



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 14 2004

Loni Lichfield

Toquerville, UT 84774

RE: MUR 5333

Dear Ms. Lichfield:

On November 21, 2002, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information provided by you, the Commission, on June 30, 2004, found that there is reason to believe you violated 2 U.S.C. § 441f, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. Also on June 30, 2004, the Commission determined to take no action at this time with respect to you regarding the allegation in the complaint that you violated 2 U.S.C. § 441a(a)(1)(A).

The Commission initially notified you of these actions through your counsel of record, J. Curtis Herge, who has since withdrawn as your counsel in this matter. Accordingly, the Commission is notifying you directly. If you intend to be represented by new counsel, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

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

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

If you have any questions, please contact Mark Allen, the attorney assigned to this matter, at (202) 694-1650. During the period September 10 through October 8, 2004, please contact Cynthia Tompkins, Assistant General Counsel, at the same number.

Sincerely,



Bradley A. Smith
Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Loni Lichfield

MUR 5333

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Scott Clayton. *See* 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

A. Complaint and responses and other available information

The complaint alleges that Loni Lichfield and nine other individuals with the last name Lichfield each made excessive contributions to John Swallow for Congress ("Committee"). The complaint listed each Lichfield as contributing \$3,000 to the Committee. The Committee disclosed the receipt of \$3,000 from each Lichfield on January 23, 2002. In each case \$1,000 was designated for each of the convention, primary and general elections. Therefore, these contributions on their face are within the limits of 2 U.S.C. § 441a(a)(1)(A). The complaint also alleges that Loni Lichfield and seven other Lichfields were children in whose names contributions were made.

The available information includes copies of ten \$3,000 "official check[s]" (resembling money orders or cashier's checks) dated January 19, 2002. Each identifies "Robert Browning Lichfield" as "purchaser." This is presumably Robert B. Lichfield. Each of the checks contains similar handwriting naming a Lichfield contributor, e.g., "from: Loni Lichfield." On the

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1 "Purchaser Copy"¹ of each check is a notation designating \$1,000 apiece for each of the three
2 elections.²

3 The available information also includes a letter from the Committee's treasurer addressed
4 to Robert B. Lichfield dated March 15, 2002. After thanking Mr. Lichfield for the contribution,
5 the letter said:

6 The strict laws of the Federal Election Commission state that no one can make a
7 contribution on behalf of someone else. However, the check was drawn on only one
8 account. Please confirm to us in writing that the \$3,000 contribution was from your
9 personal funds.

10
11 The letter provides fields for each Lichfield's signature and date. The completed fields contain
12 the signatures of all ten Lichfields dated March 20, 2002.

13 Loni Lichfield submitted a response to the complaint, stating a belief that she had
14 followed "the regulations of the FEC" in contributing \$1,000 for each of the three elections
15 involving John Swallow.³ Her response also states that the Swallow campaign assured her,
16 before her contributions, "that this would be within the regulations of the FEC." Attached to
17 Loni Lichfield's response was a "Receipt Transaction List," apparently from a Committee
18 database, that listed her contributions as \$1,000 for each of the convention, primary and general
19 elections.

20 **B. Analysis of contributions**

21
22 It appears from the official checks that Robert B. Lichfield paid for all \$30,000 of the
23 Lichfield contributions. Each of the ten Lichfields made their \$3,000 in contributions to the

¹ The Purchaser Copy closely resembles the check itself and appears to serve as a receipt.

² The Purchaser Copy of each check also contains a hand-written term that appears to be the occupation of the contributor: "student" (four individuals), "housewife" (three), "self-employed" (two) and "consultant" (one). These occupations do not exactly match the occupations of these contributors as disclosed by the Committee. *See infra*.

³ Loni Lichfield's response is undated and was received on December 23, 2002

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1 Committee through a \$3,000 official check listing Robert Browning Lichfield as the purchaser.

2 Aside from Mr. Lichfield's own contribution, there is no indication on the face of these
3 instruments that the funds are in fact those of the named contributor. The only relation these
4 official checks appear to have to the named contributors is the handwriting naming a Lichfield
5 contributor, e.g., "from: Loni Lichfield." Finally, that handwriting on all ten checks appears to
6 be that of the same person.

7 Paying for the contributions of others is prohibited by the Federal Election Campaign Act
8 of 1971, as amended ("the Act"), as is knowingly permitting one's name to be used to effect such
9 a contribution, and knowingly accepting such a contribution. *See* 2 U.S.C. § 441f.

10 Although the Committee obtained a statement apparently signed by all ten Lichfield
11 contributors that the contributions were made from their personal funds, the available
12 information does not explain or document how each Lichfield could have contributed \$3,000 of
13 their own funds if the official checks were all purchased by Robert B. Lichfield. Nor does the
14 information describe the source of funds used by Mr. Lichfield to purchase the official checks.
15 Thus, the available information indicates that Robert B. Lichfield may have made contributions
16 in the names of Loni Lichfield and the other eight Lichfields. *See* 2 U.S.C. § 441f. In addition,
17 Loni Lichfield and the other eight Lichfields may have permitted their names to be used to effect
18 such contributions. *See id.*

19 The possibility that Robert B. Lichfield paid for all \$30,000 of the Lichfield contributions
20 is consistent with the complaint's allegation that contributions were made in the names of eight
21 Lichfield "children." Despite this allegation in the complaint, neither the Committee's response
22 nor those of the Lichfields identify the ages of the Lichfields, much less address whether any
23 contributions by Lichfields under 18 were knowing and voluntary or whether they were "made

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1 from the proceeds of a gift, the purpose of which was to provide funds to be contributed.” *See*
2 11 C.F.R. § 110.1(i)(2)(i) and (iii). The contributions here were made with “official checks”;
3 each Lichfield contributor had the same address; none of the alleged Lichfield children made any
4 other contributions during the 2002 election cycle or any previous cycle, according to the
5 Commission’s contributor index; the contributions were all made on the same date as those by
6 Robert B. Lichfield, who contributed the maximum amount permissible to the Committee; and
7 the Committee disclosed the occupation of five of the eight purported Lichfield children as
8 “student.”⁴ All of these circumstances are often associated with contributions made through
9 minors. *See* MURs 4484 (Bainum), 4255 (Hitchcock), 4254 (Hershey), 4253 (Croopnick), 4252
10 (Baxter), 3268 (St. Germain).

11 In short, the facts indicate that Loni Lichfield may have knowingly permitted her name to
12 be used to effect Robert B. Lichfield’s contributions on her behalf. *See* 2 U.S.C. § 441f.
13 Further, to the extent Loni Lichfield was a minor, even if her contributions were not made by
14 Robert B. Lichfield, her contributions could still be attributable to him if the contributions were
15 not made knowingly and voluntarily by her. *See* 11 C.F.R. § 110.1(i)(2); MUR 4255
16 (Hitchcock).

17 Therefore, there is reason to believe that Loni Lichfield violated 2 U.S.C. § 441f.

⁴ The Committee disclosed the three remaining purported Lichfield children as self-employed consultants (two) and housewife (one).