



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAR 21 2011

Elizabeth J.H. Morowati
P.O. Box 270489
Tampa, FL 33688

RE: MUR 6341

Dear Ms. Morowati:

On March 15, 2011, the Federal Election Commission reviewed the allegations in your complaint dated August 4, 2010, and on the basis of the information provided in your complaint and information provided by the respondents, the Commission dismissed this matter in an exercise of prosecutorial discretion and closed the file. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

Documents related to the case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and *Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record*, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's determination, is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8).

Sincerely,

Christopher Hughey
Acting General Counsel

BY: Roy Q. Lockett
Acting Assistant General Counsel

Enclosure
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

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

MUR: 6341

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Elizabeth J.H. Morowati, alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Eddie Adams, Jr. and Adams for Congress and Karen A. Rooks, in her official capacity as treasurer.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

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 Act in connection with a June 20, 2010 \$50,655 loan that the Committee reported Adams made to his campaign. Although the complaint does not cite any statutory or regulatory violations that the respondents may have violated, it describes the loan as "suspicious" and "questionable" based on complainant's own assessment of Adams's work history, publicly available information concerning his assets, and the state of the economy. See Complaint at 1, 9. According to the complaint, this assessment "begs two questions" – (1) how could Adams pay back the loan if it came from a lender, or (2) if there was no lender, where did the funds come from – followed by the suggestion that the sources may have been an "undeclared PAC, a private individual or group in a lump sum or bundled." *Id.* at 8-9.

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1 According to the Committee's disclosure reports, Adams loaned his campaign
2 \$50,665.13 on June 20, 2010.¹ The complaint alleges that it is unlikely that a lender would lend
3 the funds to Adams because the housing market in Tampa, Florida, where Adams works as a
4 Residential Designer, has been negatively affected by unemployment and decreasing home
5 prices. According to the complaint, this likely caused Mr. Adams's business income and the
6 value of his home to decrease, and would preclude him from repaying a loan. See Complaint at
7 3-7. Likewise, the complaint questions whether Adams would have been able to make the loan
8 from his personal funds, alleging a number of factors, including:

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

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

¹ See Committee 2010 July Quarterly Report at <http://query.nictusa.com/pdf/023/10931215023-/10931215023.pdf#navpanes=0>.

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

5 On October 8, 2010, the Committee filed a Termination Report with the Commission in
6 which it reported \$0.00 cash on hand and \$0.00 in debts owed by the Committee. The
7 Committee included a letter from Adams stating that he forgave the outstanding loan balance,
8 which had been paid down by the Committee to \$35,297.36 at the time of the Report.² The
9 termination request is pending the resolution of this matter.

10 **B. Analysis**

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

² See 2010 Termination Report, Letter from Eddie Adams, Jr. at <http://query.nictusa.com/pdf/301/-10030461301/10030461301.pdf#navpanes=0>.

1 stocks or other investments; income from trusts established prior to the candidacy; and gifts of a
2 personal nature that had been customarily received by the candidate prior to the beginning of the
3 election cycle. 2 U.S.C. § 431(26); 11 C.F.R. § 100.33.

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

14 Without more information about Adams's access to either his wife's income or his
15 father's resources prior to the loan in question, it is uncertain that the loaned funds were Adams's
16 personal funds. It is not probative that Adams's bank confirms that he had over \$100,000 in his
17 bank account as of September 29, 2010, or that his father's estate may be valued at over
18 \$1,000,000, given that Adams loaned the Committee \$50,665 on June 20, 2010, prior to the date
19 of the proffered valuation of Adams's bank account and his father's death on July 14, 2010.³
20 However, the Commission does not think it is worth the use of the Commission's limited
21 resources to investigate this matter. The complaint is largely speculative, and the complainant,
22 who had no access to Adams's 2010 earnings or his bank accounts, furnishes insufficient facts to

³ See May Funeral Homes Service Information, <http://goo.gl/LcG2g>; see also Meetup Announcement, <http://goo.gl/FSRJJs>.

1 infer that the loan emanated from an undisclosed lender or that Adams did not have available
2 personal funds to make the loan. While Adams could have added certainty to this matter by
3 providing his bank records at the time of the loan, he was not required to disclose them in
4 response to the complaint. Nonetheless, Adams has denied that he borrowed the money, and
5 asserts he had the financial resources to make the loan. Adams, who lost the primary election,
6 has forgiven the portion of the loan that the Committee has not repaid, and the Committee has
7 filed for termination. Under these circumstances, the Commission has determined to exercise its
8 prosecutorial discretion and dismiss the complaint in this matter, and to close the file. *See*
9 *Heckler v. Chaney* 470 U.S. 821, 831 (1985).

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