms. Greene's belief is discussed in detail in Section II.D.

Commission, in a turn of events that can only be described as Kafkaesque, has now found reason to believe, based on the very same information that led to Joseph P. Waldholtz's conviction, (1) that Mr. Greene violated 2 U.S.C. §§ 441a(a)(1)(A) and (a)(3) and 2 U.S.C. § 441f by, respectively, making contributions in excess of the \$1,000 limit per election, by making contributions in excess of the overall annual \$25,000 limit, and by making contributions in the name of another; (2) that Ms. Greene violated 2 U.S.C. § 441f by knowingly permitting her name to be used to effect these contributions; and (3) that the Enid committees and Ms. Greene, as treasurer, should be held responsible for various violations of FECA and applicable FEC regulations that were committed by Joseph P. Waldholtz during the time he served as treasurer of the Enid committees.

That the Commission would even consider taking further action against Mr. Greene, Ms. Greene, and the Enid committees based, apparently, on newspaper reports and whatever information may have been supplied to the Commission by Joseph P. Waldholtz, is truly incredible, given what the government and the rest of the world now knows about Joseph P. Waldholtz.^{3/} In addition to

^{3/} Equally incredible were the April 16, 1996 and May 9, 1996 letters the Enid committees received from the Commission's Reports Analysis Division suggesting that the committees refund to Joseph P. Waldholtz any amount he contributed in excess of \$1,000. These letters were widely misinterpreted by the press as a final determination by the Commission. See, e.g., FEC Orders Refunds by Rep. Greene, Wash. Post at A4 (May 22, 1996) (Exhibit Vol. 4, Tab 2). Any suggestion that the Enid committees refund to Joseph P. Waldholtz even one thin dime of the money he obtained by fraud from Mr. Greene is simply ludicrous.

the crimes to which he has already pleaded guilty, Joseph P.

Waldholtz, in the decade prior to his guilty plea:

- Defrauded his grandmother, an elderly Alzheimer's patient, out of nearly \$400,000;
- Forged and counterfeited Government National Mortgage Association ("Ginnie Mae") securities as part of his scheme to defraud his grandmother out of hundreds of thousands of dollars;
- Committed perjury in a state court proceeding initiated by his own father to recover the funds that Joseph P. Waldholtz had stolen from his grandmother;
- Defrauded his mother out of her entire life savings -- \$96,000 -- by inducing her to cash in her pension, take out a mortgage on the home she owned free and clear, and give the money to him to "invest" for her;
- Was fired by his employer, Republican National Committeewoman Elsie Hillman, for misappropriating at least \$100,000 from her and using it for expensive hotel suites, first-class airline tickets, and lavish meals while travelling to Republican Party events on her behalf and while working as the Executive Director for Pennsylvania of Bush-Quayle '92;
- Caused Mrs. Hillman to violate the Federal Election Campaign Act's prohibition on contributing more than \$25,000 in any one year (2 U.S.C. § 441a(a)(3)) in 1990, 1991, and 1992 by failing to keep track of her political contributions, resulting in Mrs. Hillman having to pay a \$32,000 civil penalty;
- Converted contribution checks made out to the Utah Republican Party to his own use while employed as the Party's Executive Director;
- Committed bank fraud by using falsified tax returns showing more than \$250,000 in annual income from a now-known-to-be non-existent "Waldholtz Family Trust" to obtain a home mortgage from First Security Bank of Utah;
- Committed additional bank fraud violations by kiting checks between accounts Joseph P. Waldholtz maintained with Merrill Lynch, Pittsburgh National Bank, and NationsBank;
- Falsified Ms. Greene's 1994 and 1995 congressional financial disclosure statements;

- Forged Ms. Greene's endorsement on her congressional paychecks on two separate occasions and converted the proceeds to his own use;
- Committed three separate instances of tax fraud involving the tax returns Joseph P. Waldholtz filed for tax years 1992 through 1994; and
- Committed massive (more than 850) violations of the Federal Election Campaign Act and applicable FEC regulations while serving as treasurer of Enid '94 and Enid '96, as alleged in the complaint in MUR 4322.

Moreover, even after he had pleaded guilty to the bank, election, and tax fraud charges discussed above, Joseph P. Waldholtz continued to commit additional crimes. In the three-month period between his guilty plea and his scheduled sentencing, Joseph P. Waldholtz was free on his personal bond after assuring U.S. District Court Judge Norma Holloway Johnson that he would obey the terms of his release pending sentencing, which called for him to refrain from committing additional crimes and using illegal drugs. Yet during those three months, Joseph P. Waldholtz:

- Admitted to the FBI agent supervising his release that he had been using heroin on a daily basis for several weeks;
- Stole his dentist father's prescription pad and forged his father's name to a prescription for Vicodin (a narcotic painkiller);
- Stole his parents' checkbook, forged his father's signature on a check for \$415 made payable to himself and cashed it;
- Wrote seven bad checks totaling \$24,600 to his parents;
- Obtained a credit card from a friend and made \$550 in unauthorized charges on it;
- Stole another credit card from the same friend and made approximately \$193 in purchases with it;

- Obtained a credit card issued to his father and, without his father's authorization or consent, made \$1,446 in purchases; and
- Wrote a bad check for approximately \$615 to an optometrist.

Clearly, Joseph P. Waldholtz is a stone-cold pathological con man, liar, and thief who abused the trust of those closest to him to create an illusion of wealth and political power. His statements have absolutely no credibility whatsoever.

For these and all of the other reasons set forth in greater detail below, the Commission should take no further action against Mr. Greene, Ms. Greene, or the Enid committees in MURs 4322 and 4650.

II. The Commission Should Take No Further Action Against Either D. Forrest Greene Or Enid Greene

There is simply no basis in law or equity for the Commission to take any further action against either Mr. Greene or Ms. Greene in MURs 4322 and 4650.

- A. The U.S. Attorney for the District of Columbia, the FBI, and a Federal Grand Jury Have Already Conducted an Extensive Investigation of the Allegations That D. Forrest Greene and Enid Greene Conspired with Joseph P. Waldholtz to Violate 2 U.S.C. § 441f and Concluded that There is No Credible Evidence to Support these Allegations

On November 11, 1995, Joseph P. Waldholtz fled Washington, D.C. while under investigation for bank fraud by the U.S. Attorney's Office for the District of Columbia, the FBI, and a federal grand jury (hereinafter "the government" or "the

government's investigation").^{4/} Nearly one year later, Joseph P. Waldholtz was sentenced to 37 months in federal prison for one count of bank fraud (18 U.S.C. § 1344), one count of making a false statement to the Commission (18 U.S.C. § 1001), one count of making a false report to the Commission (2 U.S.C. §§ 437g(d) and 441a) and one count of willfully assisting in the filing of a false tax return (26 U.S.C. § 7206(2)). In its sentencing memorandum, the U.S. Attorney's Office called Joseph P. Waldholtz, "a con artist whose continued pattern of fraud and deceit has assumed pathological dimensions." Government's Memorandum In Aid Of Sentencing at 16 (Exhibit Vol. 1, Tab 12). U.S. District Court Judge Norma Holloway Johnson not only agreed, but sentenced Joseph P. Waldholtz to three additional months in federal prison over and above the sentence sought by the government. Sentencing Memorandum at 3 (Exhibit Vol. 1, Tab 14).

During the intervening year, Ms. Greene and Mr. Greene cooperated fully with the U.S. Attorney's investigation of Joseph P. Waldholtz for bank fraud. Ms. Greene voluntarily provided the government with reams of documents abandoned by Joseph P. Waldholtz when he fled Washington, D.C. Ms. Greene also gave the government free access to the two homes she shared with Joseph P.

^{4/} The Commission's Factual and Legal Analysis incorrectly states that Joseph P. Waldholtz fled Washington while Enid '94 was under investigation. Factual and Legal Analysis at 1. In fact, to our knowledge, the investigation was not broadened to include potential election law violations until Ms. Greene and the Enid committees uncovered evidence that Joseph P. Waldholtz had embezzled a substantial amount of money from both Enid '94 and Enid '96 and brought that evidence to the attention of the FEC and the U.S. Attorney.

Waldholtz in Salt Lake City, Utah and Washington, D.C. Within a month of his disappearance, the government, because of the extensive cooperation of Enid Greene, had a substantial amount of evidence to support the allegations that Joseph P. Waldholtz had defrauded both the Wright Patman Congressional Federal Credit Union and First Security Bank of Utah by kiting checks between the two financial institutions. Indictment at 1-7 (Exhibit Vol. 1, Tab 1); Plea Agreement at 2-3 (Exhibit Vol. 1, Tab 2).

Moreover, while cooperating with the investigation of the bank fraud allegations, Enid Greene discovered and turned over to the government substantial and compelling evidence that Joseph P. Waldholtz had also committed a truly astounding number of other federal and state crimes, including:

- Massive violations of the Federal Election Campaign Act and applicable FEC regulations while Joseph P. Waldholtz served as treasurer of Enid '94 and Enid '96;
- Additional instances of check kiting involving accounts Joseph P. Waldholtz maintained with Merrill Lynch, Pittsburgh National Bank, and NationsBank;
- Bank fraud in obtaining a residential home mortgage from First Security Bank of Utah;
- Forgery of Enid Greene's congressional paychecks;
- Forgery of Government National Mortgage Association ("Ginnie Mae") securities; and
- Tax fraud involving the tax returns Joseph P. Waldholtz filed for tax years 1992 through 1994.

Plea Agreement at 4-5 (Exhibit Vol. 1, Tab 2).

Most of this documentary evidence was turned over to the government by the end of 1995. During the six months it took the government to evaluate and corroborate the evidence of Joseph P.

Waldholtz's criminal activities provided by Ms. Greene, both Mr. Greene and Ms. Greene continued to cooperate with the government's investigation. By early 1996, however, it was evident that, with so much compelling evidence of Joseph P. Waldholtz's guilt already in hand, the principal focus of the government's investigation had somehow turned to Mr. Greene and Ms. Greene. In particular, the government seemed intent on trying to prove that both Ms. Greene and Mr. Greene had conspired with Joseph P. Waldholtz to funnel funds belonging to Mr. Greene into Ms. Greene's 1994 congressional election campaign, in violation of 2 U.S.C. § 441f.

There was no truth to this theory, and both Ms. Greene and Mr. Greene continued to cooperate with the government. Both Ms. Greene and Mr. Greene submitted voluntarily to numerous interviews with agents of the government. Government agents were given complete and open access to the homes and offices of both Ms. Greene and Mr. Greene. Both Ms. Greene and Mr. Greene voluntarily complied with document requests related to Ms. Greene's 1994 Congressional campaign, turning over more than 10,000 pages of documents. Ms. Greene testified before a federal grand jury investigating these transactions on three separate occasions. Mr. Greene also voluntarily appeared before the same grand jury.

After nearly five months of exhaustively investigating the financial transactions between Mr. Greene, Ms. Greene and Joseph P. Waldholtz, the government failed to find any credible evidence

that Mr. Greene and Ms. Greene had conspired with Joseph P. Waldholtz to violate 2 U.S.C. § 441f. On May 2, 1996 -- seven months after Joseph P. Waldholtz fled Washington, D.C. -- the grand jury returned a twenty-seven count indictment against Joseph P. Waldholtz for bank fraud concerning his massive check kiting scheme. Indictment at 1-7 (Exhibit Vol. 1, Tab 1). The grand jury took no action against either Mr. Greene or Ms. Greene.

On June 5, 1996, Joseph P. Waldholtz agreed to plead guilty to one count of bank fraud (18 U.S.C. § 1344) charged in the indictment. In addition, he also agreed to plead guilty to a three-count information that included one count of making a false statement to the Commission (18 U.S.C. § 1001), one count of making a false report to the Commission (2 U.S.C. §§ 437g(d) and 441a) and one count of willfully assisting in the filing of a false tax return (26 U.S.C. § 7206(2)). Plea Agreement at 1-4 (Exhibit Vol. 1, Tab 2). Joseph P. Waldholtz also agreed to "cooperate" with the government's apparent continuing investigation of Mr. and Ms. Greene. Plea Agreement at 7 (Exhibit Vol. 1, Tab 2).

In exchange for this guilty plea and pledge of cooperation, the U.S. Attorney agreed not to prosecute Joseph P. Waldholtz for a myriad of other crimes -- including additional charges of bank fraud, tax fraud, forgery, uttering, and numerous violations of the Federal Election Campaign Act he committed while he served as

treasurer of Enid '94 and Enid '96. Plea Agreement at 4-6
(Exhibit Vol. 1, Tab 2).

**B. Joseph P. Waldholtz Has Already Admitted That He and He
Alone Was Responsible for the Violations of FECA that
Occurred During Enid Greene's 1994 Congressional
Campaign**

As noted above, on June 5, 1996, Joseph P. Waldholtz, in addition to bank and tax fraud charges, pleaded guilty to one count of making a false statement to the Commission (18 U.S.C. § 1001) and one count of making a false report to the Commission (2 U.S.C. § 437g(d) and 441a). Plea Agreement at 1 (Exhibit Vol. 1, Tab 2). In exchange for that guilty plea, the U.S. Attorney agreed not to bring additional criminal charges against Joseph P. Waldholtz for his conduct in connection with "the 1994 and 1996 Congressional campaigns of Enid Greene" Plea Agreement at 5 (Exhibit Vol. 1, Tab 2).

In addition to the reporting violations encompassed by the Plea Agreement, the complaint and supporting exhibits which Ms. Greene and the Enid committees filed in MUR 4322 provide compelling evidence that Joseph P. Waldholtz committed hundreds of more egregious FECA violations. In particular, the complaint and the accompanying exhibits demonstrate that Joseph P. Waldholtz repeatedly violated FECA's prohibitions on making contributions in the name of another (2 U.S.C. § 441f) and commingling personal and campaign funds (2 U.S.C. § 432(b)(3)).

In the four month period leading up to the 1994 election, Joseph P. Waldholtz, using funds he had obtained by fraud from Mr. Greene, made twenty-eight (28) separate contributions to Enid

'94 and knowingly and willfully reported them to the FEC as contributions by Ms. Greene. By this subterfuge, and in direct violation of 2 U.S.C. § 441f, Joseph P. Waldholtz was able to inject at least nine hundred and eighty-four thousand dollars (\$984,000) into Enid '94 in the closing days of the 1994 campaign.

Joseph P. Waldholtz admitted these multiple violations of 2 U.S.C. § 441f at the time of his guilty plea. The Plea Agreement Joseph P. Waldholtz signed on June 3, 1996, states that:

During calendar year 1994, Enid Waldholtz's father, D. Forrest Greene, had deposited approximately \$2,800,000 into the personal bank accounts of Joseph and Enid Waldholtz. Joseph Waldholtz knew that during calendar year 1994 almost \$1,800,000 provided by Mr. Greene was transferred from the Waldholtzs' personal accounts to Enid '94. [Joseph P. Waldholtz knew this because he personally transferred all of the funds from a joint checking account he shared with Enid Greene into the Enid '94 campaign account, which he controlled as treasurer of Enid '94.]

Despite the fact that he knew that the funds that were transferred from the personal accounts of Joseph and Enid Waldholtz to Enid '94 had been provided by Mr. Greene, Joseph Waldholtz reported on various FEC Reports . . . that the transferred funds represented Enid Waldholtz's personal assets. Mr. Waldholtz made those false statements and representations because he knew that the FEC regulations that limit campaign contributions to \$1,000 per election cycle do not apply to contributions that a candidate makes with her own funds.

Plea Agreement at 3-4 (Exhibit Vol. 1, Tab 2).

Despite the fact that Joseph P. Waldholtz admitted to a course of conduct that would support a conviction for repeatedly violating 2 U.S.C § 441f, the U.S. Attorney agreed to allow Joseph P. Waldholtz to plead to the lesser violation of

2 U.S.C. § 437g(d) in order to obtain Waldholtz's "cooperation" in the continuing investigation of Mr. Greene and Ms. Greene.

During the five month period between his guilty plea and his sentencing, when Joseph P. Waldholtz was supposed to "cooperate" with the government's investigation, he repeatedly made statements to the press to the effect that both Ms. Greene and Mr. Greene were part of a conspiracy to violate 2 U.S.C. § 441f.^{5/} On one occasion he went so far as to say that Mr. Greene "attempted to buy his daughter a congressional seat in 1994." Waldholtz Ordered to Pay Up, Salt Lake Trib., July 27, 1996, at B1 (Exhibit Vol. 4, Tab 3). It is these press reports that, apparently, form the basis for the Commission's reason to believe findings that Mr. Greene and/or Ms. Greene violated 2 U.S.C. § 441f.

The government followed up on the information provided by Joseph P. Waldholtz and called three additional witnesses to appear before the federal grand jury investigating Ms. Greene's 1994 congressional election campaign. Ex-Greene Aides Are Subpoenaed to Testify, Salt Lake Trib., July 10, 1996, at B3

^{5/} As noted above, during this same time period, after being released on his personal bond and while subject to a condition of release that prohibited him from committing any additional federal or local crimes or using illegal drugs, Joseph P. Waldholtz committed the following illegal acts: (1) Possession of heroin; (2) Prescription fraud; (3) Theft of checks, forgery, and uttering; (4) Two separate instances of writing bad checks involving a total of \$25,215; and (5) Two separate instances of theft and unauthorized use of a credit card involving a total of approximately \$2,190. Government's Notice To The Court Of New Criminal Violations By Defendant And Motion For Hearing To Revoke Defendant's Bond at 2-4 (Exhibit Vol. 1, Tab 5).

(Exhibit Vol. 4, Tab 4). Neither these three witnesses nor any other information the Government developed during the year-long investigation corroborated the allegations by Joseph P. Waldholtz that Mr. Greene and/or Ms. Greene conspired with him to violate 2 U.S.C. § 441f. As noted above, the U.S. Attorney's Office announced on October 31, 1996 that it would not bring any criminal charges against either Mr. Greene or Ms. Greene. Press Release at 1 (Exhibit Vol. 4, Tab 1).

With the investigation over, the U.S. Attorney's Office finally abandoned its earlier attempt to minimize the scope of Joseph P. Waldholtz's FECA violations. In seeking a sentence at the top of the applicable guideline range, the U.S. Attorney argued that Joseph P. Waldholtz had "contributed about \$1.8 million of [the total of nearly \$4 million he had obtained from Mr. Greene by fraud] directly to Enid Greene's 1994 Congressional campaign." Government's Memorandum In Aid of Sentencing at 6 (Exhibit Vol. 1, Tab 12). Moreover, the U.S. Attorney argued that Joseph P. Waldholtz "had to design and coordinate carefully" his false reports to the FEC so that his violations of 2 U.S.C. § 441f would not be discovered. Id. at 8. The U.S. Attorney emphasized that, rather than the one false report to which he had admitted in his guilty plea, Joseph P. Waldholtz had falsified a total of nine (9) FEC reports covering the entire 1994 calendar year -- including the two month period leading up to the 1994 election. Id. at 7-8.

Standing before U.S. District Court Judge Norma Holloway Johnson without the protection of the U.S Attorney, Joseph P. Waldholtz finally removed any ambiguity regarding who was responsible for the multiple violations of 2 U.S.C. § 441f that occurred during Enid Greene's 1994 congressional election campaign:

This past year has been a nightmare for so many people: my family, my friends, my former wife [Enid Greene], and her family. To them, I would like to express my deepest regret and sorrow for my actions. My behavior was deplorable. And I alone am responsible. I did commit crimes against the United States. It is my responsibility, and my responsibility alone.

Partial Transcript of Sentencing Proceedings at 1B-2 (Exhibit Vol. 1, Tab 15) (Emphasis added).

This statement, along with the Government's inability to find any credible evidence that Mr. Greene and Ms. Greene conspired or were, in any other culpable way, involved with Joseph P. Waldholtz's violations of the Federal Election Campaign Act, is more than ample grounds to justify a decision by the Commission to take no further action against Mr. and Ms. Greene in MURs 4322 and 4650.

C. Joseph P. Waldholtz has Already Conceded to a Utah State Court That He Alone Was Responsible for Contributing Funds, That He Obtained by Fraud from D. Forrest Greene, to the Enid '94 Campaign in the Name of Enid Greene

Long before the government concluded that there was no credible evidence that Mr. Greene or Ms. Greene had conspired with Joseph P. Waldholtz to violate 2 U.S.C. § 441f, Joseph P.

Waldholtz had already conceded to a state court in Utah that he had defrauded Mr. Greene out of nearly \$4 million -- including the funds that Joseph P. Waldholtz then contributed to Enid '94 in the name of Enid Greene.

