

MAR 21 2006

BEFORE THE FEDERAL ELECTION COMMISSION

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SENSITIVE

In the Matter of

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

MUR 5443

www.johnkerry-edwards.org
and/or Persons Unknown

MUR 5495

http://testhost.yahoogoogole.biz/JohnKerry/ contribute.html
Nilesh Kothari,
and/or Persons Unknown

MUR 5505

The Rich Foundation, Inc.
Jeff Rich
Renee Jones
and/or Persons Unknown

MUR 5515

GENERAL COUNSEL'S REPORT # 2

I. ACTIONS RECOMMENDED

This Office recommends the Commission take no further action and close the files in

MURs 5443, 5495, 5505, and 5515.

II. BACKGROUND

MURs 5443, 5495, 5505, and 5515 all originated from complaints made by John Kerry for President, Inc. or Kerry-Edwards 2004, Inc. ("the Kerry Committees") alleging that certain persons or unknown persons in each matter were fraudulently soliciting money in violation of 2 U.S.C. § 441h(b) by representing themselves as somehow being connected with one of the Kerry Committees or Senator John Kerry.

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1 MURS 5443, 5495, and 5505 all involve fraudulent websites and/or emails. *See*
2 Combined First General Counsel's Report dated October 27, 2004. MUR 5515 involves a
3 telephone solicitation asking individuals to wire money to the caller in order to claim his/her
4 winnings in the Senator John Kerry Sweepstakes. *See* First General Counsel's Report dated
5 January 7, 2005. This Office has investigated all four MURs and has uncovered evidence
6 indicating that some of the respondents used fake or stolen identities in connection with these
7 schemes, and that the person or persons responsible for the fraudulent activity in each MUR are
8 located outside the United States.¹ After issuing subpoenas to Internet providers and contacting
9 relevant witnesses who interacted with respondents, this Office has been unable to confirm that
10 any of these schemes were successful in obtaining more than a nominal amount of funds (under
11 \$50) based on the misrepresented connection to the Kerry Committees or Senator John Kerry.²

12 Based on the circumstances described below, and following careful consideration of the
13 resources needed to further pursue respondents, known or unknown, outside the United States,
14 this Office recommends the Commission exercise its prosecutorial discretion to take no further
15 action and close the files in MURs 5443, 5495, 5505, and 5515. In each of these MURs, this
16 Office does intend to post information about the fraudulent activity on the FTC's Consumer

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² One reason the fraudulent website/email schemes were apparently so unsuccessful is that counsel for the complainant, the Kerry Committees, informed the webhost service providers of the schemes and were able to get the sites shut down before even filing their complaints with the Commission

Sentinel database. That is a database available to law enforcement agencies to post information regarding fraudulent activities to inform the public.

III. DISCUSSION

1. MUR 5443

On October 27, 2004, the Commission found reason to believe that www.johnfkerry-2004.com, Yimikaw Wickliffe, Executive Services International, and/or Persons Unknown violated 2 U.S.C. § 441h(b) in connection with allegations that the website, www.johnfkerry-2004.com, was fraudulently soliciting and collecting contributions by passing itself off as a website authorized by the Kerry Committee.³ See Combined First General Counsel's Report dated October 27, 2004.

a. Identity of Respondents

The investigation conducted by this Office, as described below, has led this Office to believe that Yimikaw Wickliffe, the person responsible for the violation in this matter, appears to be located in Nigeria. All attempts to notify Wickliffe of the complaint or the reason to believe findings in this matter have failed.⁴

³ The fraudulent website's content borrowed extensively from the actual authorized website of John Kerry for President, Inc. 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 solicits contributions and suggests these contributions will benefit Senator Kerry's campaign. The Home page of the site uses the prominently displayed slogan, "Bring It On! Join Our Fight, Make a Contribution!" and links this solicitation to a Contributions page, which permits contributions to be made exclusively through two payment services -- e-gold Ltd. and e-Bullion.com

⁴ In November of 2004, we discovered a cease and desist order against Yimikaw Wickliffe and Gold-Services-Investments, another apparent scam that was run using the name Wickliffe that had been posted online by the Pennsylvania Securities Commission. Contact with the Pennsylvania Securities Commission revealed that Gold-Services-Investments had the same business address as the address used to register the domain name www.johnfkerry-2004.com. The Pennsylvania Securities Commission served Yimikaw Wickliffe with the cease

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1 This Office's efforts to trace the domain name www.johnfkerry-2004.com revealed the
2 owner as Yimikaw Wickliffe, whose listed address is c/o Executive Services International, One
3 Chestnut Drive, Suite 92, Nashua, NH 03060, and whose email address is yimikaw@yahoo.com.
4 This Office contacted the owner of Executive Services International ("ESI"), Joe Litwin. Mr.
5 Litwin stated that ESI offered services for traveling executives that included a mailing address,
6 phone and fax service.⁵ Mr. Litwin did not recall having anyone by Mr. Wickliffe's name as a
7 client. Mr. Litwin also supplied this Office with a list of former ESI clients, which did not
8 include Mr. Wickliffe.

