



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4139

DATE FILMED 4-16-67 CAMERA NO. 1

CAMERAMAN JMN

97043790030

# Utah Democrats

General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

November 2, 1994

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Nov 7 12 02 PM '94

MUR 4139

## Complaint under 11 CFR : 111.4

To the General Counsel:

The Complainant is the Utah State Democratic Committee which is located at 455 S. 300 E., SLC, UT 84111-3221.

On information and belief, the Committee to Elect Enid Greene Waldholtz, a/k/a/ Enid '94, Box 11232, Salt Lake City, Utah 84147-0232 has violated a statute or regulation over which the Federal Election Commission has jurisdiction by virtue of the following:

1. Ms. Enid Greene Waldholtz is the republican candidate for the United States Congress in the 2nd Congressional District in Utah.

2. Mr. Merrill Cook is the Independent candidate for the United States Congress in the 2nd Congressional District in Utah.

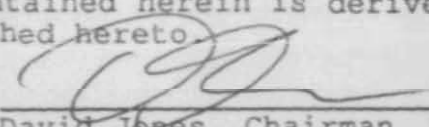
3. Ms. Karen Shepherd is the Democratic candidate for the United States Congress in the 2nd Congressional District in Utah.

4. It has been alleged that, between February and August 1994, Ms. Waldholtz engaged a private investigator who, among other things, conducted background checks on contributors to the campaigns of Mr. Cook and Ms. Shepherd.

5. "Enid '94" did not report to the FEC the payments made by Ms. Waldholtz to the private investigator as contributions, expenditures or otherwise.

6. The information contained herein is derived from the newspaper articles attached hereto.

SUBSCRIBED AND SWORN TO BY:

  
David Jones, Chairman, Utah  
State Democratic Committee

STATE OF UTAH  
COUNTY OF SALT LAKE

The foregoing complaint by the Utah State Democratic Committee against "Enid '94" was acknowledged before me

Dave Jones  
Chair

Jill Remington  
Vice Chair

Bryon Anderson  
Secretary

Warren Nuesmeyer  
Treasurer

Louise Henson  
National Committeewoman

J.D. Williams  
National Committeeman

Executive Committee Members

Rep. Frank Pignatelli

Sen. Millie Peterson

Cindy Abawi

Tom Berggren

Rebecca Chavez-Houck

Todd R. Taylor  
Executive Director


Paulette Blair  
Office Administrator

Utah State  
Democratic  
Committee

455 South 300 East  
Suite 102  
Salt Lake City, Utah 84111  
801 / 328-4112  
Fax 801 / 328-4238

this 1<sup>st</sup> Day of November, 1994, by DAVID JONES who identified himself to me as the Chairman of the Utah State Democratic Committee.



  
NOTARY PUBLIC  
Residing at:

My Commission Expires:

1/6/98

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# Waldholtz Acknowledges Hiring a Private Eye

## 2nd District Candidate Cites Death Threats; Opponents Are Critical

By Tony Semerad  
© 1994, THE SALT LAKE TRIBUNE

Enid Greene Waldholtz, GOP candidate in Utah's 2nd Congressional District, says she has had death threats and break-in attempts at campaign headquarters and her Salt Lake County home.

In mid-February, she hired Malcolm Shannon, a high-powered private investigator from Southern California, hoping to silence "a constant drumbeat" of harassment she claims began in 1992.

"We felt strongly — my husband felt very strongly — that we wanted to have someone we could call in an emergency to tell us what to do," says Waldholtz, a 35-year-old attorney.

"I hired someone that came with high recommendations and I said, 'Do the best you can to protect my family and campaign staff.' I am not going to apologize for doing what I need to do to do that."

Shannon told *The Salt Lake Tribune* his investigation included limited scrutiny of those who gave money to Waldholtz's opponents, Democrat Karen Shepherd and Independent Merrill Cook. Neither the candidates nor any of their supporters were implicated, he says.

"I would have a hard time believing that anybody in political activities would be that stupid," says Shannon, who specializes in investigating large-volume jewelry heists for Lloyd's of London.

"They would have nothing to gain and everything to lose."

However, Shannon says his probe found "very definite indications" of several attempted break-ins, alarm tampering and signs that someone was trying to monitor Waldholtz's phone calls.

Waldholtz insists that Shannon, placed on a monthly retainer between mid-February and Aug. 1, was hired solely for personal security reasons and not campaign purposes. And his undisclosed fees do not appear on her federal campaign-spending reports.

But the Republican says she didn't know what actions Shannon might have taken, raising fear in Cook's and Shepherd's minds that his scrutiny may have veered into their political and private affairs.

"It is frightening and disconcerting to even think that a political opponent might be hiring investigators to check on people," says Cook. "It's sickening. It's going beyond boundaries. I would never do something like that."

