



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 3, 1999

Paul Eisenberg, Treasurer
Friends for Harry Reid
116 Princeton Street
Las Vegas, NV 89107

RE: MUR 4941
Friends for Harry Reid and
Paul Eisenberg, as Treasurer

Dear Mr. Eisenberg:

On October 28, 1999, the Federal Election Commission found that there is reason to believe Friends for Harry Reid and you, as treasurer, violated 2 U.S.C. §§ 432(b)(1) and (c)(3), 434(b)(3)(A) and (E), and 434(b)(2)(G), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations 11 C.F.R. §§102.8(a), 104.3(a)(3)(vii)(B) and 104.8(a). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with responses to the enclosed questions and document request, within 30 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 and proceed with conciliation.

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

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

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Paul Eisenberg, Treasurer
MUR 4941
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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.

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

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jim Moye, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions and Document Request

cc: The Honorable Harry Reid (Cover Letter and Factual and Legal Analysis)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

) MUR 4941
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**INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENT**

TO: Paul Eisenberg, Treasurer
Friends for Harry Reid
116 Princeton Street
Las Vegas, NV 89107

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the document specified below, in its entirety, or a clear and legible copy thereof, on or before the same deadline.

1. Identify the fund raising representative who received, on behalf of Friends for Harry Reid, the \$100,000 loan from the candidate, Harry Reid, prior to the 1998 General Election, including the representative's most recent business and residence addresses and telephone numbers, the title or area of responsibility with Friends for Harry Reid prior to the 1998 General Election and the representative's present occupation or position. Please confirm that this individual was authorized to receive contributions on behalf of Friends for Harry Reid.
2. Provide the exact date, time and place and describe in detail the circumstances under which, the fund raising representative identified in response to No. 1 received the \$100,000 loan from the candidate, Harry Reid.
3. Provide a copy of the \$100,000 loan check from the candidate, Harry Reid.
4. Describe in detail the circumstances explaining why the exact date the fund raising representative received the \$100,000 loan check from the candidate, Harry Reid, was not timely forwarded to the treasurer of Friends for Harry Reid.

**FEDERAL ELECTION COMMISSION
FACTUAL & LEGAL ANALYSIS**

RESPONDENTS: Friends for Harry Reid and
Paul Eisenberg, as treasurer

MUR: 4941

I. Generation of Matter

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

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended ("the Act") defines "contribution" as including "any 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." 2 U.S.C. § 431(8)(A)(i). Further, a loan is considered a contribution at the time it is made. 11 C.F.R. § 100.7(a)(1)(i)(B).

Pursuant to 2 U.S.C. § 432(b)(1), "[e]very person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt." ¹ The date of receipt of such a contribution, for purposes of reporting, is the date the person (on behalf of the authorized campaign committee) obtains possession of the contribution. 11 C.F.R.

¹ This requirement is also in 11 C.F.R. § 102.8(a), which also provides for more provide extensive identification if the contribution is in excess of \$200.

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§ 102.8(a). Moreover, the treasurer of a political committee is required to keep an account of the identification of anyone who makes a contribution or contributions aggregating more than \$200 during the year, together with the date and amount of any such contribution. 2 U.S.C. § 432(c)(3); 11 C.F.R. § 102.9(a)(2).

Additionally, a Senate candidate's principal campaign committee, in an election year, must file a pre-election general report. 2 U.S.C. § 434(a)(2)(A)(i). The report must be filed no later than the 12th day before the election and must be complete as of the 20th day before the election. *Id.* Authorized campaign committees must disclose in such reports the total amount of all receipts, including loans made by or guaranteed by the candidate. 2 U.S.C. § 434(b)(2)(G). Committees receiving contributions during the reporting period in excess of \$200 are required to disclose the contributor's name, mailing address, occupation, employer, the date of receipt and amount of the contribution. 2 U.S.C. § 434(b)(3)(A); 11 C.F.R. § 104.8(a). The authorized committee of candidate is also required to disclose the identity of any person who makes a loan to the committee during the reporting period. 2 U.S.C. § 434(b)(3)(E); 11 C.F.R. § 104.3(a)(3)(vii)(B).

B. Factual Background

The 1998 30 Day Post-General Report filed by Friends for Harry Reid ("the Committee") disclosed a loan received on October 15, 1998, totaling \$100,000, from the incumbent candidate, Senator Harry Reid, for which it appeared that the Committee did not submit a 48 Hour Notice. On January 26, 1999, the Reports Analysis Division ("RAD") sent a Request for Additional Information ("RFAI") to the Committee. Among other things, the RFAI noted that the

Committee may have failed to file a 48 Hour Notice of the candidate loan.² The Committee responded to the RFAI on March 3, 1999, but did not specifically address the issue of the loan. The RAD referral materials further state that June 30, 1999, a RAD analyst spoke by telephone to the Committee Vice Treasurer, Janice Miller, who stated that the Committee did not file a 48 Hour Notice for the candidate personal loan because the Committee's fund raiser representative had received the loan check before October 15, 1998. Ms. Miller explained that the October 15, 1998 receipt date on the Post-General Report represented the date she obtained and deposited the check. According to Ms. Miller, the fundraiser did not tell her the actual date that he, on behalf of the Committee, received the check. The RAD analyst requested that Ms. Miller put this explanation into writing. By letter dated July 1, 1999 and sent by facsimile to the RAD analyst, Ms. Miller stated she had received the check on October 15th and that even though the check had been received before that date, she did not receive the actual receipt date from the fundraiser.

C. Analysis

As noted above, Harry Reid made a \$100,000 personal loan to his authorized committee, which was a "contribution" as defined by the Act. Based on the statements of the Committee's Vice Treasurer that the Committee received the check a few days before October 15, 1998, it appears that the Committee should have disclosed the candidate's contribution in the 12 Day Pre-General Report. By not doing so, it appears that the Committee may have violated 2 U.S.C.

² Under 2 U.S.C. § 434(a)(6) states "[t]he principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution."

§ 434(b)(2)(G). Moreover, by not obtaining the accurate date of receipt of the contribution from the fundraiser and by failing to keep an accurate account of this information, it appears that the Committee may have violated 2 U.S.C. §§ 432(b)(1) and (c)(3), 434(b)(3)(E), as well as 11 C.F.R. §§ 102.8(a), 102.9(a)(2) and 104.3(a)(3)(vii)(B). Finally, it appears that the Committee may have violated 2 U.S.C. § 434(b)(3)(A) and 11 C.F.R. § 104.8(a) by misreporting the date of the contribution in the Post-General Report.

Therefore, there is reason to believe that the Friends for Harry Reid and Paul Eisenberg, as treasurer, violated 2 U.S.C. §§ 432(b)(1) and (c)(3), 434(b)(3)(A) and (E), 434(b)(2)(G), and 11 C.F.R. §§ 102.8(a), 104.3(a)(3)(vii)(B) and 104.8(a).

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