



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

Richard R. Morrison III

JUL 13 2007

Kemah, TX 77565

RE MUR 5922
Richard R. Morrison III

Dear Mr. Morrison

On June 28, 2007, the Federal Election Commission found that there is reason to believe that you violated 2 U S C § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. This finding was based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U S C § 437g(a)(2). The Factual and Legal Analysis, which more fully explains 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 including, but not limited to, bank and tax records showing a pattern of gifts from you and Mrs. Sheri Morrison to your son, Richard R. Morrison IV, or short-term interest bearing loans to Mr. Morrison from you and Mrs. Morrison and, in the latter case, Mr. Morrison's repayment of such loans. 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 and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U S C § 1519.

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 respondents.

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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.

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 Ruth Heilizer, the staff attorney assigned to this matter, at _____

Sincerely,



Robert D. Lenhard
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT: Richard R. Morrison III MUR: 5922**

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7 **I. INTRODUCTION**

8 This matter was generated by a Commission audit of the Richard Morrison Congressional
9 Committee ("RMCC"), the campaign committee of Richard R. Morrison IV ("the candidate" or
10 "Morrison"), pursuant to 2 U.S.C. § 438(b) of the Federal Election Campaign Act of 1971, as
11 amended ("the Act"). The audit covered the period from September 30, 2003 through December 31,
12 2004, and the Commission approved the Final Report of the Audit Division on March 7, 2007.¹
13 For the reasons set forth below, the Commission finds reason to believe that Richard R. Morrison III
14 ("Respondent") violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to RMCC.

15 **II. FACTUAL SUMMARY**

16 On October 8, 2004, \$100,000 was wired from an investment account of Respondent and his
17 wife to an account in the name of Respondent and Charlotte Morrison, the candidate's aunt. On
18 October 13, 2004, these funds were wired from this account to a business account of the candidate.
19 On October 29, 2004 and November 1, 2004, withdrawals of \$15,000 each were made from the
20 candidate's business account and deposited in the RMCC's account. On November 16, 2004,
21 RMCC repaid the candidate \$30,000 and on November 18, 2004, he transferred \$100,000 to
22 Respondent.

23 **III. ANALYSIS**

24 The Act prohibits any person from making contributions "to any candidate and his
25 authorized political committee with respect to any election for Federal office which, in the

¹ The Final Audit Report on RMCC is available at http://www.fec.gov/audits/audit_reports_auth.shtml#authorized

1 aggregate, exceed \$2,000 " 2 U S C § 441a(a)(1)(A) A contribution is any gift, subscription, loan,
2 advance, or deposit of money or anything of value made by any person for the purpose of
3 influencing any election for Federal office 2 U S C § 431(8)(A)(i) In addition, the Act prohibits
4 any candidate or political committee from knowingly accepting any contribution in violation of the
5 provisions of section 441a(a) 2 U S C § 441a(f) Any candidate who receives a contribution in
6 connection with his or her campaign shall be considered as having received such contribution as an
7 agent of his or her authorized committee 2 U S C § 432(e)(2)

8 Contributions from family members are subject to the limitations provided by the Act As
9 the Supreme Court stated in *Buckley v Valeo*, 424 U S 1 (1976) ("*Buckley*"), the legislative history
10 of the Act provided, "It is the intent of the conferees that members of the immediate family of any
11 candidate shall be subject to the contribution limitations established by this legislation The
12 immediate family member would be permitted merely to make contributions to the candidate in
13 amounts not greater than \$1,000 [or \$2,000 in 2004] for each election involved S Conf Rep No
14 93-1237, p 58 (1974), U S Code Cong & Admin News 1974, p 5627 " *Buckley* at 51, n 57 The
15 Court further stated, "Although the risk of improper influence is somewhat diminished in the case of
16 large contributions from immediate family members, we cannot say that the danger is sufficiently
17 reduced to bar Congress from subjecting family members to the same limitations as nonfamily
18 contributors " *Id* at 53, n 59 See, e g , MURs 5138 (Ferguson) and 5348 (Condon) (Commission
19 conciliated with candidate, committee and parents for the making and acceptance of excessive
20 contributions)

