



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 5 2004

Yimikaw Wickliffe
Executive Services International
One Chestnut Drive, Suite 92
Nashua, NH 03060

Re: MUR 5443 (www.johnfkerry-2004.com)

Dear Mr. Wickliffe:

On August 12, 2004, the Federal Election Commission notified you, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint and public information, the Commission, on October 27, 2004, found that there is reason to believe that you violated 2 U.S.C. § 441h(b) of the Act. The Factual and Legal Analysis, which formed a basis for 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. Please submit such materials to the General Counsel's Office along with your responses to the enclosed subpoena and written questions within 30 days of 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

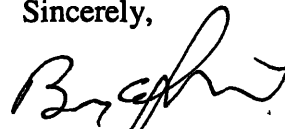
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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith
Chairman

Enclosures

Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: www.johnfkerry-2004.com
Yimikaw Wickliffe
Executive Services International
and/or Persons Unknown

MUR: 5443

I. INTRODUCTION

This matter was generated by complaint filed with the Federal Election Commission filed by John Kerry for President, Inc. (the "Kerry Committee"), the principal campaign committee of Senator John F. Kerry, the Democratic Party nominee for President of the United States. Complainant alleges that the website www.johnfkerry-2004.com, Yimikaw Wickliffe and Executive Services International (collectively, "Respondents") violated the Federal Election Campaign Act of 1971, as amended ("the Act") by fraudulently soliciting and collecting contributions through a website that Respondents claimed was authorized to solicit and collect contributions on behalf of the Kerry Committee. The evidence demonstrates that Respondents were not acting under the direction or with the permission of the candidates' authorized committee.¹ Accordingly, there is reason to believe that Respondents violated § 441h(b) of the Act.

¹ Respondents have gone to great lengths to hide their identities and we have been unable to verify that the persons named by complainant are the only persons responsible for the fraudulent solicitations. For this reason, we have included "Persons Unknown" as a Respondent to include any persons who are not yet known to the Commission who might have participated in this scheme to violate the Act.

II. FACTUAL AND LEGAL ANALYSIS

A. Background

John Kerry for President, Inc., the principal campaign committee for Senator John F. Kerry ("the Kerry Committee"), filed a complaint with the Commission alleging that a website located at <http://www.johnfkerry-2004.com> was fraudulently soliciting and collecting contributions by passing itself off as a website authorized by the Kerry Committee. The fraudulent website's content borrowed extensively from the actual authorized website of the campaign, located at <http://www.johnkerry.com>. The fraudulent website appropriated the official website's campaign logo and the content of the "John Kerry on the Issues" page of the authorized websites. Additionally, the fraudulent website falsely used the statement, "paid for and authorized by John Kerry for President, Inc. 2004." Finally, the fraudulent website solicited contributions and suggested those contributions would benefit Senator Kerry's campaign. The Home page of the site used the prominently displayed slogan, "Bring It On! Join Our Fight, Make a Contribution!" and linked this solicitation to a Contributions page, which permitted contributions to be made exclusively through two payment services -- e-gold Ltd. and e-Bullion.com.²

The web host for this unauthorized website, UnifiedNames.com, provided the name and address it has on file for the registered owner of the website. The owner of the site is identified as Yimikaw Wickliffe, Executive Services International, One Chestnut Drive, Suite 92, Nashua, NH 03060, email: _____ On August 12, 2004 the Commission sent a Notice of the complaint via Federal Express to Yimikaw

² e-gold Ltd. is a Nevis, West Indies company and e-Bullion is a registered corporate entity of the Republic of Panama.

Wickliffe and Executive Services International at the address provided by the Kerry Committee in the complaint. Federal Express was unable to deliver the Notice because it could not find the recipient at the address provided.³

The Commission was unable to locate a person named Yimikaw Wickliffe in New Hampshire or the United States; but, it did find a person by the name of Yimika Wickliffe who lives in Nigeria and maintains an email address and web page at on which he lists his occupation as "Network Administrator" involved in "web database design and programming." However, it remains unclear whether the Yimika Wickliffe in Nigeria is the owner/operator of the fraudulent website at issue.

There appears to be legitimate company named Executive Services International located in Nashua, NH, which does not seem to be associated with the fraudulent website, as it is not located at the address, telephone number or email address provided by the web host. The "legitimate" company has been registered with the Secretary of State in New Hampshire since 2000, maintains a website, address and telephone number, and is engaged in manufacturing and engineering. Further, internet searches of the name "Executive Services International," lead one to a different company named "virtual-offices-online.com," which is operated out of India and allows subscribers located all over the world to set up "virtual offices" so that they may have an address, telephone number and call center that appears to be located in the United States (including New Hampshire), but is actually owned and operated internationally.

³ While there is a One Chestnut "Street" in Nashua, NH 03060, which appears to be an office building at which Federal Express attempted delivery, neither the Suite number nor the address One Chestnut "Drive" provided by the web host exists.

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B. Analysis

1. Section 441h Violations

The Act prohibits the fraudulent solicitation of contributions. *See* 2 U.S.C. § 441h. Specifically, § 441h(b)(1) provides that no person shall fraudulently misrepresent that they are “speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations.” 2 U.S.C. §441h(b)(1). The Act also prohibits the “willful and knowing” participation or conspiracy to participate in any scheme designed to violate the prohibition of fraudulent misrepresentation in the solicitation of contributions or donations. 2 U.S.C. § 441h(b)(2).

Respondents fraudulently misrepresented in their website that they are either acting on behalf of or are the authorized agents of the Kerry Committee. For example, the website contained the statement, “Paid for and authorized by John Kerry for President, Inc.” Additionally, Respondents crafted their website pages to closely mirror communications sent by the authorized candidate committee, in a deliberate effort to mislead and confuse visitors to the site. In fact, Respondents copied several pages from the legitimate website operated by the Kerry Committee in an effort to make the fraudulent website look authentic. For example, the fake website appropriates the legitimate websites’ logo and the entire “John Kerry on the Issues” page.

Finally, the website solicits contributions, which Respondents falsely claimed would benefit the Kerry campaign committee. The solicitation contains numerous direct appeals for contributions, and includes the phrases, “Bring it On! Join Our Fight, Make a Contribution!” and “Contribute Today!” In fact, there is an entire Contribution page,

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which is almost identical to the legitimate site's page and which invites recipients to make contributions via two payment services -- e-gold and e-Bullion.

Complainants contend that Respondents' website was unauthorized and that none of the funds, if any, collected through the websites benefited the Kerry campaign. Thus, there is a prima facie case for reason to believe that Respondents misrepresented themselves and fraudulently solicited and collected contributions from visitors to the website. Accordingly, there is reason to believe that Respondents www.johnfkerry-2004.com, Yimikaw Wickliffe, Executive Services International and/or Persons Unknown have violated 2 U.S.C. § 441h(b) by fraudulently soliciting and collecting contributions.

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