Adds Shepherd: "I don't think this woman [Waldholtz] has any limits. I can't understand what kind of thinking she does."

Shepherd says she received death threats after controversial votes on the 1993 Clinton budget and a semiautomatic-weapons ban. But the threats did not prompt her to hire private protection.

"What I did was call the police chief to ask what steps should be taken," the first-term congresswoman says. Shepherd called her opponent's retaining a private investigator "paranoid and nuts."

■ See WALDHOLTZ, C-3

SLT, 10/27/94

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## Waldholtz Hired an Investigator

■ Continued from C-1

Responding to unconfirmed reports two months ago that Waldholtz had hired a private investigator, Shepherd asked FBI agents to sweep her downtown Salt Lake offices and campaign headquarters for evidence of electronic surveillance. Nothing out of the ordinary turned up.

Waldholtz and Shannon insist Shepherd had nothing to fear.

"Let me make it clear that I was not pointing fingers at anyone," Waldholtz says. "But I don't have any of these problems until I ran for office, so you've got to at least consider the possibility that it's politically connected."

Though common in other states, politically motivated background checks are viewed unfavorably by most Utahns. In August 1993, for example, opponents of a Salt Lake County tax proposal to benefit the arts drew widespread condemnation for using the tactic against their adversaries.

Shannon says he did "no political investigations whatsoever." But he acknowledged combing through publicly available donor lists from all three 2nd District campaigns in search of leads.

His five-month investigation eventually showed attempts to "compromise" Waldholtz's home phone system, signs of attempted burglaries at two campaign offices, and alarm wires cut from inside the Waldholtz home on east Salt Lake's posh Benecia Drive, he says.

Records kept by the Salt Lake County Sheriff's Office show 10 separate reports at that address since January 1993. Sixteen involved the triggering of burglar

*"It is frightening ... to even think that a political opponent might be hiring investigators to check on people. It's sickening."*

MERRILL COOK

alarms, though burglars never were detected.

Waldholtz says she has received harassing and obscene phone calls at her home and offices since 1992, when she first ran against Shepherd for the 2nd District seat vacated by Democratic Rep. Wayne Owens.

"We're talking dozens and dozens of calls," she says. "My personal favorite was one on my wedding day at my new home, insinuating that they were having an affair with my husband."

"That was funny. But where they've been obscene and threatening, it has not been funny at all."



## 2nd District: Shepherd, Cook Condemn Search

■ Continued from B-1

The 35-year-old Republican said she has received death threats and been the victim of break-in attempts and harassing calls since she first ran for Congress in 1992. The incidents escalated last winter, prompting her to hire the investigator in mid-February, she said.

Shannon, who left Waldholtz's employ in August, has acknowledged looking for leads through campaign-contribution reports of all three candidates in the race.

"It was simply a place to start," Waldholtz said. "They look everywhere they can to come up with any information they can."

Nothing "popped out" from the public records, she said. "There was no need to investigate my opponents or their families."

The Republican, who lost a close race to Shepherd two years ago, said she was distressed that people would try to "put this into a political spotlight." Further jeopardizing the safety of her and her husband, Joseph Waldholtz.

"This is nonsense and we need to move onto the real issues," Enid Waldholtz said.

Countered Shepherd: "I'm making no accusations. I just feel very unsettled and I'm left with a lot of questions. I feel bad my donors got dragged into it."

The Democrat said she was concerned enough about rumors of phone bugging of her campaign office that she had the FBI sweep it. The search came up empty.

Cook agreed it was unusual for him to team up with Shepherd in a joint statement. "But what's more unusual is having two candidates

spied on by another opponent."

He conceded that he has "no direct knowledge" of Shannon's activities, beyond the admission that donor lists were inspected.

Utah Republican Director Mark Emerson said Waldholtz's hiring of private security for personal reasons was "a safe, legal and precautionary thing to do."

But state Democratic Director Todd Taylor said he found the action "highly disconcerting. . . . In some way it harkens back to Richard Nixon using the IRS for political vendettas."

campaign's final days. Records show Coray raised \$23,246 between Oct. 1 and Oct. 19, about half the \$44,708 Hansen took in the same period. Some \$22,675 of Hansen's latest receipts came in 11th-hour PAC donations.

Third District Republican challenger Dixie Thompson has spent \$90,238 this year, behind her opponent, two-term Democrat Rep. Bill Orton, who has shelled out \$129,459. Orton has accepted \$119,600 in PAC donations this year, compared to \$6,375 by Thompson.

## Reports Detail Spending By Candidates

■ Continued from B-1

sides.

"She's facing an incumbent who has no trouble raising money and a candidate who has been running for 10 years," said Waldholtz spokesman Michael Levy. "Add those together and you get an idea of why we're having to spend to stay competitive."

