



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Chris Nwasike for Congress and Marcus Brooks, in his)
official capacity as Treasurer)
)
Biblical Concepts Ministries, Inc.)
)
Chukwuemeka Christian Nwasike)
)
Marianne "Jorgine" Fields)
)
Joseph "Jay" Fields)

MUR 6345

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STATEMENT OF REASONS

**Chair Cynthia L. Bauerly, Vice-Chair Caroline C. Hunter and
Commissioners Donald F. McGahn, Matthew S. Petersen and Steven Walther**

I. INTRODUCTION

On February 16, 2011, the Commission considered a motion to find reason to believe that Florida 3rd Congressional district candidate, Chukwuemeka Christian Nwasike ("Mr. Nwasike"), violated 2 U.S.C. §§ 441b(a) and 441f of the Federal Election Campaign Act of 1971, as amended ("Act") and 11 C.F.R. § 110.4(b)(1)(iii) of the Commission's regulations; and as to whether Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer ("Nwasike Committee"), violated 2 U.S.C. §§ 441b and 441f. The motion failed by a vote of 3-3.¹ The Commission then voted 5-1 to exercise its prosecutorial discretion and dismiss the allegation that Mr. Nwasike violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii), and that the Nwasike Committee violated 2 U.S.C. §§ 441b and 441f.² In addition, the Commission unanimously voted to exercise its prosecutorial discretion and dismiss the potential violations under 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii) with respect to Respondents Biblical Concepts Ministries, Inc. ("BCM"), Joseph "Jay" Fields, and Marianne "Jorgine" Fields. This Statement of Reasons sets forth the basis for these decisions.

¹ Chair Bauerly and Commissioners Walther and Weintraub voted in favor of the motion to find reason to believe. Vice-Chair Hunter and Commissioners McGahn and Petersen voted against the motion.

² Chair Bauerly, Vice-Chair Hunter, Commissioner McGahn, Commissioner Petersen, and Commissioner Walther voted in favor of the motion. Commissioner Weintraub voted against the motion.

In addition, as set forth in the separate Factual and Legal Analyses for Respondents Mr. Nwasike, Nwasike Committee, BCM, Mr. Fields, and Mrs. Fields, the Commission also found no reason to believe that Respondents violated 2 U.S.C. § 441i(d)(1).

II. FACTUAL AND LEGAL ANALYSIS

A. BACKGROUND

Chukwuemeka Christian Nwasike was a candidate seeking to be elected to represent Florida's 3rd Congressional District during the 2010 election cycle. His principal campaign committee was Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer ("Nwasike Committee"). ICM is a non-profit corporation registered with the State of Florida. Mr. Nwasike, BCM President Robert Johnson, and the complainant, Jerod Powers, appear to have been the principal organizers of a March 26, 2010, Keep God In America ("KGIA") rally held in Jacksonville, Florida. Jay and Jorgine Fields were self-employed individuals who were co-founders of the KGIA event. At the time of the filing of the Nwasike Committee's Statement of Organization on May 17, 2010, its treasurer was Jay Fields, who also served as treasurer for the KGIA rally.

On April 28, 2010, Mr. Nwasike instructed Jay Fields, acting treasurer for the KGIA rally, to write a \$2,000 check payable to his wife, Jorgine Fields, on a BCM corporate bank account. The BCM check signed by Mr. Fields includes the notation that the payment was for "service rendered." The Nwasike Committee reported receiving a \$2,000 contribution from Mr. Fields on April 28, 2010, the same day that Mr. Fields wrote the BCM check payable to his wife. On June 30, 2010, however, prior to the filing of the complaint, the Nwasike Committee refunded the contribution to Mr. Fields.

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

BCM denies that Mr. Nwasike and Mr. Fields had the authority to pay \$2,000 to Mrs. Fields. BCM President Johnson states that Mr. Nwasike influenced Mr. Fields, the treasurer for the KGIA rally, to help him funnel funds from the non-profit ministry to his political campaign without Johnson's knowledge.

The Nwasike Committee claims that Mr. Nwasike was a BCM officer at the time, and it asserts that the payment was duly authorized by BCM officers. The Nwasike Committee argues that there is no evidence to support the allegation that it and the other respondents agreed or conspired to undertake "any activity in violation of Federal election law." The Committee further contends that the \$2,000 contribution check to the Committee was drawn on the personal account of Mr. Fields, a natural person and United States citizen, and was not excessive, and thus was a legal contribution.

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The Fields' responses indicate that Mrs. Fields accepted the BCM check in order to make a contribution to the Nwasike Committee. Mrs. Fields states that after the March 26th rally, she and her husband had consistently refused offers of payment for their expenses and services, but she eventually took the money authorized by Mr. Nwasike in order to contribute the funds to Nwasike's campaign. According to Mr. Fields, Mr. Nwasike wanted the Fields to have this money since they had endured some financial hardships, so he instructed Mr. Fields to write a check to his wife to "compensate us for our losses." In addition, Mrs. Fields states that Mr. Nwasike returned the money to her, and she returned the money.

The General Counsel's Report recommended that the Commission find reason to believe that Mr. Nwasike violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii) by assisting in the making of a corporate contribution in the name of another; and that the Nwasike Committee violated 2 U.S.C. §§ 441b(a) and 441f by knowingly accepting a corporate contribution made in the name of another. The Report also recommended that the Commission take no action at this time with respect to Biblical Concept Ministries, Inc., Joseph "Jay" Fields, and Marianne "Jorgine" Fields. After the Commission split 3-3 on whether to find reason to believe, we voted to exercise our prosecutorial discretion and dismiss the allegations involving 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii) as to Mr. Nwasike; dismiss the allegations involving 2 U.S.C. §§ 441b and 441f as to the Nwasike Committee; and dismiss the potential violations under 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii) as to Biblical Concepts Ministries, Inc., Joseph "Jay" Fields, and Marianne "Jorgine" Fields.

B. LEGAL ANALYSIS

Under the Act, corporations are prohibited from making contributions from their general treasury funds in connection with any election of any candidate for Federal office. 2 U.S.C. § 441b(a). A candidate, political committee, or other person is prohibited from knowingly accepting or receiving any corporate contribution. *Id.* It is also unlawful for any officer or director of any corporation to consent to any contribution by the corporation. *Id.* Further, the Act prohibits a person from making a contribution in the name of another person, knowingly permitting his name to be used to effect such a contribution, or knowingly accepting a contribution made by one person in the name of another. 2 U.S.C. § 441f. The Commission's regulations also prohibit knowingly helping or assisting any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(1)(iii). These regulations explain that attributing a contribution to one person, when another person is the actual source of the funds used for the contribution, is an example of making a contribution in the name of another. *See* 11 C.F.R. § 110.4(b)(2)(ii).

The legal issues in this matter concern the disputed nature of the \$2,000 payment that Mr. Nwasike instructed Mr. Fields to make to Mrs. Fields. If the payment was legitimate compensation, the funds would be Mrs. Fields' personal funds that she could have used to make a contribution to the Nwasike Committee. On the other hand, the General Counsel's Report noted that the alleged facts also raise potential concerns that (1) Mr. Nwasike and his Committee knowingly accepted a corporate contribution in the name of another; (2) Mr. Nwasike, as a BCM officer, consented to and assisted in the making of a corporate contribution in the name of another; (3) BCM made a corporate contribution in the name of another; and (4) Mr. Fields

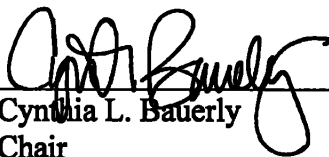
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allowed his name to be used to make a contribution in the name of another, and Mrs. Fields assisted him in doing so.


Given the relatively small amount of money involved, \$2,000, and the subsequent refund of the contribution by the Nwasike Committee prior to the filing of the complaint, the Commission voted 5-1 to exercise its prosecutorial discretion and dismiss the allegation that Mr. 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. For the same reasons, we also voted to exercise prosecutorial discretion and dismiss the potential violations under 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii) with respect to Biblical Concepts Ministries, Inc., Joseph "Jay" Fields, and Marianne "Jorgine" Fields.