On May 1, 1996, Mr. Greene brought a civil fraud suit against Joseph P. Waldholtz in a Utah state court in an attempt to recover some of the nearly \$4 million dollars that Mr. Greene had provided to Joseph P. Waldholtz between January 21, 1994 and his abrupt departure from Washington, D.C. on November 11, 1995.

In his complaint, Mr. Greene cited many of the misrepresentations that Joseph P. Waldholtz made to induce Mr. Greene to provide him with funds. These allegations mirror Mr. Greene's testimony before the federal grand jury, as well as his interviews with the government. In his complaint, Mr. Greene alleged that during the period between January 1994 and October 1995, Joseph P. Waldholtz repeatedly approached Mr. Greene with requests for money. These requests were made either in person in Salt Lake City or by telephone from Joseph P. Waldholtz in Washington, D.C. and/or Salt Lake City to Mr. Greene in San Francisco. Complaint at ¶ 8 (Exhibit Vol. 2, Tab 1).

Despite the fact that he had long claimed to be a beneficiary of a so-called Waldholtz Family Trust worth approximately \$325 million, which supposedly provided him with a substantial monthly income, Joseph P. Waldholtz gave several different excuses for needing money from Mr. Greene. Id. at ¶ 7. In January and February 1994, Joseph P. Waldholtz claimed that

his biological mother, Barbara Waldholtz, whom he himself had defrauded out of her life savings (see Section II.F.2), had been the victim of a telemarketing scheme and had overdrawn several joint checking and other accounts she shared with Joseph P. Waldholtz. Joseph P. Waldholtz claimed that he could not use trust funds to pay the obligations incurred by his mother because she was divorced from Waldholtz's father and was therefore barred from receiving any money from the so-called Waldholtz Family Trust. Id. at ¶ 7(d). Joseph P. Waldholtz later claimed that his mother had been tricked by a con man and, because of the restrictions on the so-called Waldholtz Family Trust, trust funds could not be used to assist her in clearing up substantial overdrafts on accounts she either shared with Joseph P. Waldholtz or had allegedly accessed without his knowledge or consent. Joseph P. Waldholtz claimed he would repay Mr. Greene from personal funds that would soon be available. Id. at ¶ 7(e).

Based on these and numerous other misrepresentations, lies and false statements, Mr. Greene was induced to transfer a total of \$3,987,426.00 from his personal accounts to accounts designated by Joseph P. Waldholtz. Id. at ¶ 5.

Contrary to the Commission's Legal and Factual Analysis, the judgment that Mr. Greene subsequently obtained against Joseph P. Waldholtz in this case was not a default judgment. Legal and Factual Analysis at 6. Joseph P. Waldholtz had the opportunity to respond to the allegations in Mr. Greene's complaint and did so in an answer filed with the Court on June 6, 1996. In his

answer, Joseph P. Waldholtz did not deny that he had defrauded Mr. Green out of nearly \$4 million. Instead, he invoked his rights under the Fifth Amendment and refused to answer the fraud allegations in the complaint on the basis that any statement made by him would tend to incriminate him. Answer at ¶¶ 5-10 (Exhibit Vol. 2, Tab 2).

Of course, the prevailing rule has long been that a court may draw an adverse inference of liability when a party invokes the Fifth Amendment in a civil proceeding. Baxter v. Palmigiano, 425 U.S. 308, 318 (1976); Mid-America's Process Service v. Ellison, 767 F.2d 684, 686 (10th Cir. 1985); Hughes Tool Co. v. Meier, 489 F.Supp. 354, 374 (D. Utah 1977). Mr. Greene made just this argument in moving for summary judgment. Memorandum in Support of Motion for Summary Judgment at 4-6 (Exhibit Vol. 2, Tab 3). The Court agreed that, by invoking his rights under the Fifth Amendment, Joseph P. Waldholtz had conceded the facts alleged in Mr. Greene's complaint and granted Mr. Greene's Motion for Summary Judgment on July 25, 1996. Order Granting Summary Judgment at 1 (Exhibit Vol. 2, Tab 5).

D. Documentary Evidence Shows Beyond Any Doubt That Funds Contributed by Joseph P. Waldholtz to the Enid '94 Campaign in the Name of Enid Greene Were Obtained From D. Forrest Greene by Joseph P. Waldholtz's Fraud

In its sentencing memorandum, the U.S. Attorney's Office described Joseph P. Waldholtz as "a con artist whose continued pattern of fraud and deceit has assumed pathological dimensions." Government's Memorandum In Aid Of Sentencing at 16 (Exhibit Vol. 1, Tab 12). Even though it apparently took the government nearly

a year to recognize this fact (during which time Joseph P. Waldholtz betrayed the trust placed in him by the U.S. Attorney and the U.S. District Court by committing a host of new crimes), truer words were never written. As will be discussed in much greater detail in Sections II.F, G, & H, Joseph P. Waldholtz's pattern of fraud and deceit extends back more than a decade, during which time he repeatedly took advantage of trusting relatives and employers and defrauded them out of hundreds of thousands of dollars -- money he used to finance a lavish lifestyle and to portray himself as a political power broker. Mr. Greene was only one of Joseph P. Waldholtz's long string of victims.

Based, apparently, on conflicting newspaper reports, the Commission has found reason to believe that Mr. Greene violated the prohibition on making contributions in the name of another (2 U.S.C. § 441f), and that, because of the amount of money involved in these alleged contributions, Mr. Greene also violated the prohibition on making contributions in excess of \$1,000 per election (2 U.S.C. § 441a(a)(1)(A)) and the prohibition on making more than \$25,000 in contributions in any one calendar year (2 U.S.C. § 441a(a)(3)). Factual and Legal Analysis at 10. There is absolutely no basis in law or fact to support this reason to believe determination.

The Commission's regulations interpreting 2 U.S.C. § 441f state that the prohibition on making contributions in the name of another can be violated in one of four different ways: (1) Making

a contribution in the name of another; (2) Knowingly permitting your name to be used to effect such a contribution; (3) Knowingly helping or assisting any person in making a contribution in the name of another; or (4) Knowingly accepting a contribution made by one person in the name of another.

11 C.F.R. § 110.4(b)(i)-(iv).

No one has ever alleged that Mr. Greene ever made a contribution directly to Enid '94 in the name of Enid Greene. 11 C.F.R § 110.4(b)(i). Instead, Mr. Greene has acknowledged that between January 21, 1994 and October 12, 1995, he made a series of twenty-four transfers of funds to Joseph P. Waldholtz totalling nearly \$4 million. Joseph P. Waldholtz then, without Mr. Greene's knowledge or consent, in a series of eighty separate transactions, transferred approximately \$1,800,000 to Enid '94. It was Joseph P. Waldholtz, not Mr. Greene, who then reported to the Commission that Enid Greene contributed a total of \$984,000 to Enid '94 in twenty-eight separate transactions.

Nor has anyone ever alleged that Mr. Greene permitted his name to be used to effect a contribution in the name of another (11 C.F.R. § 110.4(b)(ii)) or accepted a contribution made by one person in the name of another (11 C.F.R. § 110.4(b)(iv)). Thus, the only way Mr. Greene could have possibly violated 2 U.S.C. § 441f is if he knowingly assisted Joseph P. Waldholtz in making contributions to Enid '94 in the name of Enid Greene. 11 C.F.R. § 110.4(b)(iii).

The documentary evidence shows, however, that Mr. Greene was merely the unwitting victim of a complex scheme by Joseph P. Waldholtz to defraud Mr. Greene out of millions of dollars, a portion of which Joseph P. Waldholtz then used to finance Ms. Greene's 1994 congressional election campaign. Joseph P. Waldholtz's scheme to defraud Mr. Greene can be broken down into two separate, but overlapping stages.

During the first stage, beginning in January 1994 and ending sometime in late August or September of that year, Joseph P. Waldholtz convinced Mr. Greene to make a series of personal loans to him so that he could cover the obligations of Waldholtz family members who, for various reasons, could not access funds from the so-called Waldholtz Family Trust. It was these personal loans that were highlighted in Mr. Greene's fraud suit against Joseph P. Waldholtz discussed above in Section II.C.

In late August or early September of 1994, Joseph P. Waldholtz hatched a different scheme, a so-called "asset swap," that would bilk Mr. Greene out of more than \$2,000,000 in three months. In essence, Joseph P. Waldholtz convinced Mr. Greene to accept an assignment of proceeds from the sale of what later turned out to be nonexistent commercial real estate in Pennsylvania in exchange for \$2,200,000 in cash. Joseph P. Waldholtz also convinced both Mr. Greene and Ms. Greene that, because Pennsylvania is a community property state and he had supposedly inherited the Pennsylvania property during their marriage, Ms. Greene was a joint owner of the property and could,

therefore, legally contribute up to half of the value of the property -- \$1,100,000 -- to her 1994 congressional election campaign. 11 C.F.R. § 110.10

The documentary evidence of Joseph P. Waldholtz's schemes to defraud Mr. Greene is described in greater detail below.

1. Personal loans to Joseph P. Waldholtz

Between January 21, 1994 and August 25, 1994, Mr. Greene loaned Joseph P. Waldholtz a total of \$653,000 in ten separate transactions.^{6/} As Mr. Greene indicated in his fraud complaint, these loans were made based on a series of misrepresentations by his now former son-in-law about the alleged dire financial condition of his mother and the consequent financial difficulties she had created for Joseph P. Waldholtz through a variety of transactions. Complaint at ¶ 7 (Exhibit Vol. 2, Tab 1). Joseph P. Waldholtz normally made these requests in person, when both he and Mr. Greene were in Salt Lake City, or by telephone, from either Washington, D.C. or Salt Lake City, to Mr. Greene in San Francisco. Complaint at ¶ 8 (Exhibit Vol. 2, Tab 1).

An extensive search by counsel of Mr. Greene's home in Salt Lake City failed to uncover any written requests by Joseph P.

^{6/} We do not mean to imply by focusing on the first eight months of 1994 that all of the personal loans Mr. Greene made to Joseph P. Waldholtz occurred during this period. Indeed, Joseph P. Waldholtz continued to approach Mr. Greene for personal loans throughout 1994 and well into 1995. Moreover, the transfers Mr. Greene made to Joseph P. Waldholtz in the fall of 1994 often contained both loan proceeds and payments as part of the so-called asset swap, making it impossible to tell where one scheme ended and the next one began.

Waldholtz for money.^{7/} After Joseph P. Waldholtz fled Washington, D.C. on November 11, 1995, however, Ms. Greene discovered among the belongings he left behind a computer diskette. Further investigation revealed that the diskette contained a number of password-protected documents that Joseph P. Waldholtz had created on his personal computer. One of those documents is a letter that was created on April 28, 1994 that Joseph P. Waldholtz apparently intended to send to Mr. Greene. Protected from prying eyes by the password "HELP," the letter, which is addressed to Mr. Greene at his business address in San Francisco, reads, in part:

Dear Mr. Greene:

Please excuse this typed note, but I fear if I hand wrote it, it would be illegible! I wanted to give you an update on what is going on with the financial matters we have been dealing with. I have not discussed all of this with Enid because I don't want to upset her anymore than she has to be.

* * * * *

There are several large problems that I have been dealing with. Things with my mother have not been well at all. She has ransacked other accounts that I didn't know she had access to. She has put me in a very precarious financial situation again. While you have heard it before, I have taken the necessary steps to remove myself from this situation. We are going to get a guardian and I will be relieved of my day to day responsibility.

^{7/} In 1995, before Joseph P. Waldholtz's abrupt disappearance from Washington, Mr. Greene retired and closed his office in San Francisco, discarding a number of documents. While he no longer has any written requests for money from Joseph P. Waldholtz, Mr. Greene does recall receiving correspondence to that effect from Joseph P. Waldholtz and/or the "trustees" of the so-called Waldholtz Family Trust.

She has overdrawn two accounts in Pittsburgh that I transfer money through. The total is \$114,000. What an incredible sum. The problem is this - it involves Utah Banks now because that is where we transfer money to. While they have tried to be understanding, we are out of time. In fact, because of the American Express fiasco, I think they are very nervous and would consider legal action if I can't resolve this.

* * * * *

I have tried to get a loan, but it cannot be done in time. I don't feel that I can ask you to help again, but I really don't know where else to turn. I have never been at a lower point in my life.

* * * * *

If you are wondering why I can't access the money that was to be returned to you, it is because she [Waldholtz's mother] accessed it and spent it on jewelry and the house. The items cannot be returned, and even if they could, their value is much less than [what] she spent on them. She was really taken advantage of. But that's another matter.

* * * * *

Mr. Greene, I am so afraid of scandal, I am just a wreck. I think we need to keep this between us. I cannot cause more pain for Enid or Mrs. Greene. She has been so kind to us; our relationship is really such a positive force in my life.

No matter what your decision, please know how much I appreciate your advice, your concern, and your love.

Letter from Joseph P. Waldholtz to D. Forrest Greene (April 28, 1994) (Exhibit Vol. 5, Tab 1).

On April 29, 1994, Mr. Greene loaned Joseph P. Waldholtz \$56,000. Exhibit A to Complaint in Greene v. Waldholtz (Exhibit Vol. 2, Tab 1).

As noted above, during the first eight months of 1994, Mr. Greene loaned Joseph P. Waldholtz a total of \$653,000. During that same period, Joseph P. Waldholtz contributed approximately one-seventh of that amount -- \$96,000 -- to Enid '94. He

attributed \$63,500 of this amount to contributions by Enid Greene and simply failed to report the remaining funds at all. Exhibits 1 and 2 to Complaint in MUR 4322.

The April 28, 1994 Waldholtz letter strongly supports what both Mr. Greene and Ms. Greene have said since Joseph P. Waldholtz fled Washington on November 11, 1995: neither Mr. Greene nor Ms. Greene were aware that Joseph P. Waldholtz was transferring money that had been loaned to him by Mr. Greene into Enid '94. Moreover, Joseph P. Waldholtz's letter shows that Joseph P. Waldholtz tried to hide from Ms. Greene the extent of his borrowing from Mr. Greene.

2. The "Asset Swap"

Between September 2, 1994 and November 14, 1994, Mr. Greene transferred to accounts controlled by Joseph P. Waldholtz a total of \$2,073,000. Exhibit A to Complaint in Greene v. Waldholtz (Exhibit Vol. 2, Tab 1). During this same time period, Joseph P. Waldholtz transferred to Enid '94 a total of \$1,473,000 -- \$920,500 of which he reported as contributions from Enid Greene. The balance was never reported to the FEC. Exhibits 1 and 2 to Complaint in MUR 4322.

The vast majority of this money was provided by Mr. Greene to Joseph P. Waldholtz in the belief that, in exchange, Mr. Greene was assigned the right to receive the proceeds from the sale of commercial real estate in Pennsylvania that was jointly owned by Joseph P. Waldholtz and Ms. Greene.

Ms. Greene went to great lengths to explain this transaction -- which, we now know, involved real estate that did not actually exist -- at her December 11, 1995 press conference.

Unfortunately, media reports of her description were garbled.

Many media outlets, for example, reported that Mr. Greene was assigned her interest in the property, rather than being assigned the proceeds from the sale of the property. See, e.g., R. Marcus and W. Pincus, Rep. Waldholtz Admits '94 Campaign Violations, Wash. Post, Dec. 11, 1994 at A12 (Exhibit Vol. 4, Tab 5).^{8/}

Even worse, many media outlets reported that Mr. Greene went through with this so-called asset swap without seeing the property, reviewing a deed, or signing a document. Id. These conflicting press accounts apparently played a large role in the Commission's reason to believe findings. Legal and Factual Analysis at 6-7.

In fact, however, Mr. Greene did not blindly give away \$2,000,000. Instead, he was duped into providing these funds by Joseph P. Waldholtz, who concocted an elaborate ruse, using falsified documents, to convince Mr. Greene that he had indeed been assigned the right to the proceeds from the sale of the Pennsylvania property.

^{8/} Despite the title of this article, Ms. Greene has never admitted that she, her father or the Enid committees ever violated the Federal Election Campaign Act. Instead, at the December 11, 1995 press conference that is the subject of this article, Ms. Greene went to great lengths to explain how Joseph P. Waldholtz violated federal election law while he was the treasurer of the Enid committees.

The so-called asset swap occurred sometime in September of 1994. As Ms. Greene has said publicly many times, late in the summer of 1994, Joseph P. Waldholtz approached her and told her that the so-called Waldholtz Family Trust had been frozen as a result of litigation initiated by other Waldholtz relatives over the management of the trust. The freeze applied to the so-called "TWC Ready Assets" mutual fund account within the so-called Waldholtz Family Trust that Joseph P. Waldholtz had supposedly established for Ms. Greene at the time of their August 8, 1993 wedding. Ms. Greene believed that it was this mutual fund that was the source of all the contributions to Enid '94 that had been made in her name up to this point in the campaign.^{9/}

Having manufactured a campaign funding crisis, Joseph P. Waldholtz then suggested that Ms. Greene approach her father, Mr. Greene, for a campaign loan. Ms. Greene rejected that suggestion out of hand, telling Waldholtz that under federal election law her father could not simply lend money to the campaign; he would have to receive some sort of asset in exchange. Joseph P. Waldholtz immediately "remembered" that he had inherited a piece of commercial real estate from a relative of his grandmother's. He told Ms. Greene that the real estate was in probate, but that the property was worth \$2.2 million and that he had already found a ready buyer for the property at that price. Moreover, Joseph

^{9/} The TWC Ready Assets account, and the extreme measures Joseph P. Waldholtz took to convince Ms. Greene that it did, in fact, exist, are discussed in greater detail in Section II.E.2.

P. Waldholtz told her that, since Pennsylvania was a community property state and the property had been inherited by him during their marriage, Ms. Greene was a joint owner of the property and could contribute up to half of the value of the property -- \$1.1 million -- to her campaign.

Ms. Greene suggested that an assignment of the proceeds from the sale of the real estate might be a permissible way of transferring to her father an asset in exchange for cash. She directed Joseph P. Waldholtz to check into the legality of the transaction with both the lawyers for the so-called Waldholtz Family Trust and Enid '94's FEC accountants, Huckaby & Associates. Not surprisingly, Joseph P. Waldholtz returned several days later and reported that he had checked with the "trustees" of the so-called Waldholtz Family Trust and the accountants and they both had told him that the transaction was completely legal.

In fact, what Joseph P. Waldholtz actually did was to begin preparing an elaborate ruse. Shortly after his conversation with Ms. Greene, Joseph P. Waldholtz approached the campaign's newly-hired press secretary, Michael Levy. Joseph P. Waldholtz knew that Mr. Levy had completed two years of law school and had worked as a law clerk for a Washington, D.C. law firm. Joseph P. Waldholtz told Mr. Levy that since he was "a lawyer," Waldholtz wanted his advice on how to assign the proceeds of the sale of real estate to a third party. Joseph P. Waldholtz indicated to Mr. Levy that he owned a piece of real estate in Pennsylvania

that he wanted to sell, but that his lawyers did not understand how Waldholtz wanted to structure the transaction. Affidavit of Michael Levy at ¶¶ 2-6 (Exhibit Vol. 5, Tab 2).

Mr. Levy volunteered to contact an associate at his former law firm who he knew was familiar with real estate law. Mr. Levy called this associate immediately after his conversation with Joseph P. Waldholtz and left a message on the associate's voicemail describing Joseph P. Waldholtz's request and asking for some sample documents that he could use as a model. Affidavit of Michael Levy at ¶¶ 7-8 (Exhibit Vol. 5, Tab 2). When Mr. Levy did not receive a return call from the associate, he called a partner at the same law firm and described Joseph P. Waldholtz's request, indicating that Waldholtz needed a "boilerplate" document for the assignment of proceeds from the sale of real estate. Affidavit of Michael Levy at ¶¶ 9-10 (Exhibit Vol. 5, Tab 2).

Shortly thereafter, Mr. Levy initiated a conference call between the partner and Joseph P. Waldholtz so that Waldholtz could explain to the lawyer exactly what type of document he needed. On September 23, 1994, the partner faxed to Mr. Levy a one-page assignment of proceeds form. Mr. Levy took the fax to Joseph P. Waldholtz as soon as he received it. Affidavit of Michael Levy at ¶¶ 11-13 (Exhibit Vol. 5, Tab 2). See also Fax from Emanuel Faust to Mike Levy (9/23/94) (Exhibit Vol. 5, Tab 3).