21 With certain exceptions, candidates for Federal office may make unlimited campaign
22 expenditures from personal funds 11 C F R § 110.10 For purposes of section 110.10, the
23 definition of "personal funds" includes, *inter alia*, salary and other earned income from *bona fide*

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1 employment, loans, and gifts of a personal nature which had been customarily received prior to
2 candidacy 11 C F R §§ 100 33(a)-(b), 100 52(a)

3 During the audit, RMCC maintained that the funds Morrison loaned to RMCC were his
4 personal funds Initially, RMCC took the position that the funds were a gift to Morrison from
5 Respondent and his wife and, therefore, constituted the candidate's personal funds, see 11 C F R
6 § 110 10, *supra* However, no specific information was submitted to support that the funds fit in the
7 category of "gifts of a personal nature customarily received prior to candidacy "

8 The Commission has focused on objective factors in determining whether a putative gift fits
9 into the category of "gifts of a personal nature customarily received prior to candidacy " For
10 example, in Advisory Opinion 1988-7, the Commission responded to an inquiry from an
11 "undeclared candidate" for a House seat in 1988 regarding his contribution of monetary gifts as
12 personal funds to his campaign The requester had received a gift of \$20,000 in each of the three
13 years 1985 through 1987, prior to his candidacy The requester believed that his parents would give
14 him another gift of \$20,000 during 1988 The requester asked whether he could contribute the
15 expected \$20,000 towards his campaign as "personal funds" even though he had not received the
16 gift prior to becoming a candidate and filing a Statement of Candidacy with the FEC

17 In the Advisory Opinion, the Commission concluded that, based upon the requester's
18 statements and because he was not a candidate for federal office in 1984 or 1986, the \$20,000 cash
19 gifts he had received for the years 1985 through 1987 appeared to be of a personal nature, rather
20 than made in anticipation of, or related to any campaign for, federal office Moreover, because the
21 receipt of \$20,000 per year from the requester's parents in 1985, 1986, and 1987 indicated a
22 "repetitious custom of monetary gifts," apparently without regard to the requester's possible
23 candidacy for federal office, the Commission concluded that another \$20,000 cash gift under similar

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1 circumstances during 1988 would be considered personal funds. Thus, the Commission looked at
2 the date the gifts began, the consistency in the amount, and the form of the gifts over a number of
3 years.

4 Here, no information has been provided concerning the amount, form, or timing of previous
5 gifts the Respondent and his wife may have made to Morrison—information which is essential in
6 determining whether similar gifts had customarily been received prior to candidacy. Further, the
7 fact that Morrison transferred \$100,000 to Respondent shortly after the election appears to undercut
8 any claim that the funds constituted a gift.

9 RMCC alternatively maintained during the audit that the \$30,000 at issue was composed of
10 the \$19,602 in the candidate's business account and a short-term interest-bearing loan of \$10,398
11 from Respondent. Once again, no information was submitted that would support this claim, and the
12 transfer back of \$100,000, with no apparent additional interest, to Respondent shortly after the
13 election appears to the claim that he had, in fact, made such a loan to RMCC. Moreover, it appears
14 that all the funds in Morrison's business account prior to the transfer of the \$30,000 were necessary
15 to pay other obligations of the business and thus were unavailable to be loaned to RMCC. In fact, it
16 appears that without the funds from Respondent and his wife, Morrison's business account would
17 have been overdrawn when the second \$15,000 loan was made to RMCC.²

18 Therefore, there is reason to believe that Richard R. Morrison III violated 2 U.S.C.
19 § 441a(a)(1)(A).

² Prior to the deposit of funds from the parents, Morrison's business account had a balance of \$19,602.