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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 6341

DATE COMPLAINT FILED: August 4, 2010

DATE OF NOTIFICATION: August 11, 2010

LAST RESPONSE RECEIVED: October 5, 2010

DATE ACTIVATED: November 2, 2010

EXPIRATION OF SOL: June 30, 2015 –
September 30, 2015

COMPLAINANT:

Elizabeth J. H. Morowati

RESPONDENTS:

Adams for Congress and Karen A. Rooks, in her
official capacity as treasurer
Eddie Adams, Jr.

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 431(8)(A)(i)
2 U.S.C. § 431(26)
2 U.S.C. § 434(b)(2)(G)
2 U.S.C. § 434(b)(3)(E)
2 U.S.C. § 441a(a)(1)
2 U.S.C. § 441a(f)
11 C.F.R. § 100.33
11 C.F.R. § 104.3(a)
11 C.F.R. § 110.10

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The complaint in this matter alleges that Eddie Adams, Jr., an unsuccessful primary candidate in Florida's 11th Congressional district, and his authorized committee, Adams for Congress and Karen A. Rooks, in her official capacity as treasurer ("the Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"), in connection with a June 20, 2010 \$50,655 loan that the Committee reported Adams made to his campaign.

1 Although the complaint does not cite any statutory or regulatory violations that the respondents
2 may have violated, it describes the loan as "suspicious" and "questionable" based on
3 complainant's own assessment of Adams's work history, publicly available information
4 concerning his assets, and the state of the economy. See Complaint at 1, 9. According to the
5 complaint, this assessment "begs two questions" – (1) how could Adams pay back the loan if it
6 came from a lender, or (2) if there was no lender, where did the funds come from – followed by
7 the suggestion that the sources may have been an "unincorporated PAC, a private individual or group
8 in a lump sum or bundled." *Id.* at 8-9.¹

9 In a joint response, Adams and the Committee state that Adams did not borrow the
10 money because he had the financial resources to make the loan, but the response does not
11 provide evidence of the amount of funds in Adams's personal bank account at the time Adams
12 made the loan. As discussed in more detail below, we recommend that the Commission exercise
13 its prosecutorial discretion and dismiss the complaint. Although the respondents did not provide
14 dispositive information that Adams had the personal financial resources to make the loan in
15 question, they assert he did, and the complaint's allegations, based on speculative and incomplete
16 information, are not sufficient to support an investigation. Moreover, Adams lost the election, he
17 has forgiven the remainder of the loan that the Committee has not paid back, and the Committee
18 has filed for termination. Finally, we recommend that the Commission close the file.

19

¹ The complaint also alleges that the Committee made misstatements about Adams's employment history on its campaign website, and that Adams included personal employment information on his U.S. House of Representatives federal financial disclosure statements (incorrectly referenced in the complaint as "FEC Financial Disclosure Statements") that did not appear on his website. Complaint at 5-6. Adams maintains that all of the information on his U.S. House Financial Disclosure Statements was accurate at the time of filing, and all of the information on his campaign website is correct. Response at 2. Since these allegations do not form the basis for a reporting or other FECA violation, we will not further address them in this Report.

1 **II. FACTUAL BACKGROUND**

2 According to the Committee's disclosure reports, Adams loaned his campaign
3 \$50,665.13 on June 20, 2010.² The complaint alleges that it is unlikely that a lender would lend
4 the funds to Adams because the housing market in Tampa, Florida, where Adams works as a
5 Residential Designer, has been negatively affected by unemployment and decreasing home
6 prices. According to the complaint, this likely caused Mr. Adams's business income and the
7 value of his home to decrease, and would preclude him from repaying a loan. *See Complaint* at
8 3-7. Likewise, the complaint questions whether Adams would have been able to make the loan
9 from his personal funds, alleging a number of factors, including:

- 10 • the \$50,665.13 loan is larger than the loans made by Adams to the Committee over the
11 three previous election cycles, which collectively totaled \$28,094;
12 • Adams reported decreasing amounts of income over the past four tax years, culminating
13 in reported income earnings of \$10,518 in 2009;
14 • Adams worked for several different architects over a short period of time, and after being
15 terminated from one position, collected unemployment benefits during the 2007 and 2008
16 tax years; and
17 • Adams had two default judgments rendered against him in 2009, and one final judgment
18 in 2008, totaling more than \$7,000. *See id.* at 3, 6-7.

19 In a joint response on behalf of himself and the Committee, Adams states that he did not
20 borrow money for his campaign. *See Response* at 2. He asserts that the bad housing market has
21 actually been good for his residential design business, which did well in 2010, because low
22 housing prices create a demand for home renovations. *Id.* According to Adams, his primary
23 financial resources have always been funds from his small business, income from his wife, and
24 "some of the resources" of his father. *Id.* He maintains that his father's estate is valued at over
25 \$1,000,000. *Id.* Adams also points out that he has loaned money to his campaign in each of the
26 last three election cycles, but that he has never borrowed money to make the loans; "we only

² See Committee 2010 July Quarterly Report at <http://query.nictusa.com/pdf/023/10931215023-10931215023.pdf#navpanes=0>.

1 spent what we had." *Id.* at 1, 2. The response includes a letter from the branch manager at
2 Adams's personal bank, SunTrust, who states that Adams had "balances...in excess of
3 \$100,000" with SunTrust on September 29, 2010. See Response, Attachment 1. Adams
4 concludes that "the big question here was could I afford to loan my campaign \$50,665.00. The
5 answer is yes I could." Response at 2.