On September 29, 1994, Mr. Levy was faxed another model assignment of proceeds document by the associate he had

originally contacted. Mr. Levy delivered this second fax to Joseph P. Waldholtz the same day he received it. Affidavit of Michael Levy at ¶¶ 14-15 (Exhibit Vol. 5, Tab 2). See also Fax from Jim Kelly to Michael Levy (9/29/94) (Exhibit Vol. 5, Tab 4).

At approximately the same time that Joseph P. Waldholtz was talking to Mr. Levy about his need for a model assignment of proceeds form, he was at work on his personal computer, generating a memorandum from the so-called Waldholtz Family Trust to Mr. Greene. This memorandum was saved as a password-protected document on the same computer diskette that Waldholtz had used to create the April 28, 1994 letter to Mr. Greene discussed in the previous section. Created on January 1, 1994 (no doubt as part of Joseph P. Waldholtz's earlier scheme to obtain fraudulent personal loans from Mr. Greene), the memorandum was revised on September 21, 1994 to read, in its entirety, as follows:

Mr. Greene, we apologize for the delay in sending the materials to you. Joe and Enid asked that we send you the assignment of the real estate and the letter from the U.S. Attorney. We apologize for the delay and the confusion.

If we can be of further assistance, please give us a call.

Thank you.

Memorandum from "The Waldholtz Family Trust" to Mr. D.F. Greene c/o East-West Co. (Exhibit Vol. 5, Tab 5).

The three-letter password that Joseph P. Waldholtz choose to protect this bogus "Waldholtz Family Trust" memorandum sums up his entire course of dealing with Mr. Greene: "LIE."

E. There is Ample Documentary Evidence Demonstrating That Enid Greene Did Not Violate 2 U.S.C. § 441f

The Commission's reason to believe determination that Ms. Greene violated 2 U.S.C. § 441f is based entirely on the Commission's unfounded belief that "it is questionable whether Ms. Greene was unaware that the contributions reported in her name came from her father." Legal and Factual Analysis at 10. The Commission concedes, however, that Ms. Greene could have violated 2 U.S.C. § 441f only if she knowingly permitted her name to be used to effect contributions by her father, Mr. Greene, to Enid '94. 11 C.F.R. 110.4(b)(ii).

Contrary to the Commission's reason to believe determination, the facts establish beyond any doubt that Ms. Greene did not knowingly allow her name to be used by Joseph P. Waldholtz as part of his scheme to channel funds he obtained by fraud from Mr. Greene into Enid '94. Ms. Greene has consistently maintained that she was totally unaware that funds loaned by her father to Joseph P. Waldholtz were being transferred to the Enid '94 campaign accounts, and later believed, due to the misrepresentations of Joseph P. Waldholtz regarding her interest in a piece of commercial real estate in Pennsylvania, that she had an unequivocal legal right to transfer certain funds to the Enid '94 campaign accounts. Complaint in MUR 4322 at ¶ 3.

As already discussed in Section II.D.1 above, Joseph P. Waldholtz went to great lengths to avoid having Ms. Greene discover the extent of his borrowing from Mr. Greene. In his April 28, 1994 letter requesting a \$114,000 loan from Mr. Greene,

Joseph P. Waldholtz wrote, "I have not discussed all of this with Enid because I don't want to upset her anymore than she has to be. . . . I think we need to keep this between us. I cannot cause more pain for Enid or Mrs. Greene." Letter from Joseph P. Waldholtz to D. Forrest Greene (April 28, 1994) (Exhibit Vol. 5, Tab 1). If Ms. Greene was not even aware of the extent of Joseph P. Waldholtz's borrowing from her father, she could not possibly have known that Joseph P. Waldholtz was taking those loan proceeds and using them to secretly finance the Enid '94 campaign.

In addition, as already discussed in Section II.D.2 above, Ms. Greene was as much a victim of Joseph P. Waldholtz's so-called "asset swap" as Mr. Greene. Given that she directed Joseph P. Waldholtz to check into the legality of the proposed asset swap, there is every reason to believe that the elaborate ruse that Joseph P. Waldholtz constructed using legal documents obtained from a prestigious Washington, D.C. law firm was at least partially motivated by Joseph P. Waldholtz's need to convince Ms. Greene that the asset swap was, indeed, a legitimate transaction.

Moreover, there is ample documentary evidence, separate and apart from the documents already discussed in Section II.D. above, that demonstrates that Joseph P. Waldholtz went to extraordinary lengths to convince Ms. Greene that she had the personal wealth as a result of their marriage to contribute a

substantial amount of money to her 1994 congressional election campaign.

1. Falsified Tax Returns

Joseph P. Waldholtz's deception of Ms. Greene began well before their marriage. In the spring of 1993, Joseph P. Waldholtz and Ms. Greene submitted a mortgage application to Salt Lake City's First Security Bank in order to purchase the house they intended to live in after their wedding. As part of that mortgage application, Joseph P. Waldholtz submitted copies of what he said were his individual income tax returns for tax years 1991 and 1992.

Joseph P. Waldholtz claimed approximately two hundred and fifty thousand dollars (\$250,000) in annual income from the "J.M. [sic] Waldholtz Trust" on both of those returns when, in fact, he knew (although Ms. Greene did not) that there was no Waldholtz Family Trust (Exhibit Vol. 5, Tab 6). Incredibly, First Security Bank (one of the largest, if not the largest bank in Utah) subsequently granted the mortgage application based, in part, on Joseph P. Waldholtz's representations as to his sources of income.

By the time of the mortgage application, Ms. Greene had been told many times by Joseph P. Waldholtz over the course of well over two years that he was a beneficiary of the so-called Waldholtz Family Trust, and his spending habits certainly seemed to confirm that he was a wealthy man. These falsified tax returns were the first documentary evidence, however, that Joseph

P. Waldholtz had ever shown Ms. Greene of the source of his income. When First Security Bank granted the mortgage application on the basis of these tax returns, it only reconfirmed Ms. Greene's belief the Joseph P. Waldholtz was independently wealthy.

2. The TWC Ready Assets Statement

As noted above in Section II.D.2., Ms. Greene believed until shortly after Joseph P. Waldholtz fled Washington, D.C. on November 11, 1995, that the source of the personal contributions she made to her congressional campaign through August of 1994 was a mutual fund that had supposedly been established in her name by the so-called Waldholtz Family Trust at the time of her August 8, 1993 wedding to Joseph P. Waldholtz. Joseph P. Waldholtz told her on their wedding day that, as a wedding gift, he had the trustees of the so-called Waldholtz Family Trust place approximately \$5 million into a TWC Ready Assets mutual fund in Ms. Greene's name for her to do with as she wished.

In July of 1995, The Salt Lake Tribune compared Ms. Greene's 1994 and 1995 congressional financial disclosure statements^{10/} with the FEC reports for Enid '94 and concluded that she did not have the personal assets to have financed her 1994 campaign. D. Harrie & T. Semerad, Waldholtz Is \$1.5 Million Off In House Filing, Salt Lake Trib., July 9, 1995 at A1 (Exhibit Vol. 4, Tab 6). Based on misrepresentations made to her by Joseph P.

^{10/} Joseph P. Waldholtz's falsification of Ms. Greene's 1994 and 1995 financial disclosure forms is discussed in the following section.

Waldholtz, Ms. Greene told the reporters that there was a typographical error on the financial disclosure reports and that the TWC Ready Assets account should have been valued at over \$1 million, not between \$500,000 and \$1 million as originally reported. In essence, the wrong box had been checked on the report form. When the reporters asked for copies of the TWC Ready Assets statement to confirm its value, Ms. Greene turned to Joseph P. Waldholtz, and asked him to contact the trustees of the so-called Waldholtz Family Trust and have them produce a copy of the statement. After some delay, which he blamed on the supposedly on-going trust litigation, Joseph P. Waldholtz eventually produced a statement showing that, as of March 31, 1994, Ms. Greene's Ready Asset account had a balance of more than \$4 million.

After Joseph P. Waldholtz fled Washington, D.C., however, Ms. Greene discovered a memo from Joseph P. Waldholtz to a friend directing him to produce a phony Ready Assets statement "as a joke" on Ms. Greene. Attached to the memo was a marked-up copy of Joseph P. Waldholtz's own Merrill Lynch statement for the friend to use as a model (Exhibit Vol. 5, Tab 7). It was this falsified statement that Ms. Greene provided to reporters, believing it to be genuine.

3. Falsified 1994 and 1995 Financial Disclosure Statements

In both 1994 and 1995, Ms. Greene relied on her former husband, Joseph P. Waldholtz, to provide her with accurate information regarding the assets he brought into their marriage.

As previously discussed, Joseph P. Waldholtz told her that he was a beneficiary of the so-called Waldholtz Family Trust, which he claimed had hundreds of millions of dollars in assets. Ms. Greene incorporated this information into the financial disclosure statements she filed with the House of Representatives in 1994 and 1995. We now know, of course, that there was no "Waldholtz Family Trust" and that the assets Joseph P. Waldholtz claimed to own were purely fictitious. Ms. Greene has since filed amended financial disclosure statements with the House of Representatives reflecting her true financial state (Exhibit Vol. 5, Tab 8).

Joseph P. Waldholtz's deception of Ms. Greene went even deeper than merely lying to her about his assets, however. On two separate occasions he duped her into signing financial disclosure statements that were materially different than the ones she had read and approved.

Joseph P. Waldholtz's various criminal schemes hinged on his victims' continued belief in the non-existent Waldholtz Family Trust. When Ms. Greene had to file her first financial disclosure statement as a candidate in 1994, however, he ran into a problem. The Ethics in Government Act allows a candidate to avoid reporting details of a qualified blind trust that benefits her spouse or dependent children. In order to take advantage of this exemption, however, the trust documents must be submitted to the House Committee on Standards of Official Conduct to determine

whether the trust meets the statutory requirements for a qualified blind trust. 5 U.S.C. app. 4, § 102(e)(3)(D).

Joseph P. Waldholtz, of course, wanted Ms. Greene to believe that the so-called Waldholtz Family Trust met the requirements for a qualified blind trust so as to avoid the specific reporting requirements. However, since there was no such trust, there were no trust documents to submit to the Committee on Standards of Official Conduct. Accordingly, to maintain his deception, Joseph P. Waldholtz had to have Ms. Greene sign a financial disclosure statement claiming the qualified blind trust exemption, while actually filing a statement that did not claim this exemption.

