



Edwards Fights Campaign Finance Case

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:51 AM October 26, 2011

Steve Exum/Getty Images

John Edwards leaving court after his indictment in June.

The New York Times on October 25, 2011 released the following:

“By KIM SEVERSON

GREENSBORO, N.C. — Lawyers for John Edwards will head to federal court here on Wednesday to ask a judge to dismiss charges that he violated campaign finance laws by using money from two wealthy benefactors to support his pregnant mistress during his run for the presidency in 2008.

His lawyers contend that the government has exceeded the reach of federal election laws.

In a series of filings, Mr. Edwards, a former senator from North Carolina and the 2004 Democratic vice-presidential nominee, argued that the nearly \$1 million that was used to keep secret his relationship with Rielle Hunter, a campaign videographer with whom he had a daughter, came in the form of gifts — not campaign contributions.

Prosecutors argue that the payments were in fact campaign contributions because they were intended to help hide information that could damage Mr. Edwards politically. They also say Mr. Edwards filed false campaign reports to cover up the payments.

Mr. Edwards, 58, and his lawyers have argued that if the prosecutors' theory is upheld, then campaigns could use legal contributions “to pay for a candidate to conceal a mistress, conceal an unwed pregnant daughter and, one would imagine, even to pay for an abortion to hide evidence of an affair.”

The hearing here on Wednesday in Federal District Court for the Middle District of North Carolina is expected to last all day and offer a good preview of the aggressive legal chess game that Mr. Edwards is preparing to play if the charges are allowed to stand and the trial opens in January.

Mr. Edwards's lawyers will argue that prosecutors are using federal conspiracy laws incorrectly and that the entire case is a politically motivated abuse of prosecutorial discretion.

Allowing the trial to proceed would turn election law on its head, Mr. Edwards's



lawyers contend, making ambiguous for all candidates what does or does not count as a campaign contribution.

The theory is backed by Citizens for Responsibility and Ethics in Washington, a nonprofit organization founded to fight Congressional corruption that often serves as a counterpoint to more conservative watchdog groups.

Over objections by prosecutors, a federal judge this month allowed the group to file a brief that was critical of the charges.

Federal prosecutors, meanwhile, have complained about conflicts of interest on Mr. Edwards's legal team, which has been in flux. In August, Abbe Lowell, a lawyer who has represented several politicians, including former Senator John Ensign, Republican of Nevada, and who was the chief investigative counsel for House Democrats during the impeachment proceedings against President Bill Clinton, took over from a team that included a former White House counsel, Greg Craig.

Mr. Lowell had represented Lisa Blue-Baron, the widow of Mr. Edwards's national campaign finance chairman, Fred Baron, who was one of the two people who provided Mr. Edwards the money in question. Mr. Lowell assisted Mrs. Baron when she was interviewed by the F.B.I. in the case and later when she testified before the grand jury that indicted Mr. Edwards in June on six counts.

Mr. Edwards's legal team took another hit this month when Wade Smith, a longtime friend of Mr. Edwards and a prominent Raleigh lawyer who has been at the forefront of the case, stepped down. Early in the investigation, Mr. Smith had

conversations with a lawyer for Rachel Mellon, the 101-year-old banking heiress, known as Bunny, who provided as much as \$750,000 that was used in part to support Ms. Rielle.

Because of that, Mr. Smith could potentially be a witness in the case.

Defense lawyers have, in turn, been unhappy with the prosecution. They charged in court papers that the former United States attorney, George Holding, a Republican appointee of President George W. Bush who stayed on after the Democrats took the White House in 2008 to finish the Edwards case, was politically hostile to Mr. Edwards and pursued the case to further his political ambitions.

Mr. Holding recently resigned to run for Congress next year.

Prosecutors countered that the defense argument was based on “speculative political theories and unfortunate attacks” and that political motivations did not matter since other prosecutors at the Justice Department, including Lanny Breuer, an assistant attorney general appointed by President Obama, approved the indictment.

If convicted, Mr. Edwards faces a maximum penalty of 30 years in prison and \$1.5 million in fines.”

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The author of this blog is Douglas McNabb. Please feel free to contact him directly at mcnabb@mcnabbassociates.com or at one of the offices listed above.



U.S. Expected to Charge Executive Tied to Galleon Case

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:46 AM October 26, 2011

Douglas Healey for The New York Times
Rajat Gupta at his home in Westport, Conn., on Wednesday morning.

The New York Times on October 25, 2011 released the following:

“BY AZAM AHMED, PETER LATTMAN AND BEN PROTESS

Federal prosecutors are expected to file criminal charges on Wednesday against Rajat K. Gupta, the most prominent business executive ensnared in an aggressive insider trading investigation, according to people briefed on the case.

The case against Mr. Gupta, 62, who is expected to surrender to F.B.I. agents on Wednesday, would extend the reach of the government’s inquiry into America’s most prestigious corporate boardrooms. Most of the defendants charged with insider trading over the last two years have plied their trade exclusively on Wall Street.

The charges would also mean a stunning fall from grace of a trusted adviser to political leaders and chief executives of the world’s most celebrated companies.

A former director of Goldman Sachs and Procter & Gamble and the longtime head of McKinsey & Company, the elite consulting firm, Mr. Gupta has been under investigation over whether he leaked corporate secrets to Raj Rajaratnam, the hedge fund manager who was sentenced this month to 11 years in prison for trading on illegal stock tips.

While there has been no indication yet that Mr. Gupta profited directly from the information he passed to Mr. