



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MAR - 1 2011

Norman Semanko, Esq.
Chief Counsel
Republican National Committee
310 First Street S.E.
Washington, D.C. 20003

RE: MUR 5472

Dear Mr. Semanko:

This is in reference to the complaint dated June 29, 2004, filed by your client with the Federal Election Commission ("Commission"). On March 6, 2009, the Commission filed a lawsuit in federal district court against Jody L. Novacek, Republican Victory Committee a/k/a Republican Victory 2004 Committee ("RVC"), BPO, Inc. and BPO Advantage, LP for violations of 2 U.S.C. §§ 441d(a), 441h(b)(1) and 441h(b)(2). On April 14, 2010, the district court entered an order of final judgment.

The district court held that 1) the defendant Novacek and Republican Victory Committee, Inc. knowingly and willfully violated 2 U.S.C. § 441h(b)(1) by fraudulently misrepresenting themselves as acting for, or on behalf, of a political party for the purpose of soliciting contributions; 2) Defendants BPO, Inc. and BPO Advantage, LP knowingly and willfully violated 2 U.S.C. § 441h(b)(2) by participating in Novacek and RVC's plan, scheme or design to fraudulently misrepresent themselves as acting for, or on behalf, of a political party for the purpose of soliciting contributions; and 3) Novacek and RVC violated 2 U.S.C. § 441d(a) and (c) by failing to include on their communications the required disclaimer information in the manner specific by the statute.

The district court awarded the Commission declaratory and injunctive relief, and ordered the Defendants to pay a joint and several civil penalty in the amount of \$47,414.15 for the violations of the fraudulent misrepresentation provisions of 2 U.S.C. § 441h(b) and the disclaimer provisions in 2 U.S.C. § 441d. In addition, the district court ordered that any contributions currently held by non-party Apex CoVantage, L.L.C. or its agents that were obtained in the solicitations made for RVC shall be turned over to the Commission for return to the contributors, if possible. If that was not possible, then any checks were to be destroyed and any cash was to be paid over to the Republican Party. A copy of the Final Judgment Granting Plaintiff's Motion for Summary Judgment is

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enclosed. On May 15, 2010, the defendants filed a notice of appeal to the Fifth Circuit. On September 16, 2010, the Fifth Circuit affirmed the district court's judgment.

On February 25, 2011, the Commission closed the file in MUR 5472 as to all respondents, and these matters are now public. 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).

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

Sincerely,



Mark D. Shonkwiler
Assistant General Counsel

Enclosure

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**IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FEDERAL ELECTION COMMISSION,

Plaintiff,

v.

JODY L. NOVACEK, REPUBLICAN
VICTORY COMMITTEE, INC., a/k/a
Republican Victory 2004 Committee, BPO,
INC., and BPO ADVANTAGE, LP,

Defendants.

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CIVIL ACTION NO. 3:09-CV-444-M

FINAL JUDGMENT

On April 14, 2010, the Court granted the Motion for Summary Judgment of Plaintiff the Federal Election Commission ("the Commission") on its claims against Defendants for violations of 2 U.S.C. §§ 441h(b)(1) and (2), 441d(a) and (c) [Docket Entry #35].

The Court therefore DECLARES that:

- (1) Defendant Novacek and the Republican Victory Committee, Inc. ("RVC") knowingly and willfully violated 2 U.S.C. § 441h(b)(1) by fraudulently misrepresenting themselves as acting for, or on behalf of, a political party for the purpose of soliciting contributions;
- (2) Defendants BPO, Inc. and BPO Advantage, LP knowingly and willfully violated 2 U.S.C. § 441h(b)(2) by participating in Novacek and RVC's plan, scheme or design to fraudulently misrepresent themselves as acting for, or on behalf of, a political party for the purpose of soliciting contributions; and
- (3) Novacek and RVC violated 2 U.S.C. § 441d(a) and (c) by failing to include on their communications the required disclaimer information in the manner specified by

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statute.

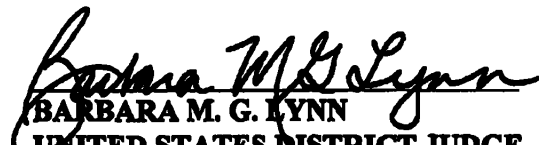
It is therefore ORDERED that Defendants Novacek, RVC, BPO, Inc. and BPO Advantage, LP are permanently enjoined from further violations of the Act similar to those found by the Court.

It is further ORDERED that Defendants are jointly and severally required to pay a civil penalty in the amount of \$47,414.15 for their violations of the fraudulent misrepresentation provisions in 2 U.S.C. § 441h(b) and the disclaimer provisions in 2 U.S.C. § 441d. This penalty reflects the Court's determination from the record that a total contribution amount of \$37,414.15 was involved in the violations of 2 U.S.C. § 441h(b). The Court finds that an amount comprised of one hundred percent of the contributions involved in those violations, together with \$5,000.00 for each of the two sets of solicitations made in violation of 2 U.S.C. § 441d, is an appropriate civil penalty under 2 U.S.C. § 437g(6)(A) and (B).

It is further ORDERED that any contributions currently held by non-party Apex CoVantage, L.L.C. or its agents that were obtained in the solicitations made for RVC shall be turned over to the Commission for return to the contributors, if possible. If that is not possible, then any checks shall be destroyed and any cash shall be paid over to the Republican Party. All relief sought but not granted herein is DENIED.

SO ORDERED.

April 14, 2010.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS

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