



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEB 7 2011

VIA FAX (407-514-2698) and FIRST CLASS MAIL

Andrew L. Asher, Esq.
Andrew L. Asher, P.L.
4767 New Broad Street
Orlando, FL 32814

RE: MUR 6345
Chukwuemeka Christian "Chris" Nwasike;
Chris Nwasike for Congress and
Marcus Brooks, in his official capacity as
treasurer

Dear Mr. Asher:

On August 12, 2010, the Federal Election Commission notified your clients, Chukwuemeka Christian "Chris" Nwasike and Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On February 16, 2011, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Chukwuemeka Christian Nwasike and Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C. § 441i(d)(1), a provision of the Act. Also on this date, the Commission exercised its prosecutorial discretion and dismissed the allegation that Chukwuemeka Christian Nwasike violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii), and that Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C. §§ 441b and 441f. Accordingly, the Commission closed its file in this matter.

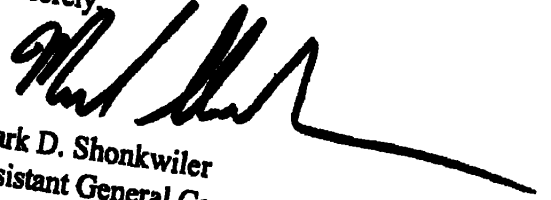
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Shonkwiler', with a long horizontal flourish extending to the right.

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR 6345

RESPONDENTS:

**Chris Nwasike for Congress and Marcus Brooks, in
his official capacity as treasurer**

Chukwuemeka Christian Nwasike

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Jerod Powers. *See* 2 U.S.C. § 437g(a)(1). This matter involves allegations that Florida 3rd Congressional district candidate Chukwuemeka Christian Nwasike¹ and his principal campaign committee, Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer, ("Nwasike Committee"), violated the Federal Election Campaign Act of 1971, as amended. Mr. Nwasike allegedly used his position as an organizer of a rally called Keep God in America ("KGIA") to instruct Joseph "Jay" Fields, the treasurer for the rally, to use funds from Biblical Concepts Ministries, Inc. ("BCM"), a nonprofit corporation involved with the rally, to make a \$2,000 payment to Mr. Fields' wife (and rally co-coordinator) Marianno "Jorgine" Fields, and that the proceeds were used to make a contribution to the Nwasike Committee later that same day. While Mr. Nwasike and the Fields contend the \$2,000 payment was legitimate compensation for services in connection with the rally, BCM contends that the payment was unauthorized and that its corporate funds were improperly funneled to Nwasike's political campaign.

¹ The complainant incorrectly spells Mr. Nwasike's last name as "Enwasike."

1 The complaint, which is very short and inartfully drafted, alleges that Mr.
2 Nwasike and the Nwasike Committee violated 2 U.S.C. § 441i(d)(1), which prohibits
3 political party committees from soliciting funds or directing donations to certain Section
4 501(c) non-profit organizations. However, the alleged facts can also be read to assert that
5 the \$2,000 contribution was a corporate contribution made in the name of another, in
6 violation of 2 U.S.C. §§ 441b(a) and 441f.

7 With respect to the alleged violation of section 441i(d)(1), the Commission found
8 no reason to believe that Chukwuemeka Christian Nwasike and Chris Nwasike for
9 Congress and Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C.
10 § 441i(d)(1). The basis for the no reason to believe finding is set forth below.

11 The Commission was evenly divided as to whether Chukwuemeka Christian
12 Nwasike, violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii); and as to
13 whether Chris Nwasike for Congress and Marcus Brooks, in his official capacity as
14 treasurer, violated 2 U.S.C. § 441b and 441f. The Commission voted 5-1 to exercise its
15 prosecutorial discretion, pursuant to *Heckler v. Chaney*, 470 U.S. 821, 831 (1985), and
16 dismiss allegations that Chukwuemeka Christian Nwasike violated 2 U.S.C. §§ 441f,
17 441b(a), and 11 C.F.R. § 110.4(b)(1)(iii); and that Chris Nwasike for Congress and
18 Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C. §§ 441b and 441f.
19 The Commission will issue a separate Statement of Reasons setting forth the basis for the
20 dismissal of these allegations.

21 **II. FACTUAL SUMMARY**

22 Mr. Nwasike was a candidate seeking to be elected to represent Florida's 3rd
23 Congressional District during the 2010 election cycle. His principal campaign committee

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1 was Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer
2 ("Nwasike Committee"). At the time of the filing of the Nwasike Committee's Statement
3 of Organization on May 17, 2010, its treasurer was Jay Fields who also served as
4 treasurer for the KGIA rally. Mr. Nwasike, BCM President Robert Johnson, and the
5 complainant, Jerod Powers, appear to have been the principal organizers of a March 26,
6 2010, Keep God In America ("KGIA") rally held in Jacksonville, Florida. BCM, a non-
7 profit corporation registered with the state of Florida, was the host of the KGIA rally. Jay
8 and Jorgine Fields were self-employed individuals who were assistant coordinators for
9 the KGIA event.