The exemption for qualified blind trusts appears on the first page of the financial disclosure statement form. The person filling out the form must check a box labelled YES or NO in order to claim the exemption. In 1994, Joseph P. Waldholtz and Ms. Greene filled out her financial disclosure statement in pencil. On the draft they prepared together, the YES box following the qualified blind trust exemption question was marked with an X. After the draft had been completely filled out, Ms. Greene then signed a blank financial disclosure statement form and trusted her husband to fill it out in accordance with the draft and file it. Joseph P. Waldholtz simply erased the X in the YES box on the draft form and inserted an X in the NO box. (Exhibit Vol. 5, Tab __). He then filled out the blank form Ms. Greene had already signed. On the form that he actually filed,

the NO box following the qualified blind trust exemption question was marked with an X (Exhibit Vol. 5, Tab __).

In 1995, Joseph P. Waldholtz used a variation on this successful scheme. This time, he typed two different versions of the financial disclosure statement form -- one with the YES box marked with an X and another with the NO box marked with an X. At the end of the day the form was due, he presented Ms. Greene with the first form. She reviewed it, saw that the YES box was marked with an X, and signed it. Joseph P. Waldholtz left the office with the signed form and then later suddenly reappeared, saying he had "messed up" the form and that Ms. Greene would have to sign another copy. He thrust an unsigned copy of the completed form in front of her and urged her to sign it immediately, so he would be able to submit the form before the applicable congressional office closed. Ms. Greene quickly signed the form without reviewing it. Joseph P. Waldholtz then ran out of the office to file the form with the House Office of Records and Registration. The form that was filed, of course, had the NO box marked with an X (Compare Exhibit Vol. 5, Tab 11 with Tab 12).

While Joseph P. Waldholtz's switching-of-the-forms scheme was reprehensible, it was not illegal, since the form that was actually filed was accurate -- there was no qualified blind trust for which to claim an exemption. The fact that he knowingly and willfully provided his wife with false information regarding his assets, knowing that she would report that information on her

financial disclosure statement, however, clearly amounted to aiding and abetting the making of a false statement in violation of 18 U.S.C. § 1001.

Unfortunately, on May 15, 1995 -- the very day that Joseph P. Waldholtz performed his sleight-of-hand maneuver with the financial disclosure forms -- the U.S. Supreme Court reversed forty years of precedent and held that 18 U.S.C. § 1001 did not apply to false statements made to Congress. Hubbard v. United States, 115 S.Ct. 1754 (1995). By a quirk of fate, Joseph P. Waldholtz managed to escape justice for what may have been one of his most egregious breaches of trust.

F. There Are Numerous Other Examples of Joseph P. Waldholtz's Skill in Defrauding Trusting Family Members Out of Hundreds of Thousands of Dollars

The Commission's reason to believe determination with regard to Mr. Greene seems to be based primarily on the Commission's inability to comprehend how Joseph P. Waldholtz could have defrauded Mr. Greene out of \$4 million. Legal and Factual Analysis at 10. Unfortunately, there is ample evidence documenting that Joseph P. Waldholtz regularly defrauded family members out of hundreds of thousands of dollars, and the Commission should recognize that Mr. Greene was yet another victim.

1. In Re Estate of Rebecca Levenson, an incapacitated person, No. 1290 of 1995 (Court of Common Pleas of Allegheny County, Pennsylvania, Orphans' Court Division)

As noted above in Section II.A., as part of its plea agreement with Joseph P. Waldholtz, the U.S. Attorney agreed not

to bring additional criminal charges against him for forgery of Ginnie Mae securities. Plea Agreement at 5 (Exhibit Vol. 1, Tab 2). This provision of the Plea Agreement was intended to shield Joseph P. Waldholtz from prosecution for his use of forged Ginnie Mae securities as part of his scheme to defraud his then senile, now deceased, grandmother, Rebecca Levenson, out of hundreds of thousands of dollars -- all of her retirement funds.

After Joseph P. Waldholtz fled Washington, D.C. to escape the government's criminal investigation, the undersigned, at Ms. Greene's request, searched the home the couple had shared in Salt Lake City and found, in Joseph P. Waldholtz's office, what appeared to be a bond in the amount of one hundred thousand dollars (\$100,000) issued to Rebecca Levenson by the Government National Mortgage Association through The Hillman Company. Along with the purported bond were printing instructions, in Joseph P. Waldholtz's handwriting, by which he apparently directed a local printing company to produce the counterfeit bond (Exhibit Vol. 5, Tab 13). The undersigned turned over the counterfeit bond and printing instructions to the government.

Joseph P. Waldholtz apparently generated this counterfeit bond to either defraud his grandmother out of even more money or to prove that he had indeed invested the funds she had entrusted to him. At the time he fled Washington, D.C., Joseph P. Waldholtz was under a court order requiring him to return assets that had been entrusted to him by Rebecca Levenson and to provide an accounting of the transactions he had made on her behalf. In

re: Rebecca Levenson, No. 1290 of 1995 (Order to File an Accounting of Transactions Nov. 2, 1995) (Exhibit Vol. 3, Tab 2). As described in greater detail below, Joseph P. Waldholtz, after committing perjury, being found in contempt of court, and spending more than a month in jail, eventually admitted that he had taken at least three hundred, eighty-four thousand, two hundred and twenty-seven dollars (\$384,227) from his grandmother in the late 1980s and squandered it on his own lavish lifestyle.

In the above-entitled action, Joseph P. Waldholtz's own father, Harvey Waldholtz, and cousin, Steven Slesinger, brought suit against him seeking to obtain an accounting of the more than six hundred thousand dollars (\$600,000) that had been entrusted to Joseph P. Waldholtz over the course of several years by his elderly grandmother, Rebecca Levenson (Exhibit Vol. 3, Tab 1). Before her recent death, Mrs. Levenson suffered from Alzheimer's disease, and was judged to be incapacitated on May 26, 1995, at which time Harvey Waldholtz and Steven Slesinger were appointed co-guardians of her estate (Exhibit Vol. 3, Tab 1).

The Allegheny County Orphans' Court ordered Joseph P. Waldholtz to return all of the assets that had been entrusted to him by Rebecca Levenson by November 12, 1995 and to file an accounting of his handling of those funds by February 1, 1996 (Exhibit Vol. 3, Tab 2). On November 12, however, Joseph P. Waldholtz was literally on the run from the FBI, which was seeking to question him regarding the extensive check-kiting scheme to which he has since pleaded guilty. Not surprisingly,

Joseph P. Waldholtz also failed to file the required accounting by February 1, 1996.

On March 28, 1996, the Allegheny County Orphans' Court held a hearing on a petition to show cause why Joseph P. Waldholtz should not be held in contempt for failing to obey the court's order requiring an accounting of the funds entrusted to him by Rebecca Levenson. During that hearing, Joseph P. Waldholtz testified, under oath, that the money entrusted to him by his grandmother was being held in various accounts with Merrill Lynch, the Bank of New York, and the Bank of America. March 28, 1996 Contempt Hearing Transcript at 22-23 (Exhibit Vol. 3, Tab 3). The Orphans Court was not impressed with Joseph P. Waldholtz's explanation for why he had failed to file an accounting of these funds, found him in contempt, and ordered him to be held in the Allegheny County Jail until he produced a final accounting of the funds (Exhibit Vol. 3, Tab 3).

The very next day, Joseph P. Waldholtz filed a sworn affidavit with the Orphans' Court stating that the money that had been entrusted to him by his grandmother was gone (Exhibit Vol. 3, Tab 4). When the trial judge was informed of the contents of the affidavit, he immediately declared that Joseph P. Waldholtz had committed perjury. March 29, 1996 Hearing Transcript at 7 (Exhibit Vol. 3, Tab 6). The Orphans' Court then directed Joseph P. Waldholtz to file an accounting of what had happened to the money and ordered that he continue to be held in the Allegheny

County Jail until such time as a final accounting was filed with the court. Id.

More than a month later, Joseph P. Waldholtz finally was released from jail when he filed a final accounting showing that, in less than two years, he had taken at least three hundred, eighty-four thousand, two hundred and twenty-seven dollars (\$384,227) from his grandmother and squandered the overwhelming majority of those funds on his own lavish lifestyle. Amended First Final Account of Joseph P. Waldholtz (May 3, 1996) (Exhibit Vol. 3, Tab 9).

Joseph P. Waldholtz's own lawyer, Lester G. Nauhaus, told the press, "It was a remarkable way of spending money. I'm almost in awe. I thought I knew gold-medal winners. They can't even get a bronze next to this guy. To give you some idea of the kind of money we're talking about -- the quality of spending -- there were checks on revolving credit card accounts, minimum payments, for \$1,000." Maddox, Waldholtz Goes Home, But Enid's Dad Sues Him, Salt Lake Trib., May 4, 1996, at A1 (Exhibit Vol. 4, Tab 7).

2. Barbara Waldholtz v. Joseph Waldholtz, CC # G.D. 96-515 (Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division)

In the above-entitled action, Joseph P. Waldholtz's own biological mother, Barbara Waldholtz, brought suit against him claiming that he had absconded with ninety-six thousand dollars (\$96,000) that she had entrusted to him. Unlike Mrs. Levenson, Mrs. Waldholtz was not a wealthy woman. In order to come up with

this money, which her son ensured her he would invest, Mrs. Waldholtz took out a seventy-two thousand dollar (\$72,000) mortgage on her home -- a home that she owned free and clear in her own name. Complaint at ¶¶ 3 & 6 (Exhibit Vol. 3, Tab 10).

Joseph P. Waldholtz assured his mother that he would make the mortgage payments using the proceeds of the investments he would make on her behalf. Complaint at ¶ 7 (Exhibit Vol. 3, Tab 10). In fact, he made the mortgage payments, at least for a while, using funds he had stolen from his grandmother. Amended First Final Account of Joseph P. Waldholtz (May 3, 1996) (Exhibit Vol. 3, Tab 9). Later, Joseph P. Waldholtz continued to make Mrs. Waldholtz's mortgage payments using funds he obtained by fraud from Mr. Greene. It wasn't until Joseph P. Waldholtz defaulted on the mortgage in November 1995 -- while he was hiding from the FBI -- that Mrs. Waldholtz became aware that her son had simply absconded with her life savings. Complaint at ¶ 11 (Exhibit Vol. 3, Tab 10).

