

Responses of John J. McConnell, Jr.
Nominee to be United States District Judge for the District of Rhode Island
to the Written Questions of Senator John Cornyn

- 1. In your questionnaire, you noted that “[p]ursuant to contractual arrangements with MRRM, P.A., which owns various assets and liabilities including attorneys’ fees arising from settled litigation, I anticipate receiving deferred compensation for work performed and completed of approximately \$2.5 million to \$3.1 million each year through 2024.”**

a. Please describe MRRM, P.A. What is its relationship to Motley Rice LLC?

Response: Response: MRRM, P.A. is a South Carolina professional association formerly known as Ness, Motley, Loadholt, Richardson & Poole, P.A. (among other names during that entity’s history). MRRM, P.A. was actively engaged in the practice of law until April 28, 2003, when my law partners and I left that firm and began the practice of law in Motley Rice LLC, a new South Carolina limited liability company. Ronald L. Motley and Joseph F. Rice have ownership control of both MRRM, P.A. and Motley Rice LLC.

i. What does MRRM, P.A. stand for?

Response: The name “MRRM, P.A.” is derived from the last names of its two shareholders, Ronald L. Motley and Joseph F. Rice, i.e., “Motley Rice Rice Motley.”

ii. What is the business address of MRRM, P.A.?

Response: MRRM, P.A.’s business address is 28 Bridgeside Blvd., Mt. Pleasant, SC 29464.

iii. What are its assets?

Response: MRRM, P.A. is not an operating entity. Its principal asset is anticipated fee income from tobacco litigation and some other small residual assets from when it was an operating entity.

iv. What is its purpose and function?

Response: MRRM, P.A. exists to own and manage various assets and liabilities. The entity has no employees and does not engage in the active practice of law.

v. Who is on its board of directors?

Response: Ronald L. Motley and Joseph F. Rice are the only directors of MRRM, P.A.

vi. Who manages the day-to-day affairs of MRRM, P.A.?

Response: Joseph F. Rice manages the minimal day-to-day affairs of MRRM, P.A.

vii. Are you currently in communication with any executives, directors, employees or agents of MRRM, P.A.? If so, please identify who, their position at MRRM, P.A. and the approximate content of the communication.

Response: Ronald L. Motley and Joseph F. Rice are my law partners at Motley Rice LLC, so I communicate regularly with them about a variety of matters. However, I am not involved in either the management or the day-to-day operations of MRRM, P.A.

2. Please describe the origin and structure of your compensation from MRRM, P.A. including the specific verdicts and/or settlements upon which this compensation is based.

Response: My compensation from MRRM, P.A. is sourced from a nominal interest in that entity's litigation costs that might be recovered in the future with respect to a variety of pending client matters in which MRRM, P.A. has a financial interest; and a deferred compensation arrangement which is funded solely by MRRM, P.A.'s future tobacco fee income arising from the state tobacco litigation settlements of the late 1990s pursuant to the Master Settlement Agreement.

a. Is this compensation contingent on any currently pending litigation? If so, please identify the case style and current procedural status.

Response: Almost all of my compensation from MRRM, P.A. is derived from settled and closed litigation, principally the tobacco Master Settlement Agreement. A very small portion of my total income from MRRM, P. A. – about \$100 in recent quarters – is derived from recovered litigation costs incurred by MRRM, P.A. prior to 2003 for the thousands of cases that were transferred to another firm and remain pending.

b. Could this compensation become dependent on any future litigation?

Response: No.

- b. Upon what else does the amount of your compensation from MRRM, P.A. depend?**

Response: The amount of my deferred compensation from MRRM, P.A. is dependent upon both the tobacco companies' financial ability to continue to pay the full amount of tobacco fees owed to MRRM, P.A. and MRRM, P.A.'s financial ability to continue to pay the full amount of deferred compensation owed to me.

- c. Is your deferred compensation held in a segregated account for your benefit, or is your future compensation dependent upon the overall financial health of MRRM, P.A.?**

Response: My deferred compensation from MRRM, P.A. is not held in a segregated account for my benefit. The amount of deferred compensation I will ultimately receive is dependent upon both the tobacco companies' financial ability to continue to pay the full amount of tobacco fees owed to MRRM, P.A. and MRRM, P.A.'s financial ability to continue to pay the full amount of deferred compensation owed to me.

- d. Could your deferred compensation become dependent upon the overall financial health of Motley Rice LLC?**

Response: No.