10 On April 28, 2010, the same day that Mr. Nwasike submitted his Statement of
11 Candidacy, Mr. Nwasike instructed Jay Fields, acting treasurer for the KGIA rally, to
12 write a \$2,000 check payable to his wife on a BCM corporate bank account. The BCM
13 check signed by Mr. Fields includes the notation that the payment was for "service
14 rendered." The Nwasike Committee reported receiving a \$2,000 contribution from Mr.
15 Fields on April 28, 2010, the same day that Mr. Fields wrote the BCM check payable to
16 his wife. See Complaint, last page of attachments. The Nwasike Committee's response
17 similarly indicates that it received the contribution check from Mr. Fields. Nwasike
18 Committee Response at 2, 3. For reasons that are unclear, however, the complaint asserts
19 that the contribution to the Nwasike Committee was from Mrs. Fields (the payee on the
20 BCM check). While the Fields' responses do not dispute the complaint's contention, and
21 Mrs. Fields seems to indicate that she made the contribution, the Fields do not
22 specifically address which of them wrote the actual contribution check, and we do not
23 have a copy of that check. See Responses. In any event, the Nwasike Committee

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1 refunded the contribution to Mr. Fields on June 30, 2010, and Mr. Fields was the
2 Committee treasurer at the time. *See* Nwasike Committee July 2010 Quarterly Report.

3 The Nwasike Committee claims that Mr. Nwasike was a BCM officer at the time,
4 and it asserts that the payment was duly authorized by BCM officers, although the
5 Committee does not identify these officers. *See* Nwasike Committee Response. The
6 Nwasike Committee argues that there is no evidence to support the allegation that it
7 violated 2 U.S.C. § 441i(d)(1) or that it and the other respondents agreed or conspired to
8 undertake "any activity in violation of Federal election law." The Committee further
9 contends that the \$2,000 contribution check to the Committee was drawn on the personal
10 account of Mr. Fields, a natural person and United States citizen, and was not excessive,
11 and thus was a legal contribution. The Nwasike Committee also alleges that the
12 complaint is based on groundless speculation and innuendo. Finally, Mr. Nwasike and
13 the Nwasike Committee ask that the Commission consider the small amount involved as
14 the basis for dismissing this matter as a matter of prosecutorial discretion.

15 BCM denies that Mr. Nwasike and Mr. Fields had the authority to pay \$2,000 to
16 Mrs. Fields. BCM President Johnson states that Mr. Nwasike influenced Mr. Fields, the
17 treasurer for the KGIA rally, to help him funnel funds from the non-profit ministry to his
18 political campaign without Johnson's knowledge. The Fields' responses indicate that
19 Mrs. Fields accepted the BCM check in order to make a contribution to the Nwasike
20 Committee. *See* Responses. Mrs. Fields states that after the March 26th rally, she and her
21 husband had consistently refused offers of payment for their expenses and services, but
22 she eventually took the pay authorized by Mr. Nwasike in order to contribute the funds to
23 Nwasike's campaign. *See* Jorgine Fields response. In addition, Mrs. Fields states that

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1 Mr. Nwasike returned the money to her, and she returned the money to KGIA. *Id.*
2 According to Mr. Fields, Mr. Nwasike wanted the Fields to have this money since they
3 had endured some financial hardships, so he instructed Mr. Fields to write a check to his
4 wife to "compensate us for our losses." *Id.*

5 Further, Mrs. Fields' second response states that "We did not handle the donation
6 to Chris Nwasike right, whether legal or illegal. We have been trusting that returning that
7 money took care of everything, and still are." See Jorgine Fields Supplemental Response.
8 Mrs. Fields also states, "I am older [than Nwasike], and need to be responsible to show
9 him the way and hold our actions accountable." *Id.*

10 **III. LEGAL ANALYSIS**

11 Section 441i(d)(1) prohibits certain types of activity by political party committees
12 and is inapplicable to the facts in this matter. Accordingly, the Commission found no
13 reason to believe that Chukwuemeka Christian Nwasike and Chris Nwasike for Congress
14 and Marcus Brooks, in his official capacity as treasurer, violated 2 U.S.C. § 441i(d)(1).

15 The Commission exercised its prosecutorial discretion, pursuant to *Heckler v.*
16 *Chaney*, 470 U.S. 821, 831 (1995), and dismissed allegations that (1) Chukwuemeka
17 Christian Nwasike assisted in the making of a corporate contribution in the name of
18 another in violation of 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii);
19 (2) Chris Nwasike for Congress and Marcus Brooks, in his capacity as treasurer,
20 knowingly accepted a corporate contribution made in the name of another in violation of
21 2 U.S.C. § 441f and 441b. The Commission will issue a separate Statement of Reasons
22 setting forth the basis for the dismissal of these allegations.