In addition to the mortgage proceeds, Mrs. Waldholtz, who suffers from psychological problems, also turned over to her son another fourteen thousand, three hundred and eighty-nine dollars (\$14,389) -- money she obtained by cashing in the pension she earned as an office worker. Complaint at ¶¶ 4, 5, 9 & 10 (Exhibit Vol. 3, Tab 10). Joseph P. Waldholtz has filed an answer to his mother's complaint, denying that he used undue influence to induce his mother to turn over her life savings to him. Answer at ¶ 6 (Exhibit Vol. 3, Tab 11).

Joseph P. Waldholtz is presently incarcerated and has no known assets, so even if Mrs. Waldholtz prevails in her suit it is extremely unlikely that she will ever see a single dime of the money she entrusted to her son. Her son's actions have left her in a precarious position -- in April 1996 she was charged with passing a bad check to pay for a \$19 meal and with theft of services for refusing to pay a locksmith's \$83 bill. Another Waldholtz Charged, Pitt. Post-Gazette, April 10, 1996, at B3. (Exhibit Vol. 4, Tab 8). She eventually paid \$342 in fines to avoid going to jail. Barbara Waldholtz Pays Fine, Pitt. Post-Gazette, April 16, 1996, at C3. (Exhibit Vol. 4, Tab 9).

G. The Commission Has Already Seen Evidence of Joseph P. Waldholtz's Ability to Dupe Individuals Into Making Excessive Campaign Contributions

In In the Matter of Elsie Hillman, MUR 3929, Joseph P. Waldholtz's former employer, Republican National Committeewoman Elsie H. Hillman, agreed to pay \$32,000 in civil penalties to the Commission to resolve allegations that she committed multiple violations of the Federal Election Campaign Act during 1990, 1991, and 1992.

Joseph P. Waldholtz served as chief of staff to Mrs. Hillman (as well as Executive Director for Pennsylvania for Bush-Quayle '92) from 1988 until 1992 when he was terminated for allegedly spending more than \$100,000 of Mrs. Hillman's money on expensive hotel suites, first-class airline tickets, and lavish meals while traveling to Republican National Committee meetings and other Republican Party events around the country. Kovalski & Heath,

Waldholtz Lost Job Over Finances in 1992; Sources Say Husband of Congresswoman Was Fired by RNC Member, Wash. Post, Nov. 17, 1995, at A3. (Exhibit Vol. 4, Tab 10).^{11/}

As a member of the Republican National Committee, Mrs. Hillman was constantly solicited for political contributions. As her chief of staff, Joseph P. Waldholtz advised Mrs. Hillman on her political giving and handled the day-to-day task of actually conveying contribution checks to their intended recipients (Exhibit Vol. 5, Tab 14). Joseph P. Waldholtz directed Mrs. Hillman's accountant, Hugh Joyce, to issue checks for her political causes and wrote the cover letters transmitting the checks to candidates and their campaign committees (Exhibit Vol. 5, Tab 15). It is reasonable to assume that Joseph P. Waldholtz's duties included keeping track of the extent of Mrs. Hillman's political giving.

After Mrs. Hillman fired Joseph P. Waldholtz for abusing his expense account, she instructed her private attorney, Wendell Freeland, to conduct a review of the political contributions she and her husband, Henry Hillman, made during the period Joseph P. Waldholtz served as her chief of staff. Mr. Freeland soon discovered that Mrs. Hillman had exceeded the Federal Election Campaign Act's \$25,000 annual limit on individual political contributions (2 U.S.C. § 441a(a)(3)) in 1990, 1991, and 1992 -- usually by a substantial amount. Mrs. Hillman exceeded the

^{11/} Mrs. Hillman, who is well-known in both political and philanthropic circles, apparently chose not to press charges so that she could keep this a private matter.

\$25,000 annual limit by \$16,670 in 1990, by \$10,000 in 1991, and by \$12,600 in 1992. Mrs. Hillman voluntarily disclosed these violations to the Commission and agreed to pay a \$32,000 civil penalty.

Joseph P. Waldholtz is at least partially responsible for Mrs. Hillman's violations of the Federal Election Campaign Act. More importantly, Joseph P. Waldholtz's relationship with Mrs. Hillman is emblematic of his entire adult life: He took advantage of a wealthy woman who greatly trusted him, stole her money, and used it to finance a lavish lifestyle as well as his efforts to establish for himself a reputation as a political power broker. Moreover, Joseph P. Waldholtz's tenure as Mrs. Hillman's chief of staff demonstrates that he harbored a flagrant disregard for federal election law long before he ever met Ms. Greene. Finally, the fact that Joseph P. Waldholtz's mishandling of Mrs. Hillman's political contributions was not uncovered until after he left her employ demonstrates his uncanny ability to flout election law while avoiding responsibility for his actions.

H. Joseph P. Waldholtz's Pathological Compulsion to Lie, Cheat, and Steal is So Great That He Abused Even The Limited Trust Placed In Him by the U.S. Attorney, U.S. District Court Judge Norma Holloway Johnson, and His Own Defense Attorneys

The U.S. Attorney's statement that Joseph P. Waldholtz "is a con artist whose continued pattern of fraud and deceit has assumed pathological dimensions" was born out of his own bitter personal experience. Government's Memorandum In Aid Of Sentencing at 16 (Exhibit Vol. 1, Tab 12). As noted above,

Joseph P. Waldholtz and the U.S. Attorney entered into a plea agreement on June 3, 1996. That plea agreement included a standard provision that Joseph P. Waldholtz not commit any additional crimes prior to his sentencing. Plea Agreement at 9 (Exhibit Vol. 1, Tab 2).

Pursuant to the plea agreement, Joseph P. Waldholtz appeared before U.S. District Court Judge Norma Holloway Johnson on June 5, 1996 to enter his guilty plea. In response to a direct question from Judge Johnson, Joseph P. Waldholtz acknowledged the conditions of the plea agreement and agreed to abide by them. Transcript of Plea Proceedings at 13-14 (Exhibit Vol. 1, Tab 4). Moreover, in a prepared statement, Joseph P. Waldholtz stated that he had learned an important lesson: "The ends do not justify the means. There is an absolute truth. And most importantly, always, always tell the truth, particularly to the people you love." T. Locy, Waldholtz Pleads Guilty to Fraud in Banking, Election, Tax Matters, Wash. Post, June 6, 1996 at A3 (Exhibit Vol. 4, Tab 11). Judge Johnson then released Joseph P. Waldholtz on his personal bond.

Joseph P. Waldholtz's commitment to "always, always tell the truth" lasted less than ten minutes. Immediately following his guilty plea, Joseph P. Waldholtz staged a press conference in which he broke down and cried when he spoke about the impact his actions would have on his infant daughter, Elizabeth (whom, incidentally, he had deserted at the age of ten weeks when he fled Washington, D.C. on November 11, 1995). The night before

his guilty plea, Joseph P. Waldholtz confided to a reporter who was a long-time friend that the entire event would be choreographed, right down to the point of specifying when Joseph P. Waldholtz would burst into tears. D. Roddy, Waldholtz's High Life Now Courtesy of Feds, Pitt. Post-Gazette, June 9, 1996 at A11 (Exhibit Vol. 4, Tab 12).

Given his track record, the U.S. Attorney should not have been surprised when Joseph P. Waldholtz failed to live up to the conditions of the plea agreement. On September 18, 1996, the U.S. Attorney asked that Judge Johnson hold a hearing to revoke Joseph P. Waldholtz's bond. In support of its motion, the U.S. Attorney stated that an investigation by the FBI revealed that, while released on his personal bond so he could "cooperate" in the government's investigation of Mr. and Ms. Greene, Joseph P. Waldholtz had committed a host of additional new crimes against friends and family members, including: (1) Possession of heroin; (2) Prescription fraud; (3) Theft of checks, forgery, and uttering; (4) Several separate instances of writing bad checks for a total of \$25,215; and (5) Two separate instances of theft and unauthorized use of a credit card involving a total of approximately \$2,190. Government's Notice To The Court Of New Criminal Violations By Defendant And Motion For Hearing To Revoke Defendant's Bond at 2-4 (Exhibit Vol. 1, Tab 5). Judge Johnson agreed that the government had made out a prima facie case for revoking Joseph P. Waldholtz's bond and scheduled a hearing for

September 26, 1996. Order (Sept. 19, 1996) (Exhibit Vol. 1, Tab 6).

On September 26, Judge Johnson had to deal with the fallout from yet another of Joseph P. Waldholtz's misdeeds before she could even consider revoking his bond. At the beginning of the September 26 hearing, Joseph P. Waldholtz's defense attorneys, Pamela Bethel and Barbara Nicaastro, made a motion to withdraw from continued representation of Joseph P. Waldholtz, citing a conflict that had developed. After a brief sidebar conference with the attorney representing Ms. Bethel and Ms. Nicaastro, Judge Johnson granted the motion to withdraw and appointed the Federal Public Defender's Office to represent Waldholtz. The press later found out that Ms. Bethel and Ms. Nicaastro had been forced to withdraw after Joseph P. Waldholtz somehow managed to obtain their law firm's corporate credit card and had used it to charge over \$2,700 in hotel and restaurant bills. G. Archibald, Joseph Waldholtz Faces New Charges: Sent to Jail After Admitting Heroin Use, Wash. Times, September 27, 1996 at A6 (Exhibit Vol. 4, Tab 13).

After that incident, it didn't take long for Judge Johnson to conclude that Joseph P. Waldholtz could never be trusted. After rebuking him for breaking his personal pledge to her that he would conform his behavior to the letter of law, Judge Johnson revoked Joseph P. Waldholtz's bond and directed that he be held in the D.C. jail until sentencing. Order (Sept. 26, 1996) (Exhibit Vol. 1, Tab 8).

III. No Action Should Be Taken Against The Enid Committees

On June 17, 1997, the Commission also found reason to believe that Enid '94, Enid '96 and Enid Greene, as treasurer, violated 2 U.S.C. § 434(b), by failing to report numerous contributions and for filing inaccurate reports; 2 U.S.C. § 441a(f), by knowingly accepting contributions in violation of the limitations imposed by section 441a; 2 U.S.C. § 441f, by accepting contributions in the name of another; and 11 C.F.R. § 110.4(c)(2), by failing to return cash contributions in excess of \$100. In addition, the Commission found reason to believe that Enid '94 and Enid Greene, as treasurer, violated 2 U.S.C. § 441b(a), by accepting a \$1,000 corporate contribution from Keystone Productions, Inc.

The short answer to these allegations is that all of these violations were committed by Joseph P. Waldholtz during the time he was treasurer of Enid '94 and Enid '96. He alone is solely and personally responsible for these acts and the Enid committees bear no responsibility for Joseph P. Waldholtz's criminal actions.