Cook and Shepherd have criticized the personal expenditures as excessive and an irresponsible spur for them to increase spending. But on the flip side, about \$566,900 of Cook's campaign money has come out of his personal fortune. Shepherd, a former publisher and state senator, hasn't put any of her own money into campaigning.

In other races, the reports reveal 1st District GOP Rep. Jim Hansen and his challenger, Democrat Bobbie Coray, just \$20,000 apart in their spending, at \$187,157 and \$168,585, respectively.

But that may be changing in the

SLT, 10/28/94

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

David Jones, Chairman  
Utah State Democratic Committee  
455 South 300 East, Suite 102  
Salt Lake City, UT 84111

RE: MUR 4139

Dear Mr. Jones:

This letter acknowledges receipt on November 7, 1994, of the complaint you filed on behalf of the Utah State Democratic Committee alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4139. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Joseph P. Waldholtz, Treasurer  
Enid '94  
P.O. 11232  
Salt Lake City, UT 84147

RE: MUR 4139

Dear Mr. Waldholtz:

The Federal Election Commission received a complaint which indicates that Enid '94 ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4139. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Enid Green Waldholtz

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ENID '94  
Post Office Box 11232  
Salt Lake City, UT 84147  
(801) 328-1994

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COUNSEL  
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November 30, 1994

Ms. Mary L. Taksar, Attorney  
Central Enforcement Docket  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

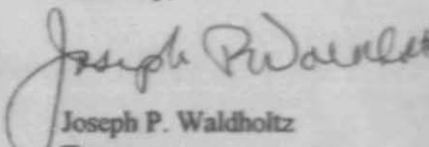
Dear Ms. Taksar:

This letter is in response to the correspondence received by Enid '94 on November 20, 1994 regarding MUR 4139. Enid '94 is currently researching and obtaining all of the information necessary to respond to your office.

According to your letter, we are required to respond by December 5, 1994. In order to allow us to obtain all of the appropriate documentation for our response, we are requesting an extension for the response to December 23, 1994.

Thank you for your time and consideration.

Sincerely,

  
Joseph P. Waldholtz  
Treasurer

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 13, 1994

Mr. Joseph P. Waldholtz  
Treasurer, Enid '94  
Post Office Box 11232  
Salt Lake City, UT 84147

RE: MUR 4139

Dear Mr. Waldholtz:

This is in response to your letter dated November 30, 1994, which we received on December 9, 1994, requesting an extension of twenty days until December 23, 1994 to respond to the complaint filed against Enid '94 and you, as treasurer. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on December 23, 1994.

If you have any questions, please contact Joan McEnery at (202) 219-3400.

Sincerely,

*Mary S. Taksar*

Mary Taksar, Attorney  
Central Enforcement Docket

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WILEY, REIN & FIELDING

1775 K STREET, N.W.  
WASHINGTON, D. C. 20006  
(202) 429-7000

CAROL A. LAHAM  
(202) 429-7301

December 20, 1994

FACSIMILE  
(202) 429-7049

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Attn: Joan McEnery

Re: MUR 4139 (Enid '94 and Joseph  
P. Waldholtz, as Treasurer)

Dear Mr. Noble:

This office has just been retained to represent Enid '94 and Joseph Waldholtz, as Treasurer ("Respondent") in Matter Under Review ("MUR") 4139. An executed Statement of Designation of Counsel form, received today, is attached hereto. As discussed with Ms. Smith of your office, we would like to obtain a complete copy of the complaint and its attachments in this matter in order to facilitate our review of this matter.

Respondents response to the complaint in this matter is currently due on December 23, 1994. In order to fully confer with our client and to obtain whatever information and documentation which may prove necessary, Respondent respectfully request a twenty-day extension of time to and including January 12, 1995, to respond to this matter.

Your favorable consideration of this request will be appreciated.

Sincerely,

*Carol A. Laham*

Carol A. Laham

Enclosure  
cc: Joseph Waldholtz

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OFFICE OF GENERAL  
COUNSEL

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 4139

NAME OF COUNSEL: Carol A. Laham, Esq.

ADDRESS: Wiley, Rein & Fielding

1776 K Street, N.W.

Washington, D.C. 20006

TELEPHONE: (202) 429-7301

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

12/13/94  
Date

Joseph P. Waldholtz  
Signature

RESPONDENT'S NAME: ENID '94 and  
Joseph P. Waldholtz as Treasurer

ADDRESS: P.O. Box 11232

Salt Lake City, UT 84147

HOME PHONE: (801) 943-3643

BUSINESS PHONE: (801) 328-1994

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WILEY, REIN & FIELDING

1776 K STREET, N.W.  
WASHINGTON, D. C. 20005  
(202) 429-7000

CAROL A. LAHAN  
(202) 429-7301

December 28, 1994

FACSIMILE  
(202) 429-7049

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Attn: Joan McEnery

Re: MUR 4139 (Enid '94 and Joseph  
P. Waldholtz, as Treasurer)

Dear Mr. Noble:

This letter will follow up on our conversation yesterday. You informed me that the General Counsel's Office would be able to grant an extension to Enid '94 and Joseph P. Waldholtz, as Treasurer ("Respondent") in Matter Under Review ("MUR") 4139 until January 4, 1995, but that the Commission itself would have to grant our requested extension until January 12, 1995.

Due to the unavailability of my client to consult with me as a result of the obvious interruption of the holidays as well as Mrs. Waldholtz's impending transition to be sworn in as a Member of Congress on January 4th, it is very unlikely that the Respondent will be able to file a response to this last minute political complaint by January 4, 1995. However, unless there is some truly unforeseen intervening event, a response will be filed by January 12, 1995.

As I explained yesterday, this is the first request for an extension made by the Committee since this office was retained. Thus, there have been no exceptional delays in this matter. Further, I am sure that the Commission can understand the need for this extension, especially since the Commission itself will not be meeting until January 10, 1995, due to the intervening holidays and vacation schedules of the Commissioners.

Thus, I would be most appreciative if the General Counsel's Office would grant Enid '94 an extension until

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COUNSEL

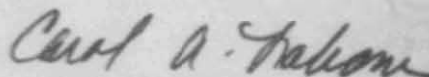
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Lawrence M. Noble, Esq.  
December 28, 1994  
Page 2

January 4, while at the same time pursuing our original extension request until January 12, 1995.

Thank you in advance for your attention to this matter.

Sincerely,



Carol A. Laham

cc: Joseph Waldholtz

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 30, 1994

Carol A. Laham, Esq.  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

RE: MUR 4139  
Enid '94 and  
Joseph P. Waldholtz,  
as Treasurer

Dear Ms. Laham:

This is in response to your letters dated December 20, 1994, and December 28, 1994, requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letters, the Office of the General Counsel has granted an extension until January 4, 1995. Accordingly, your response is due by the close of business on that date.

Your request for an extension until January 12, 1995, has been forwarded to the Commission for consideration. You will be notified when the Commission takes action on your request.

If you have any questions, please contact Joan McEnery at (202) 219-3400.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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December 29, 1994

**SENSITIVE**

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

By: Lois G. Lerner  
Associate General Counsel

LOL JB

SUBJECT: MUR 4139 - Extension Request for Enid '94 and  
Joseph P. Waldholtz, as Treasurer

By letter dated December 20, 1994, newly-retained counsel requested a 20-day extension until January 12, 1995, to respond to the complaint in this matter. See Attachment 1. The Committee treasurer previously requested and was granted an 18-day extension until December 23, 1994. Upon being advised that the Office of General Counsel could only grant a further extension until January 4, 1995, counsel asked that her request for an additional extension of eight days, until January 12, 1995, be forwarded to the Commission for its authorization. See Attachment 2.

Counsel has outlined three bases for requesting an extension until January 12, 1995: the late retention of counsel and counsel's desire for additional time in order to confer with clients and review documents; the unavailability of the candidate and the treasurer for consultation because they are in the process of relocating to Washington, D.C., and the interruption of the response time by the holidays.

This Office believes that the combination of the late retention of counsel, the unavailability of both the candidate and the treasurer for consultation and the intervening holidays constitute valid bases for an additional eight-day extension until January 12, 1995. Therefore, this Office recommends that the Commission approve the request for an extension until January 12, 1995. We also recommend that counsel be informed that no further extensions will be granted.

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MUR 4139  
Extension Request  
Page 2

RECOMMENDATIONS

1. Approve respondents' request for an additional eight-day extension until January 12, 1995.
2. Approve the appropriate letter indicating that this is a final extension.

Attachments

1. December 20, 1994 Request for Extension
2. December 28, 1994 Letter from Counsel

Staff Assigned: Joan F. McEnery, CED

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: Lawrence M. Noble  
General Counsel

FROM: Marjorie W. Emmons  
Secretary of the Commission *MWE*

DATE: January 4, 1995

SUBJECT: MUR 4139 - Memorandum to the Commission  
dated December 29, 1994.

The above-captioned matter was received in the Secretariat at 4:50 p.m. on Thursday, December 29, 1994 and circulated to the Commission on a 24-hour no-objection basis at 12:00 p.m. on Friday, December 30, 1994.

There were no objections to the General Counsel's recommendations to approve Respondents' request for an additional eight-day extension, until January 12, 1995, and to approve the appropriate letter informing the Respondents that this is a final extension, and that no more extensions will be granted.