9 The ESI address in Nashua, NH was a commercial warehouse at which ESI rented a
10 mailbox from a company called Alternative Logistics. Contact with Alternative Logistics
11 revealed that it still had mail that had been delivered to ESI at the Suite 92 box. This included
12 mail addressed to Yimikaw Wickliffe. The Wickliffe mail included the two notices that had
13 been served by the Pennsylvania Securities Commission, an Internet magazine, and mail from a
14 company called Internet Listing Services Corp. ("ILS Corp.") soliciting Wickliffe to register his
15 domain name www.johnfkerry-2004.com through their company.⁶

16 b. Vendor Subpoenas

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18 Registerfly.com registered the domain name, www.johnfkerry-2004.com, and Yimikaw
19 Wickliffe had at least one Yahoo email address. E-Gold and E-Bullion are two companies that

and desist order on two different dates in September of 2003 at that address. They received no response from Wickliffe.

⁵ ESI is no longer in business.

⁶ The domain name was registered through Registerfly.com, but apparently ILS Corp. was attempting to solicit the registration away from Registerfly.com (a relatively common practice by domain registration companies).

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1 provide payment systems for use on websites. These two companies were listed by Wickliffe on
2 the site www.johnfkerry-2004.com as methods by which "contributions" might be made through
3 the website.

4 The Registerfly.com subpoena responses revealed that Wickliffe had registered at least
5 80 other domain names with Registerfly.com in addition to the www.johnfkerry-2004.com
6 domain. They also provided several credit card numbers and addresses used by Wickliffe to
7 register these various domain names. The address listed for the www.johnfkerry-2004.com site
8 was the same ESI address already obtained by this Office. They also provided a log of every
9 time Wickliffe had logged into his accounts, which revealed ongoing activity.

10 One of the addresses provided by Registerfly.com for Wickliffe was an address in Laurel,
11 MD. An OGC Investigator went to the address and located a company called Graphcard.com.⁷
12 Yimikaw Wickliffe had an account with Graphcard.com. The owner of the company provided
13 this Office with documents relating to Wickliffe. An account profile from Graphcard.com
14 reveals an address for Wickliffe (now using the first name Yomi) at

15 Lagos, Nigeria, 11111.⁸ Other information gathered over the
16 Internet has also provided the above address for Wickliffe.

17 The Yahoo subpoena responses provided additional email addresses for Wickliffe along
18 with the text of some emails, including an email exchange between Registerfly.com and

⁷ Graphcard.com is a company that provides pre-paid credit cards for use in making online purchases.

⁸ The profile also provides a cell phone number. Several attempts have been made to call this number, but all were unsuccessful.

1 Wickliffe regarding the transfer of the domain name www.johnfkerry-2004.com.⁹ The responses
2 also included the text of an email from the only confirmed contributor to the www.johnfkerry-
3 2004.com website.¹⁰ The Yahoo subpoena responses also provide the same Laurel, MD address
4 for Graphcard.com that was provided by Registerfly.com.

5 The E-Bullion subpoena responses reveal an account that was opened by Oluwayimika M
6 Wickliffe but never activated. The account information provides the same Nigeria address as
7 discovered in the subpoena responses above. There was no record of any actual financial
8 transactions for this account. Thus, there appear to have been no "contributions" to the website
9 through E-Bullion.

10 The E-Gold subpoena responses provide a list of accounts connected to Yimikaw
11 Wickliffe. Every account linked to the yimikaw@yahoo.com email address that is associated
12 with www.johnfkerry-2004.com is also linked to the same Nigeria address discussed above. The
13 E-Gold subpoena responses reveal that the only actual financial transactions involved a single
14 "contributor" to the www.johnfkerry-2004.com site and that person only transferred \$35. While
15 no name was provided for the contributor, this Office did attempt to contact that individual
16 through the email address used for the transaction. That email address
17 is no longer valid.¹¹

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¹⁰ That email exchange regarded whether the contributor had to go through the E-Gold link to contribute or could send a check or money order. Wickliffe responded that the contributor had to use the E-Gold link.