A. The Enid Committees Were Victimized By Joseph P. Waldholtz Who, as Treasurer, Used the Committees for His Own Criminal Purposes

The Commission's attempt to hold the Enid committees responsible for the criminal actions of their former treasurer, Joseph P. Waldholtz is absolutely without merit. The Commission only became aware of these violations when the Enid committees, and Enid Greene as treasurer, filed the complaint in MUR 4322

which provided extensive and compelling evidence that Joseph P. Waldholtz was personally and individually responsible for each and every one of these violations.

Moreover, Joseph P. Waldholtz has already pleaded guilty to these violations and admitted that he alone is responsible. As discussed at length above in Section II.A., on June 4, 1996, a federal grand jury returned an information finding that Joseph P. Waldholtz, as treasurer of Enid '94, knowingly and willfully violated 18 U.S.C. § 1001 by certifying that the information contained in the 1994 Year End Report for Enid '94 was true and accurate when, in fact he knew that the report contained false, fictitious and fraudulent statements. Information at 1-2 (Exhibit Vol. 1, Tab 3). The same information found that Joseph P. Waldholtz, as treasurer of Enid '94, violated 2 U.S.C. §§ 437g(d) and 441a by filing various FEC reports throughout 1994 in which he failed to report that he had contributed approximately \$1,800,000 to Enid '94 in violation of the contribution limits of 2 U.S.C. § 441a. Information at 2 (Exhibit Vol. 1, Tab 3).

Joseph P. Waldholtz pleaded guilty to these counts of the information on June 5, 1996. Plea Agreement at 1, 3-4 (Exhibit Vol. 1, Tab 2). In arguing for a sentence at the top range of the sentencing guidelines applicable to Joseph P. Waldholtz, the U.S. Attorney made it clear that all of the FEC reports that Joseph P. Waldholtz filed for Enid '94 contained false statements. Government's Memorandum In Aid Of Sentencing at 6-8 (Exhibit Vol. 1, Tab 12). Finally, on November 7, 1996, Joseph

P. Waldholtz stated in open court that he and he alone was responsible for these violations of the Federal Election Campaign Act. Partial Transcript of Sentencing Proceedings at 1B-2 (Exhibit Vol. 1, Tab 15).

It should also be noted here that the Enid committees did not blindly rely on Joseph P. Waldholtz to carry out his duties as treasurer. During the summer of 1994, Enid '94 retained a highly regarded political accounting firm, Huckaby & Associates of Alexandria, Virginia, to assist Joseph P. Waldholtz in the execution of his duties as treasurer during the 1994 campaign and thereafter. Huckaby & Associates actually prepared Enid '94's FEC reports for the later half of 1994 based on information provided to them by Joseph P. Waldholtz. The Enid committees took every reasonable step to comply with all applicable FEC requirements, but were still victimized by Joseph P. Waldholtz, who exercised complete dominion and control over the committees and used them for his own criminal purposes.

B. When Joseph P. Waldholtz's Criminal Wrongdoing was Discovered, Enid Greene Immediately Fired Him, Assumed Control Over the Enid Committees and Went to Extraordinary Lengths to Correct the Records Falsified by Joseph P. Waldholtz

The Commission's reason to believe determination that the Enid committees and Enid Greene, as treasurer, violated 2 U.S.C. § 434(b) by failing to file accurate reports is particularly galling. Until he was removed as treasurer of the Enid committees on November 14, 1995, Joseph P. Waldholtz was responsible for filing all of the Enid committees' FEC reports.

The Commission's own regulations state specifically that the committee treasurer is personally responsible for the accuracy of the reports he files. 11 C.F.R. § 104.14(d).

Moreover, Ms. Greene, once she became treasurer of the Enid committees, went to extraordinary lengths, at a cost well in excess of \$150,000, to correct all of the Enid '94 and '96 FEC reports that Joseph P. Waldholtz had falsified as part of his criminal scheme. Joseph P. Waldholtz fled Washington, D.C. on Friday, November 11, 1995. Over the ensuing weekend, Ms. Greene discovered evidence among his papers that Joseph P. Waldholtz had embezzled a substantial amount of money from both of the Enid committees. On Monday, November 14, 1995, Ms. Greene notified the Commission that she had removed Joseph P. Waldholtz as treasurer of these committees and had initiated an audit of both committees' records. She retained forensic accounting specialists with the national accounting firm of Coopers & Lybrand LLP and directed them to reconstruct the campaign records of both committees.

The forensic accountants from Coopers & Lybrand, working with a team of lawyers from Powell, Goldstein, Frazer & Murphy, spent more than six months reconstructing the committees' records, which had been devastated by the criminal actions of Joseph P. Waldholtz. Then, at a cost of well over \$150,000, the Enid committees filed corrected FEC reports for both Enid '94 and Enid '96 covering all of calendar years 1994 and 1995. It would hardly be equitable -- and, to the contrary, it would be

outrageous -- for the Commission to now hold the Enid committees, and Enid Greene as treasurer, responsible for Joseph P. Waldholtz's falsification of the Enid committees' FEC reports given the heroic efforts the Enid committees have made to correct the public record. Surely the Commission would not take such a grossly inappropriate action.

C. The Commission Has Never Sought to Impose Civil Penalties on a Campaign Committee in Similar Circumstances

In situations such as the one at bar, where a committee treasurer takes over the machinery of the committee and uses it for his own criminal purposes, and then falsifies the committee's FEC reports to prevent his criminal wrongdoing from being discovered, the Commission has never, to our knowledge, taken action against the committee.

In a strikingly similar case, In the Matter of the Don Ritter for Congress Committee and Don Ritter, as treasurer, and Jerome Kindrachuk, MUR 2137, Representative Don Ritter discovered that Jerome Kindrachuk, the treasurer of the Don Ritter for Congress Committee, had apparently misappropriated committee funds and then falsified the committee's FEC reports to prevent his thefts from being discovered. Representative Ritter immediately fired Mr. Kindrachuk, assumed the position of treasurer himself, and retained the national accounting firm of Peat, Marwick, Mitchell & Co. to conduct a comprehensive investigation of the committee's records.

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The Office of General Counsel ("OGC") found reason to believe that Mr. Kindrachuk, as treasurer of the Don Ritter for Congress Committee, had knowingly and willingly violated 2 U.S.C. § 434(b) and recommended that the Commission "proceed against Mr. Kindrachuk personally since it is alleged that he prepared the report improperly as part of a scheme to misappropriate funds belonging to the Committee." General Counsel's Report at 2 (April 23, 1986). The OGC then went on to recommend that the Commission take no action against the Don Ritter for Congress Committee or Representative Don Ritter as treasurer. Id. at 4. The Commission voted 5-0 to accept the OGC's recommendations. Certification of Commission Action (April 28, 1986). Mr. Kindrachuk eventually entered into a conciliation agreement and paid a civil penalty of \$13,700 for several FECA violations, including commingling personal and campaign funds. Conciliation Agreement (November 9, 1987). No action was ever taken against the Don Ritter for Congress Committee or Representative Don Ritter, as treasurer.

The Commission has also consistently failed to take enforcement action against campaign committees when committee officials other than the treasurer commit crimes against the committee and then falsify FEC reports to avoid discovery. In In the Matter of Mark E. Barry, MUR 1644, Representative Mickey Edwards, the Edwards in '82 Committee, the Edwards in '84 Committee, and Don Zachritz, treasurer of the Edwards' committees, filed a complaint against the committees' assistant

treasurer, Mark Barry, alleging that he had falsified committee reports to hide the fact that he had misappropriated committee funds. The OGC recommended that the Commission take action against both the former assistant treasurer, Mr. Barry, for commingling personal and campaign funds, and against the Edwards' committees and Mr. Zachritz, as treasurer, who, the OGC argued, had at least constructive knowledge of Mr. Barry's activities. General Counsel's Report at 8-9 (November 9, 1984). The Commission, by a vote of 5-0, rejected the OGC's recommendation to take action against the Edwards' committees and their treasurer and instead authorized the OGC to take further action against the assistant treasurer, Mr. Barry, only. Certification of Commission Action (November 30, 1984). Mr. Barry was eventually ordered by a federal district court to pay a \$20,000 civil penalty for embezzling approximately \$164,000 from the Edwards' committees.

In light of the precedent established in MURS 2137 and 1644, the Commission should take no further action against Enid '94, Enid '96 and Enid Greene, as treasurer of the Enid committees, and should instead pursue action against the true self-admitted miscreant in this case, Joseph P. Waldholtz.

**D. Pursuing Civil Penalties Against the Enid Committees
Would Be a Waste of Scarce Commission Resources**

Finally, as a practical matter, taking further action against the Enid committees or Enid Greene, as treasurer, would be a fruitless waste of the Commission's precious scarce resources. Enid '94 and Enid '96 are more than \$30,000 in debt

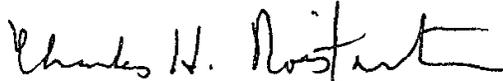
for the remainder of the attorneys' and accountants' fees made necessary by Joseph P. Waldholtz's criminal actions. In calendar year 1996, Enid '94 received a total of \$46 in contributions from individuals and has received no individual contributions thus far in 1997. Enid '96 received \$110 in individual contributions in calendar year 1996 and only \$50 in individual contributions thus far in 1997.

Moreover, the candidate, Enid Greene, the only individual who could conceivably raise funds for the Enid committees, is in no position to do so. Ms. Greene liquidated virtually all of her personal assets in 1996, including selling her home in Salt Lake City, in order to pay the legal and accounting fees she and the Enid committees incurred for successfully fending off the government's criminal investigation of her and correcting the Enid committees' FEC reports -- expenses that would not have been incurred but for Joseph P. Waldholtz's criminal activities. Since her congressional term ended in January, Ms. Greene has been an unemployed single mother, having received a final decree of divorce from Joseph P. Waldholtz in August 1996. She has no assets from which the Commission could make any recovery.

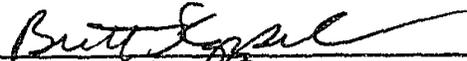
IV. Conclusion

For all of the foregoing reasons, the Commission should take no further action against D. Forrest Greene, Enid Greene, Enid '94, Enid '96 or Enid Greene, as treasurer of Enid '94 and Enid '96.

Respectfully submitted,



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