- e. Does MRRM, P.A. invest in any stocks, bonds, mutual funds, or other investment vehicles? If so, identify all such investments.**

Response: MRRM, P.A.'s deposit funds are invested in overnight repurchase agreements and mutual funds of U.S. Treasury securities.

- 2. Is any current or former employee of Motley Rice LLC receiving similar deferred compensation from MRRM, P.A.?**

Response: Yes.

- 3. Please provide the Committee with a copy of any agreement between you and MRRM, P.A.**

Response: Attached is the 2003 Employment and Compensation Agreement.

- 4. Please provide the Committee with any documents, communications, letters, emails or memoranda relating to your deferred compensation arrangement with MRRM, P.A.**

Response: The 2003 Employment and Compensation Agreement, which I have attached, is the only document. I have no other communications regarding it.

5. Please provide the Committee your severance agreement with Motley Rice LLC, or any other agreement that sets forth the terms of your departure from that firm.

Response: I do not have a severance agreement with Motley Rice LLC or any other agreement that sets forth the terms of my departure from that firm.

6. Did you, in any public statement or any official capacity, oppose any nominee to a federal judgeship? If so, please identify the date of such statement, its content, and the nominee that was the subject of the statement.

Response: No.

7. Did you make any monetary contributions to any political action committee or any other political organization for the purpose of opposing any nominee to a federal judgeship? If so, please identify the committee or organization, and the relevant nominee.

Response: No.

8. Please list all cases, during your tenure at Motley Rice LLC or predecessor firms, in which the firm was hired or otherwise engaged by one or more elected public officials?

Response: I undertook a diligent manual search in order to provide as complete an answer as possible, the results of which are attached as Attachment A.

9. Please list all cases responsive to question 9 in which Motley Rice LLC partners or employees, or the partners or employees of predecessor firms, donated (before or after the engagement) to the campaign of the elected public official or officials who hired or otherwise engaged the firm?

Response: My firm does not maintain a list of contributions by members or employees to elected public officials, and therefore I have no way to gather the information requested as it relates to members or employees. I have done a diligent and reasonable inquiry of the attorneys in the firm and am able to provide the following information.

My firm was retained by the State of Rhode Island by and through its then Attorney General Sheldon Whitehouse to represent the State in litigation against certain lead paint companies in 1999. According to Rhode Island Board of Elections files, I contributed \$2,000 in 1998 to Sheldon Whitehouse's 1998 campaign for Rhode Island Attorney General. In addition, although I cannot find a record of it, I do believe that Joseph F. Rice and I contributed to Governor Christine Gregoire's campaign for governor of the State of Washington.

10. On how many cases have you personally worked in which your firm was hired or otherwise engaged by one or more elected public officials?

Response: I have worked on all of the tobacco and lead paint cases listed on Attachment A.

11. Please list all cases responsive to question 11 in which you personally donated (before or after the engagement) to the campaign of the elected public official or officials who hired or otherwise engaged the firm?

Response: The Rhode Island lead-paint case and the State of Washington tobacco case.

12. At your hearing, you testified: “while I have contributed and supported and helped in campaigns, I don’t believe I’ve ever asked for anything. I don’t ask for White House tours, I don’t ask for Senate gallery seats, I just don’t ask for anything.”

a. Have you or your firm or partners or employees of your firm ever made a political contribution to an elected public official with the hope, expectation, or understanding that the individual receiving the donation would engage you or your firm for legal services? If so, for each instance, please list the individual who received the contribution, the name of each individual who provided the contribution and their position within your firm, the amount of each contribution, and the matter for which your firm was engaged for legal services.

Response: I have not and I am not aware that my firm, its partners or employees has.

b. Have you or your firm or partners or employees of your firm ever made a political contribution to an elected public official after your firm was engaged by that individual on behalf of a State to represent that State in litigation? If so, for each instance, please list the individual who received the contribution, the name of each individual who provided the contribution and their position within your firm, the amount of each contribution, and the matter for which your firm was engaged for legal services.

Response: I have not and, after having done a diligent inquiry of the attorneys and employees in the firm, I am not aware that anyone in my firm has. My firm does not maintain a list of contributions by members or employees to elected public officials.

13. Have you ever directly or indirectly suggested or encouraged employees of your firm to make political contributions? If so, please identify the candidates, campaigns, or Political Action Committees to which you suggested or encouraged donations.

Response: No.