¹¹ An attempt was made to contact the holder of this account on April 8, 2005 via email. A mail router alert indicated that this address is now unavailable to receive mail.

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1 This Office has concluded that there is little likelihood of locating this individual in
2 Nigeria.

3 2. MUR 5495

4 On October 27, 2004, the Commission found reason to believe that www.johnkerry-
5 edwards.org, and/or Persons Unknown violated 2 U.S.C. § 441h(b) in connection with
6 allegations that the website, www.johnkerry-edwards.org was fraudulently soliciting and
7 collecting contributions by electronic mail and that the links in that fraudulent solicitation
8 directed recipients to a fraudulent website. Both the email and the website claimed that the
9 solicitation was authorized by the Kerry Committee and that funds collected would benefit
10 Senator Kerry. The registered owner of the website was Connie Bye. According to Ms. Bye,
11 she provided evidence that she
12 had been the victim of identity theft.¹² The Commission dismissed her as a Respondent in this
13 matter on October 27, 2004. See Combined First General Counsel's Report.

14 This Office has been unable to establish the actual owner of the fraudulent website,
15 www.johnkerry-edwards.org. The fraudulent emails that were sent linking to the
16 www.johnkerry-edwards.org site to collect contributions were captured by two different servers
17 called "honey pots."¹³ The emails in this matter were captured by a company called Proxypot

¹² She provided copies of documents confirming that her Bank One credit card number had been stolen and used by someone else to purchase this domain name. Her credit card number was stolen when she responded to a phony "E-Bay" email asking her to update her account.

¹³ A "honey pot" is a server set up to attract scam emails and capture them. The "honey pot" server is constructed to appear to be a server that will distribute the fraudulent email out over a wide distribution, but in fact, the honeypot captures the email and does not distribute it further. In addition, the honeypot captures the originating Internet protocol, or "IP" address of the sender.

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1 and by a company called Surf Control, an Internet security company. This Office was able to
2 obtain images of the fraudulent emails from both Proxypot and Surf Control.

3 Proxypot provided this Office with information revealing that the www.johnkerry-
4 edwards.org domain was registered through a company called Joker.com located in Germany.
5 This Office sent a subpoena to Joker.com in Germany, but that subpoena went unanswered.
6 Proxypot also identified the emails (based on the captured IP address) as coming from a
customer of PeterStar, a cable company in St. Petersburg, Russia. This Office did not send a
subpoena to PeterStar, because we were doubtful of receiving a response and could not even
provide a name to the company to search for in their records.

1 This Office has concluded that there is little likelihood of locating this individual in
2 Russia.

12 3. MUR 5505

13 On October 27, 2004, the Commission found reason to believe that
14 <http://testhost.yahoogoogle.biz/JohnKerry/contribute.html>, Niles Kothari and/or
15 Persons Unknown violated 2 U.S.C. § 441h(b) in connection with allegations that someone was
16 fraudulently soliciting and collecting contributions by electronic mail and falsely claiming that
17 they were authorized to make such solicitations by the Kerry Committee.¹⁴ An email solicitation
18 requested the recipient make a "secure contribution." The contribution link directed the potential
19 donor to a website located at <http://testhost.yahoogoogle.biz/JohnKerry/contribute.html>. See
20 Combined First General Counsel's Report dated October 27, 2004.
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¹⁴ It was originally believed that
However, it is now apparent that

was an individual, which is why it is listed as a Respondent.
is actually a city or town in India.

This Office has concluded that there is little likelihood of locating this individual in India.

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1 4. MUR 5515

2 On January 7, 2005, the Commission found reason to believe that The Rich Foundation,
3 Inc., Jeff Rich, Renee Jones, and/or Persons Unknown violated 2 U.S.C. § 441h(b) in connection
4 with allegations that Respondents fraudulently misrepresented themselves as acting on behalf of
5 Senator John Kerry for the purpose of soliciting funds. Respondents called a (a
6 witness in this case) on August 16, 2004 and informed her that she had won the Senator John
7 Kerry Sweepstakes. They told her that in order to collect her winnings, she had to go to a
Western Union office and wire several hundred dollars to an attorney connected with the
sweepstakes. See First General Counsel's Report dated January 7, 2005.