6 On October 8, 2010, the Committee filed a Termination Report with the Commission in
7 which it reported \$0.00 cash on hand and \$0.00 in debts owed by the Committee. The
8 Committee included a letter from Adams stating that he forgave the outstanding loan balance,
9 which had been paid down by the Committee to \$35,297.36 at the time of the Report.³ The
10 termination request is pending the resolution of this matter.

11 **III. DISCUSSION**

12 The Act provides that no person shall make contributions to any candidate and his or her
13 authorized political committee with respect to any election for federal office which, in the
14 aggregate, exceed \$2,400, and candidate committees are prohibited from knowingly accepting
15 such excessive contributions. 2 U.S.C. § 441a(a)(1)(A); 2 U.S.C. § 441a(f). The term
16 "contribution" includes any "gift, subscription, loan, advance, or deposit of money or anything of
17 value made by any person." 2 U.S.C. § 431(8)(A)(i). Federal candidates may make unlimited
18 contributions from their personal funds to their campaigns. 11 C.F.R. § 110.10. Personal funds
19 include: amounts derived from assets that, under applicable State law, the candidate, at the time
20 of the candidacy, had legal right of access to or control over, and with respect to which the
21 candidate had legal and rightful title or an equitable interest; income received during the current
22 election cycle of the candidate, such as salary and other earned income from bona fide

³ See 2010 Termination Report, Letter from Eddie Adams, Jr. at <http://query.nictusa.com/pdf/301/-10030461301/10030461301.pdf#navpanes=0>.

1 employment; bequests to the candidate; dividends and proceeds from the sale of the candidate's
2 stocks or other investments; income from trusts established prior to the candidacy; and gifts of a
3 personal nature that had been customarily received by the candidate prior to the beginning of the
4 election cycle. 2 U.S.C. § 431(26); 11 C.F.R. § 100.33. All of the funds in joint bank accounts
5 held by candidates with others are generally treated as wholly available to the candidate. *See*,
6 e.g., MUR 3505 (Citizens for Ron Klink et al.) ("Generally, joint bank accounts are the
7 exception to the 'one-half interest rule' because each account holder has access and control over
8 the whole.").

9 In the joint response, Adams states that his "primary financial resources have always
10 been" the money from his small business, which purportedly did well in 2010, his wife's income,
11 and "some of the resources" of his father. Response at 2. The response could be interpreted as
12 saying that all of the money loaned to Adams's campaign came from his business earnings, a
13 joint bank account with his wife, and from recurring monetary gifts from his father, all perfectly
14 legal sources. However, the response also raises the possibility that Adams's wife may have
15 made excessive contributions to him from a separate bank account, or that Adams's father made
16 an excessive contribution to him that Adams then loaned to his campaign. *See* 2 U.S.C. § 441a.
17 There is no publicly available information indicating that either his wife or his father made
18 excessive contributions to Adams's campaign.

19 Without more information about Adams's access to either his wife's income or his
20 father's resources prior to the loan in question, we cannot be certain that the loaned funds were
21 Adams's personal funds. It is not probative that Adams's bank confirms that he had over
22 \$100,000 in his bank account as of September 29, 2010, or that his father's estate may be valued
23 at over \$1,000,000, given that Adams loaned the Committee \$50,665 on June 20, 2010, prior to

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1 the date of the proffered valuation of Adams's bank account and his father's death on July 14,
2 2010.⁴ However, we do not think it is worth the use of the Commission's limited resources to
3 investigate this matter. The complaint is largely speculative, and the complainant, who had no
4 access to Adams's 2010 earnings or his bank accounts, furnishes insufficient facts to infer that
5 the loan emanated from an undisclosed lender or that Adams did not have available personal
6 funds to make the loan. While Adams could have added certainty to this matter by providing his
7 bank records at the time of the loan, he was not required to disclose them in response to the
8 complaint. Nonetheless, Adams has denied that he borrowed the money, and asserts he had the
9 financial resources to make the loan. Adams, who lost the primary election, has forgiven the
10 portion of the loan that the Committee has not repaid, and the Committee has filed for
11 termination. Under these circumstances, we recommend that the Commission exercise its
12 prosecutorial discretion and dismiss the complaint in this matter, and close the file. *See Heckler*
13 *v. Chaney* 470 U.S. 821, 831 (1985).

14 **IV. RECOMMENDATIONS**

- 15 1. Dismiss the complaint as to Adams for Congress and Karen A. Rooks, in her
16 official capacity as treasurer.
- 17 2. Dismiss the complaint as to Eddie Adams, Jr.
- 18 3. Approve the attached Factual and Legal Analysis.
- 19 4. Approve the appropriate letters.
- 20

⁴ See May Funeral Homes Service Information, <http://goo.gl/LcG2g>; see also Meetup Announcement, <http://goo.gl/FSRJ>.

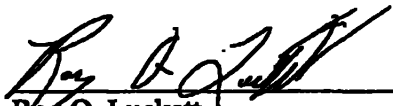
5. Close the file.

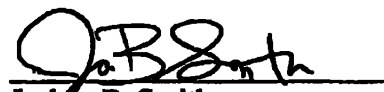
Christopher Hughey
Acting General Counsel

WLS

January 25, 2011
Date


Susan L. Lebeaux
Acting Deputy Associate General Counsel


Roy Q. Lockett
Acting Assistant General Counsel


Joshua B. Smith
Attorney

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