- 14. Have you or your firm ever paid bonuses or other compensation to an employee in connection with the employee's making of certain political campaign contributions?**

Response: No.

- 15. Have you or your firm ever paid for independent political advocacy advertisements by entities not affiliated with a campaign committee? If so, provide a description of each advertisement and identify who sponsored each advertisement.**

Response: I have not and, after diligent inquiry, my understanding is that my firm has not done so.

- 16. Attached as Exhibit A is an August 2, 2000 memorandum from a Texas plaintiffs' law firm to Texas school board members lobbying the school board to join a lead-based paint remediation lawsuit that was headed by Ness Motley, predecessor to Motley Rice LLC and your firm at the time.**

- a. Do you believe that it is appropriate for a lawyer to solicit a school board as a client in a lead-based paint remediation lawsuit if the district is not aware whether district school buildings have lead-based paint and is not aware of any past remediation costs?**

Response: No.

- b. Do you believe that it is appropriate for a lawyer, in soliciting a school board as a client in a lead-based paint remediation lawsuit, to assure the district that if it recovers funds for lead-based paint remediation, those funds do not have to be spent on lead-based paint remediation, but may be placed in the general maintenance and operations fund and used for any appropriate purpose?**

Response: No.

- c. Did you or any attorneys with your firm help prepare the attached memorandum or the resolution attached thereto? If so, please identify who helped in the preparation.**

Response: I have never seen the memo that is Attachment A and know nothing about the circumstances of the preparation or distribution of this document. I made diligent inquiry of members of my firm and they advised that they also did not have any involvement with this memo.

- d. Have there been similar solicitations sent to other school board officials or other state and local government officials related to cases on which Motley Rice LLC or its predecessor firms worked? If so, to whom?**

Response: I made diligent inquiry of members of my firm and there have been no such similar solicitations.

- e. Do you agree with the memorandum's assessment that pursuing lead paint litigation on a contingency fee basis is a "win-win situation" for the school board?**

Response: No.

- 17. As part of your asbestos litigation practice, did you or your law firm ever directly or indirectly retain, work with, coordinate, communicate or collaborate with the following individuals: Dr. Ray Harron, Dr. Andrew Harron, Dr. James Ballard, Dr. Kevin Cooper, Dr. Glynn Hilbun, Dr. Todd Coulter, Dr. Barry Levy, Dr. George Martindale, and /or Dr. Allen Oaks? If so, please provide details including the matter, the relevant dates, and the nature of the retention, work, coordination, communication, or collaboration.**

Response: I did not. I have made diligent inquiry with my firm and have been advised that some of these doctors may have been involved as experts in some cases filed in Texas in which my law firm has also been involved.

- 18. As part of your asbestos litigation practice, did you or your law firm ever directly or indirectly retain, work with, coordinate, communicate or collaborate with the following asbestos screening companies known commonly as N&M, Inc., Respiratory Testing Services, Inc., and/or Healthscreen, Inc.? If so, please provide details including the matter, the relevant dates, and the nature of the retention, work, coordination, communication, or collaboration.**

Response: I did not. I have made diligent inquiry with my firm and have been advised that Healthscreen, Inc., may have been involved as experts in some cases.

ADDENDUM A
LIST OF LAWSUITS

Tobacco

Blaylock et al. v American Tobacco Co. et al,
Circuit Court, Montgomery County, No. CV-96-1508-PR

State of Alaska v. Philip Morris, Inc., et al, Superior Court, First Judicial District of Juneau, No. IJU-97915 CI (Alaska)

State of Hawaii v. Brown & Williamson Tobacco Corp., et al., Circuit Court, First Circuit, No. 97-0441-01 (Haw.)

State of Idaho v. Philip Morris, Inc., et al., Fourth Judicial District, Ada County, No. CVOC 9703239D (Idaho)

State of Iowa v. R.J. Reynolds Tobacco Company et al., Iowa District Court, Fifth Judicial District, Polk County, No. CL71048 (Iowa)

State of Kansas v. R.J. Reynolds Tobacco Company, et al., District Court of Shawnee County, Division 2, No. 96-CV-919 (Kan.)

Ieyoub v. The American Tobacco Company, et al., 14th Judicial District Court, Calcasieu Parish, No. 96-1209 (La.)

Commonwealth of Massachusetts v. Philip Morris Inc., et al., Middlesex Superior Court, No. 95-7378 (Mass.)