8 a. Identity of Respondents

9 This Office has been unsuccessful in locating Respondents and notifying them of the
10 complaint and findings in this matter. The only address available for Respondents was an
11 address provided on a fax sent to which she provided to Senator Kerry's office. The
12 address was in Kingston, Jamaica. The complaint notification was returned marked "not known
13 at address."¹⁵

14 b. Witness Information

15 In a telephone interview, provided the following details of her interaction with
16 Respondents. stated that she received a phone call at work on August 16, 2004 from a
17 man claiming that she had won the Senator John Kerry Sweepstakes. The man, who had a
18 Jamaican accent, informed her that in order to collect her winnings she had to go to Western
19 Union and wire a specified sum of money to an attorney in Jamaica connected with the
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¹⁵ Additional efforts to confirm this address proved unsuccessful.

1 sweepstakes. The caller provided with a Jamaican phone number to call after she had
2 wired the money.¹⁶ The man sent a fax that provided a Jamaican address and the name
3 of the entity, The Rich Foundation, Inc., and the names, Jeff Rich and Renee Jones.

4 provided this Office with copies of her employer's long distance bills showing
5 the calls to Jamaica. The telephone bill confirms that the numbers are located in Kingston,

6 Jamaica. The phone numbers provided on those bills (two different Jamaican numbers provided
7 to by Respondents) are no longer working numbers.

8 Approximately a month after the telephone interview, called this Office and
9 stated that the same man who had called her in August 2004 had just called her again still
10 claiming to represent the Senator John Kerry Sweepstakes. The number he was calling from was
11 again a number with a Jamaican area code. The man again tried to coax into wiring
12 \$500 via Western Union to claim her cash award. Attempts to contact or trace the phone number
13 that appeared on caller identification were unsuccessful.

14 This Office has concluded that there is little likelihood of locating these individuals in
15 Jamaica.

16 **IV. CONCLUSION**

17 In each of these matters, we believe the Commission has exhausted all available leads
18 within this country or in cyberspace for locating the individuals behind these fraudulent
19 solicitation schemes.

¹⁶ was suspicious, so she called the number the caller provided later that afternoon. She said the number was some sort of answering service that asked for a password, so she hung up. A few minutes later another man called her back and then transferred her to the first man that had initially called her. The man asked why she had not wired the money yet, and told him she wanted something in writing first.

1 Proceeding against these individuals or entities not located in the United States presents obvious
2 practical and resource-based difficulties – particularly where, as here, the precise locations and
3 identities of the respondents are unknown and the responsible persons are likely to be actively
4 evading detection. In an appropriate case, the Commission might wish to spend the resources to
5 locate offshore respondents. However, in three of these cases we have no reports of actual
6 pecuniary loss to anyone as a result of the fraudulent solicitations, and in one we have confirmed
7 that losses totaled less than \$50. Under these circumstances, we believe further pursuit of these
8 matters does not warrant further expenditure of the Commission's limited resources.

9 Nevertheless, we recognize the persons behind these schemes are likely involved in other
10 frauds not within the Commission's jurisdiction. Accordingly, we will report details of the
11 fraudulent schemes that occurred in the above four matters to the FTC's Consumer Sentinel
12 database, which will have the effect of notifying the FTC and other law enforcement agencies of
13 these fraudulent schemes.

14 Accordingly, this Office recommends that the Commission take no further action and
15 close the files in these matters.

16 **V. RECOMMENDATIONS**

17 **A. MUR 5443**

- 18 1. Take no further action against www.johnfkerry-2004.com, Yimikaw
19 Wickliffe, Executive Services International, and/or Persons Unknown;
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- 21 2. Close the file; and
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- 23 3. Approve the appropriate letters.
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1 B. MUR 5495

- 2 1. Take no further action against www.johnkerry-edwards.org, and/or Persons
3 Unknown;
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5 2. Close the file; and
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7 3. Approve the appropriate letters.
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9 C. MUR 5505

- 10 1. Take no further action against http://testhost.yahoogoogole.biz/JohnKerry/
11 contribute.html, Nilesh Kothari , and/or Persons Unknown:
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13 2. Close the file; and
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15 3. Approve the appropriate letters.
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17 D. MUR 5515

- 18 1. Take no further action against The Rich Foundation, Inc., Jeff Rich, Renee
19 Jones, and/or Persons Unknown;
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21 2. Close the file; and
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23 3. Approve the appropriate letters.
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Lawrence H. Norton
General Counsel

34 3/20/06
35 Date
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