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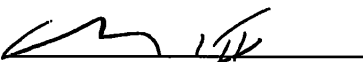
3/28/2011
Date


Cynthia L. Bauerly
Chair

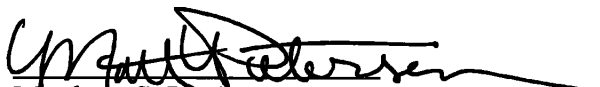
3/28/2011
Date


Caroline C. Hunter
Vice-Chair


3/28/11
Date


Donald F. McGahn II
Commissioner

3/28/11
Date


Matthew S. Petersen
Commissioner

3/28/11
Date


Steven Walther
Commissioner



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Chukwuemeka Christian Nwasike)	
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Marianne "Jorgine" Fields)	
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Joseph "Jay" Fields)	

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STATEMENT OF REASONS
Chair Cynthia L. Bauerly and Commissioner Steven Walther

This matter concerns allegations that Chukwuemeka Christian Nwasike ("Mr. Nwasike"), a former Congressional candidate in Florida's 3rd Congressional district, instructed Joseph Fields, the treasurer of a rally organized by Biblical Concepts Ministries, Inc. ("BCM"), to transfer \$2,000 from BCM to his wife, Marianne "Jorgine" Fields, so that Mrs. Fields could make a contribution to Mr. Nwasike's campaign committee.¹

On February 16, 2011, the Commission considered the General Counsel's recommendations to find reason to believe that Mr. Nwasike and Chris Nwasike for Congress and Marcus Brooks, in his official capacity as treasurer ("Nwasike Committee") knowingly accepted a corporate contribution made in the name of another and that Mr. Nwasike also knowingly assisted in the making of a corporate contribution in the name of another in violation of Sections §§ 441b and 441f of the Federal Election Campaign Act of 1971. Although we supported the General Counsel's recommendations, a motion to adopt these recommendations failed by a vote of 3-3.² Following that first vote, we then joined our colleagues in voting 5-1 to

¹See MUR 6345 (Nwasike), Complaint at 2.


²Chair Bauerly and Commissioners Walther and Weintraub voted in favor of the motion. Vice Chair Hunter and Commissioners McGahn and Petersen opposed the motion. MUR 6345 (Nwasike), Amended Certification dated March 4, 2011.

exercise prosecutorial discretion and dismiss the allegations as to Mr. Nwasike and his committee.³

We first voted with our colleague, Commissioner Weintraub, to find reason to believe that Mr. Nwasike assisted in the making of a corporate contribution in the name of another and that he and his committee accepted a corporate contribution made in the name of another. We share the view that § 441f violations are particularly troubling because they can represent circumvention of contribution limits and can undermine the important focus of the Act on disclosure.⁴ Given the serious nature of § 441f violations and the weight of the information in favor of these recommendations, reason to believe was warranted in this matter.

As explained in the Statement of Reasons regarding the Commission's dismissal,⁵ we next voted to dismiss this matter under *Heckler v. Chaney*, 470 U.S. 821, based on the unique circumstances presented here, including that there was only one contribution at issue, the relatively small amount of money involved (\$2,000), and the refund of the entire contribution by the Nwasike Committee prior to the filing of the complaint. Although we take seriously all allegations of violations stemming from contributions made in the name of another – hence our vote to find reason to believe – here we viewed a *Heckler* dismissal appropriate in light of the unique facts and circumstances present in this matter.

3/28/2011
Date


Cynthia L. Bauerly
Chair

3/24/11
Date


Steven Walther
Commissioner

³Chair Bauerly, Vice Chair Hunter, Commissioner McGahn, Commissioner Petersen, and Commissioner Walther voted in favor of a motion to dismiss with respect to the allegation that Mr. Nwasike violated 2 U.S.C. §§ 441b(a), 441f, and 11 C.F.R. § 110.4(b)(1)(iii), and that the Nwasike Committee violated 2 U.S.C. §§ 441b and 441f. Commissioner Weintraub voted against the motion.

⁴ See Statement of Reasons in MUR 6345 of Commissioner Ellen L. Weintraub, dated March 24, 2011.

⁵ See Statement of Reasons in MUR 6345 of Chair Cynthia L. Bauerly, Vice Chair Caroline C. Hunter, and Commissioners Donald F. McGahn II, Matthew S. Petersen and Steven Walther, dated March 28, 2011.

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