Kelley v. Philip Morris Incorporated, et al., Ingham County Circuit Court, 30th Judicial Circuit, No. 96-84281-CZ (Mich.)

State of Montana v. Philip Morris, Inc., et al., First Judicial Court, Lewis and Clark County, No. CDV 9700306-14 (Mont.)

State of New Jersey v. R.J. Reynolds Tobacco Company, et al., Superior Court, Chancery Division, Middlesex County, No. C-254-96 (N.J.)

State of New York et al. v. Philip Morris, Inc., et al., Supreme Court of the State of New York, County of New York, No. 400361/97 (N.Y.)

State of Ohio v. Philip Morris, Inc., et al., Court of Common Pleas, Franklin County, No. 97CVH055114 (Ohio)

State of Oklahoma, et al. v. R.J. Reynolds tobacco Company, et al., District court, Cleveland County, No. CJ-96-1499-L (Okla.)

State of Oregon v. The American Tobacco Co., et al., Circuit Court, Multnomah County, No. 9706-04457 (Or.)

Rossello, et al. v. Brown & Williamson Tobacco Corporation, et al., U. W. District Court, Puerto Rico, No. 97-1910JAF

State of Rhode Island v. American Tobacco Co., et al., Rhode Island Superior Court, Providence, No. 97-3058 (R.I.)

State of South Carolina v. Brown & Williamson Tobacco Corporation, et al., Court of Common Pleas, Fifth Judicial Circuit, Richland County, No. 97-CP-40-1686 (S.C.)

State of Utah v. R.J. Reynolds Tobacco Company, et al., U.S. District Court, Central Division, No. 96 CV 0829W (Utah)

State of Vermont v. Philip Morris, Inc., et al., Chittenden Superior Court, Chittenden County, No. 744-97 (Vt.) and 5816-98 (Vt.)

State of Washington v. American Tobacco Co. Inc., et al., Superior Court of Washington, King County, No. 96-2-1505608SEA (Wash.)

McGraw, et al. v. The American Tobacco Company, et al., Kanawha County Circuit Court, No. 94-17-7 (W. Va.)

Lead Paint

State of Rhode Island v. Lead Industries Assn. C.A. No 99-5229

In Re Lead Paint Litigation, Case Code: 702-MT, Superior Court of New Jersey

City of Cincinnati v. Sherwin-Williams et al., C.A. No. A0611226

City of Columbus v. Sherwin-Williams et al., 06CVH-16480

Ohio v. Sherwin-Williams et al., 07CVC-04-4857

City of East Cleveland v. Sherwin-Williams et al., CA No CV-06-602785

City of Athens v. Sherwin Williams, et al., C.A. No. 07CI136

City of Massillon v. Sherwin-Williams et al., C.A. No. 07 CV O1224

City of Canton v. Sherwin-Williams et al., C.A. NO. 06 CV 05048

City of Dayton, Ohio v. Sherwin-Williams, et al., C. A. No. 07 CV 12701

City of Cleveland v. Sherwin-Williams et al., C.A. No. CV-06-602785

City of Lancaster v. Sherwin-Williams et al., C.A. No. 06 CV 1055

City of Toledo v. Sherwin-Williams et al., C.A. No. G-4801-CI-200606040

City of Youngstown v. Sherwin-Williams, et al., C.A. No. 07-CV-1167

City of New York Housing Authority v. Lead Industries Assn., Index No. 14365/89, IAS Part 39

County of Santa Clara, et al. v. Atlantic Richfield Company, et al., Case No. CV 788657

Other

Kurikose v. Fed. Home Loan Mortgage Co., No. 1:08-cv-7281 (JFK) (S.D.N.Y); Motley Rice represents movant Richard H. Moore, as Treasurer of the State of North Carolina and as the Sole Trustee of the North Carolina Retirement Systems

Various individual asbestos cases on behalf of Bob Whittaker, Director, Division of Workers' Compensation Funds, Commonwealth of Kentucky Labor Cabinet

State of Oklahoma v. Tyson Foods, Inc., et al., 4:05-cv-00329-GKF-PJC, N.D. Okla.

In re: W.R. Grace & Co., et al., Case No. 01-01139 (JKF), D. Del. (Bankruptcy) - Claims No. 6937-6944 (State of Washington claims); Claims No. 6945-6947 (Port of Seattle claims); Claims No. 3405 (Fargo Housing and Redevelopment Authority claims).