



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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SENSITIVE

MEMORANDUM


TO: The Commission

JUL 23 2008

FROM: Thomasenia P. Duncan
General Counsel

Ann Marie Terzaken
Associate General Counsel
for Enforcement

BY: Julie Kara McConnell 
Assistant General Counsel

Tracey L. Ligon 
Attorney

SUBJECT: MUR 5726 (Jack Davis for Congress)

RE: Recommendation to Take No Further Action

I. INTRODUCTION

On June 26, 2008, the Supreme Court ruled that the Millionaires' Amendment, provisions of the Act which governed certain self-financed candidacies for Congress, is unconstitutional. *Davis v. FEC*, 554 U.S. ___, No. 07-320 (June 26, 2008). In light of this decision, we are recommending that the Commission take no further action with respect to the failure of Jack Davis for Congress and Robert R. Davis, in his official capacity as treasurer, and Jack Davis to disclose certain expenditures in compliance with the Millionaires' Amendment. 2 U.S.C. § 441a-1.

II. DISCUSSION

This matter involves the failure of Jack Davis for Congress and Robert R. Davis, in his official capacity as treasurer, and Jack Davis to file an initial FEC Form 10 disclosing the expenditure of personal funds in excess of \$350,000 and six additional Form 10s disclosing expenditures in excess of \$10,000, in violation of the Millionaires'

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Amendment. 2 U.S.C. § 441a-1. Based on these failures, the Commission found reason to believe, and subsequently probable cause to believe, that Jack Davis for Congress and Robert R. Davis, in his official capacity as treasurer, violated 2 U.S.C. §§ 441a-1(b)(1)(C) and 441a-1 (b)(1)(D) and 11 C.F.R. §§ 400.21(b) and 400.22(b), and that Jack Davis violated 2 U.S.C. §§ 441a-1 (b)(1)(C) and 441a-1(b)(1)(D). Respondents did not dispute that they violated the Act. Instead, they sued the Commission, challenging the constitutionality of the Millionaires' Amendment. *See Jack Davis v. Federal Election Commission*, No. 1:06CV01185 (D.D.C.).

In memorandums dated June 8, 2007 and September 26, 2007, we advised the Commission of our plans to hold this case in abeyance until the constitutionality of the Millionaires' Amendment was fully litigated, rather than to seek authority to file suit to enforce the Act [REDACTED]

[REDACTED] In light of the Supreme Court's ruling that the Millionaires' Amendment is unconstitutional, we recommend that the Commission take no further action with respect to Jack Davis for Congress and Robert R. Davis, in his official capacity as treasurer, and Jack Davis, and close the file.

III. RECOMMENDATIONS

1. Take no further action with respect to Jack Davis for Congress and Robert R. Davis, in his official capacity as treasurer.
2. Take no further action with respect to Jack Davis.
3. Approve the appropriate letters.
4. Close the file.