97043790028

WILEY, REIN & FIELDING

1776 K STREET, N.W.  
WASHINGTON, D. C. 20006  
(202) 429-7000

January 12, 1995

CAROL A. LAHAM  
(202) 429-7301

FACSIMILE  
(202) 429-7049

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Attn: Joan McEnery

Re: MUR 4139

Dear Mr. Noble:

This Response, including the attached affidavit, is submitted on behalf of Enid '94 and Joseph P. Waldholtz, as Treasurer ("Respondent") in reply to a complaint filed by David Jones, Chairman of the Utah State Democratic Committee and designated Matter Under Review ("MUR") 4139. For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that Respondents violated any provision of the Federal Election Campaign Act of 1971, as amended ("the Act").

FACTS

The complaint inaccurately alleges that Enid Greene Waldholtz, the Republican Candidate for the United States House of Representatives from the second district of Utah, hired a private

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detective in order to conduct background checks on contributors to the campaigns of Merrill Cook and Karen Shepherd, the independent and democratic candidates for the United States House of Representatives from the second congressional district of Utah respectively. The Complaint further alleges that the payments for these services should have been treated as contributions or expenditures to Enid '94, the authorized committee of Enid Greene Waldholtz, the Republican candidate for the same House seat.

The complainant had no personal knowledge of any of the allegations of the Complaint, but rather extrapolated his allegations from newspaper articles. News accounts indicate that the Waldholtz's personal security advisor had examined the publicly available Federal Election Commission disclosure reports of Mrs. Waldholtz as well as those of Merrill Cook and Karen Shepherd in order to look for leads related to death threats against Mrs. Waldholtz and attempted break-ins of her residence.

In fact, the Waldholtzes had received several death threats and had endured several attempts to illegally penetrate their home. See Affidavit of Malcolm Shannon Before the Federal Election Commission in Matter Under Review 4139 (hereinafter "Shannon Aff.") ¶ 3. These threats and attempts to penetrate the Waldholtz home and property occurred at least nineteen times. See id. As a result of these death threats and attempted break-ins, the

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Waldholtz's "had a real and credible fear for their lives." Id.  
Further, these death threats and attempted break-ins "can be  
documented by the Salt Lake County Sheriff's Office (Utah) and by  
the telephone services provider to the Waldholtz family home, U.S.  
West Communications." Id.

Due to the seriousness of the threats the Waldholtzes hired  
and paid Malcolm Shannon not in his capacity as a private  
investigator as alleged by the Complaint but as a personal security  
consultant in order to conduct a personal risk assessment and make  
recommendations to the Waldholtzes "for their personal well being  
and personal security." Id. ¶ 3. Thus, the retention of a  
personal security advisor by the Waldholtzes was for legitimate  
personal reasons having to do with their personal security.

#### DISCUSSION

Under the Act, the term contribution is defined as

(i) gift, subscription, loan, advance, or  
deposit of money or anything of value made by  
any person for the purpose of influencing any  
election for Federal office; or

(ii) the payment by any person of compensation  
for the personal services of another person  
which are rendered to a political committee  
without charge for any purpose.

2 U.S.C. § 431(8)(A) (emphasis added).

Pursuant to this definition, the payments to the Waldholtz's  
personal security consultant would either have had to have been for

the purpose of influencing Mrs. Waldholtz's election, which they were not, or the security consultant would have had to have rendered services to the Waldholtz campaign, which he did not.

As attested to by the licensed personal security consultant hired by the Waldholtzes, Malcolm Shannon, he conducted a personal risk assessment and made recommendations to the Waldholtzes regarding their personal well being and security. Shannon Aff. at ¶¶ 3 & 5.

This included an in depth review of the physical structure and recommendations on specific procedures to harden the structure making it substantially more difficult to illegally and forcibly compromise the integrity of the personal family residence. This also included specific procedural recommendations and counsel on dealing with actual intruders in the occupied family residence, and methods and procedures for responding to the same, as well as procedures for responding to attempted intrusions, prior to the arrival of uniformed public safety officers. In addition, I provided recommendation to the Waldholtz family on responding to numerous telephonic threats, including the appropriate reporting and documentation procedures for possible criminal prosecution, pending identification of suspects by the telephone services provider, U.S. West Communications. Also, I conducted a review of the 911 emergency calls in the Waldholtz family neighborhood, to see if other residences were experiencing similar attempts on those personal residences. The Waldholtz family residence, had the most significant record of emergency response in their neighborhood reporting district. . . . In all, I estimate that I spent a total of 150 hours conducting this risk assessment.

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Id. ¶ 5. Thus, Mr. Shannon's activities were not for the purpose of influencing, or in any way related, to Mrs. Waldholtz's campaign.

While Mr. Shannon did examine the publicly filed disclosure reports of Enid '94 as well as those of Mr. Cook and Ms. Shepherd, this examination was conducted in the course of his performing a security review for the Waldholtzes. The purpose of this review was to eliminate any potential suspects in connection with the death threats and the attempted break-ins. Id. ¶ 7. As explained by Mr. Shannon, this examination constituted due diligence on his part. Id. Moreover, in contrast to the 150 hours Mr. Shannon spent conducting the personal risk assessment, this activity comprised no more than 45 minutes of his time. Id. "The purpose of this review was not to investigate any individual contributors to any campaign for political purposes" nor was such an investigation undertaken. Id. ¶ 8.

Further, Mr. Shannon did not perform any private investigator services for the Waldholtzes or for Enid '94. Id. ¶¶ 3, 9. More specifically, Mr. Shannon did not "conduct any 'background investigation' on any campaign contributor" to either Mr. Cook or Ms. Shepherd, nor did he investigate either the political or private affairs of either Mr. Cook or Ms. Shepherd." Id. ¶ 8. Thus, it is beyond question that the payments to Mr. Shannon could



Lawrence M. Noble, Esq.  
January 12, 1995  
Page 6

not have been for the purpose of influencing any election since his activity was in no way election related.

None of the services rendered to the Waldholtzes were rendered to Enid '94. Id. ¶ 9. Rather, all services were provided to and for Mr. and Mrs. Waldholtz in their personal capacity. Thus, Mrs. Waldholtz' payments for a personal security consultant is entirely unconnected to her campaign and were not contributions or expenditures to her campaign.

CONCLUSION

For the reasons stated above, the Commission should find no reason to believe that Enid '94 and Joseph P. Waldholtz, as Treasurer, violated the Act.

Sincerely,

*Carol A. Lahan*

Carol A. Lahan  
Counsel for Enid '94 and  
Joseph P. Waldholtz

cc: Joseph P. Waldholtz

970443790104

BEFORE THE FEDERAL ELECTION COMMISSION

State of California )  
 )  
Orange County )

MUR. 4139

AFFIDAVIT OF MALCOLM SHANNON

Malcolm Shannon, first being duly sworn, deposes and says:

1. I am Malcolm Shannon. I am a licensed private investigator and security consultant in California. Such licensure in California requires a minimum of 6000 hours of investigative experience, a written exam and background investigation, prior to California State Licensure.

2. I am familiar with the Complaint filed by David James, Chairman, Utah State Democratic Committee with the Federal Election Commission styled Matter Under Review("MUR") 4139 which alleges, among other things, that Mrs. Enid Waldholtz engaged a private investigator who allegedly conducted background checks on contributors to the campaigns of Merrill Cook and Karen Shepherd and that payments for these alleged services were not reported by "Enid '94", as contributions or expenditures. This complaint misrepresents and misunderstands the nature of services which I provided to Mr. and Mrs. Waldholtz.

3. As noted above, while I am a private investigator and security risk consultant, I was retained by Mr. and Mrs. Waldholtz for the sole purpose of providing security risk consulting for them personally. I was not retained as a private investigator for the Waldholtz family, nor was I retained to provide any investigative or security resources, advice or consulting to the "Enid '94" political campaign. I was contacted by Mr. Joseph Waldholtz in February of 1994 for the sole purpose of conducting security risk assessments on the Waldholtz family home, and making recommendations to the Waldholtz family for their personal well being and personal security, pursuant to a series of documented death threats to Mrs. Waldholtz, attempts to illegally enter the property and premises of the Waldholtz family residence, and at least two documented attempts to illegally and forcibly enter the personal offices of Mrs. Waldholtz. These threats and occurrences, ( at least nineteen in total) are and were serious, and can be documented by the Salt Lake County Sheriff's Office(Utah) and by the telephone services provider to the Waldholtz family home, U.S. West Communications. As a result of these threats and occurrences, the Waldholtz family, had a real and credible fear for their lives.

4. Mr. Waldholtz and I agreed to a monthly retainer fee of \$3850.00 which commenced on March 1, 1994 and terminated on July 31, 1994 at which time I had terminated all services to the Waldholtz family.

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5. The primary function of the agreement, was to provide the following specific resources to the Waldholtz family: personal security risk assessment and profile, on both Mr. and Mrs. Waldholtz, a security risk assessment on their personal residence and property. This included an in depth review of the physical structure, and recommendations on specific procedures to harden the structure making it substantially more difficult to illegally and forcibly compromise the integrity of the personal family residence. This also included specific procedural recommendations and counsel on dealing with actual intruders in the occupied family residence, and methods and procedures for responding to the same, as well as procedures for responding to attempted intrusions, prior to the arrival of uniformed public safety officers. In addition, I provided recommendation to the Waldholtz family on responding to the numerous telephonic threats, including the appropriate reporting and documentation procedures for possible criminal prosecution, pending identification of suspects by the telephone services provider, U.S. West Communications. Also, I conducted a review of the 911 emergency calls in the Waldholtz family neighborhood, to see if other residences were experiencing similar attempts on those personal residences. The Waldholtz family residence, had the most significant record of emergency response in their neighborhood reporting district. While conducting the personal inspection of the Waldholtz family residence, I personally observed two different ground floor locations, where alarm wires to locations, had been intentionally severed, rendering the personal residence alarm system inoperable. In all, I estimate, that I spent a total of at least 150 hours conducting this risk assessment.

6. Pursuant to the aforementioned documented threats and occurrences, I also examined the personal offices of Mrs. Waldholtz, to include emergency evacuation procedures in the event of hostile or aggressive acts against Mrs. Waldholtz, and to provide specific recommendations for the personal safety of Mrs. Waldholtz, while she occupied her personal office space. As previously stated, there were two separate attempts to forcibly and illegally enter the offices of Mrs. Waldholtz. Based on the attempts and occurrences at her private family residence, and the continued telephonic threats, it was a reasonable and prudent determination, that all of the incidents are and were related. The examination of both personal offices took no more than two and one-half hours combined.

7. In addition to all of the above mentioned activities, in order to perform with appropriate due diligence, I personally conducted a cursory review of the publicly available campaign contribution reports, for Mrs. Waldholtz, Mr. Merill Cook and Mrs. Karen Shepherd, to determine if there was any correlation between campaign contributors and the threats against the Waldholtz family and specifically, Mrs. Waldholtz. This activity took no longer than 45 minutes, and no suspect information or correlation was found.

8. The purpose of this review was not to investigate any individual contributors to any candidate for political purposes. At no time, did I conduct any "background investigation" on any campaign contributor, political candidate, or any individuals, or private activities of anyone associated in any way with any political campaign in the State of Utah. I did not investigate the private or political affairs of Mr. Cook or Ms. Shepherd.

9. At no time, did I perform any services related to or directly for the "Enid '94" political campaign, or for any political campaign in the United States of America in 1994.

10. At no time, did I interview anyone associated with the "Enid '94" campaign, nor did I "spy" on any political candidate, campaign contributor, or employee, etc. There was no investigation of any candidate, contributor, employee or other associates of any campaign at any time.

11. Any and all services provided, were for the Waldholtz family personal safety, and the family residence, and previously identified procedures for emergency and hostile activities at Mrs. Waldholtz' personal office.

The above information is true and correct to the best of my knowledge, information and belief.

Malcolm Shannon

MALCOLM SHANNON

Signed and sworn to and before me  
this 10 day of January, 1995.

John Montecchi  
NOTARY PUBLIC

My Commission Expires: 10/4/96



97043790107



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
)  
)  
)

ENFORCEMENT PRIORITY

**SENSITIVE**

GENERAL COUNSEL'S REPORT

MAR 11 1997

**EXECUTIVE SESSION**

**I. INTRODUCTION**

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

**II. CASES RECOMMENDED FOR CLOSURE**

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

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

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 25 cases which do

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not warrant further action relative to other pending matters.<sup>1</sup> Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

### B. Stale Cases

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

<sup>1</sup> These cases are: MUR 4332 (*Bill Thomas Campaign Committee*); MUR 4347 (*Anonymous Respondent*); MUR 4354 (*Brian Steel for Congress*); MUR 4367 (*Philipstown Republicans*); MUR 4371 (*Employment Group*); MUR 4373 (*Cannon for Congress*); MUR 4374 (*Mark Stodola for Congress Primary Committee*); MUR 4375 (*Westchester County Conservative Party*); MUR 4377 (*Braxton for Congress*); MUR 4379 (*Teamsters Local Union No. 135*); MUR 4383 (*Pauken for Congress*); MUR 4384 (*Willie Colon for U.S. Congress*); MUR 4388 (*Bill Witt for Senate and Congress*); MUR 4390 (*Kolbe 96*); MUR 4391 (*Pat Roberts for Congress Committee*); MUR 4393 (*Cecil J. Banks*); MUR 4397 (*AFL-CIO*); MUR 4405 (*Katz for Congress Committee*); MUR 4411 (*First Evangelical Presbyterian Church*); MUR 4414 (*Turietta-Koury for Congress Committee*); MUR 4418 (*Bell Atlantic*); MUR 4421 (*Builer for Mayor*); MUR 4448 (*Friends for Jim Rapp*); Pre-MUR 334 (*Kinnamon for Congress*); and Pre-MUR 335 (*Davis for Congress*).

We have identified cases which have remained on the Central Enforcement Docket for a sufficient period of time to render them stale

12 are not worthy of further action, and merit closure.<sup>4</sup>

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective April 1, 1997. Closing these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

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<sup>4</sup> These cases are: MUR 4139 (*Enid 94*); MUR 4150 (*Frank Fasi*); MUR 4257 (*DSCC*); MUR 4258 (*NRSC*); MUR 4260 (*Packwood & Auto Dealers*); MUR 4261 (*NRA Institute for Legis.*); MUR 4262 (*Oregon Republican Party*); MUR 4265 (*NRSC; Sen. Phil Gramm*); MUR 4272 (*Bishop for Congress*); MUR 4279 (*Russ Berrie Co.*); MUR 4284 (*United We Stand America*); and Pre-MUR 322 (*Royal Hawaiian Country Club*).

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### III. RECOMMENDATIONS.

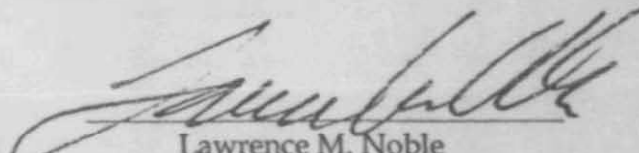
A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

1. Pre-MUR 322
2. Pre-MUR 334
3. Pre-MUR 335.

B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- |              |              |              |
|--------------|--------------|--------------|
| 1. MUR 4139  | 13. MUR 4347 | 25. MUR 4390 |
| 2. MUR 4150  | 14. MUR 4354 | 26. MUR 4391 |
| 3. MUR 4257  | 15. MUR 4367 | 27. MUR 4393 |
| 4. MUR 4258  | 16. MUR 4371 | 28. MUR 4397 |
| 5. MUR 4260  | 17. MUR 4373 | 29. MUR 4405 |
| 6. MUR 4261  | 18. MUR 4374 | 30. MUR 4411 |
| 7. MUR 4262  | 19. MUR 4375 | 31. MUR 4414 |
| 8. MUR 4265  | 20. MUR 4377 | 32. MUR 4418 |
| 9. MUR 4272  | 21. MUR 4379 | 33. MUR 4421 |
| 10. MUR 4279 | 22. MUR 4383 | 34. MUR 4448 |
| 11. MUR 4284 | 23. MUR 4384 |              |
| 12. MUR 4332 | 24. MUR 4388 |              |

3/5/97  
Date

  
Lawrence M. Noble  
General Counsel

97043790111



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of                    )  
                                      )     Agenda Document #X97-16  
Enforcement Priority                )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 11, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned matter:

- A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:
1. Pre-MUR 322;
  2. Pre-Mur 334;
  3. Pre-MUR 335.
- B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:
- |              |               |
|--------------|---------------|
| 1. MUR 4139; | 10. MUR 4279; |
| 2. MUR 4150; | 11. MUR 4284; |
| 3. MUR 4257; | 12. MUR 4332; |
| 4. MUR 4258; | 13. MUR 4347; |
| 5. MUR 4260; | 14. MUR 4354; |
| 6. MUR 4261; | 15. MUR 4367; |
| 7. MUR 4262; | 16. MUR 4371; |
| 8. MUR 4265; | 17. MUR 4373; |
| 9. MUR 4272; | 18. MUR 4374; |

(continued)

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Federal Election Commission  
Certification: Enforcement Priority  
March 11, 1997

Page 2

19. MUR 4375;	27. MUR 4393;
20. MUR 4377;	28. MUR 4397;
21. MUR 4379;	29. MUR 4405;
22. MUR 4383;	30. MUR 4411;
23. MUR 4384;	31. MUR 4414;
24. MUR 4388;	32. MUR 4418;
25. MUR 4390;	33. MUR 4421;
26. MUR 4391;	34. MUR 4448.

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

Attest:

3-12-97  
Date

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

97043790113



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 1, 1997

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

David Jones, Chairman  
Utah State Democratic Committee  
455 South 300 East, Suite 102  
Salt Lake City, UT 84111

RE: MUR 4139

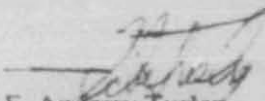
Dear Mr. Jones:

On November 7, 1994, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on April 1, 1997. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437(g)(a)(8).

Sincerely,

  
F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket

97043790114



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 1, 1997

Enid Greene, Treasurer  
Enid '94  
P.O. 11232  
Salt Lake City, UT 84147

RE: MUR 4139

Dear Ms. Greene:

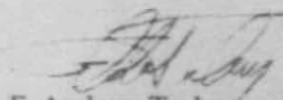
On November 15, 1994, the Federal Election Commission notified Joseph P. Waldholtz, as former treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against the Enid '94 committee and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on April 1, 1997.

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

If you have any questions, please contact Jennifer Henry at (202) 219-3400.

Sincerely,

  
F. Andrew Turley  
Supervisory Attorney  
Central Enforcement Docket

97043790115





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4139

DATE FILMED 4-16-97 CAMERA NO. 1

CAMERAMAN JMN

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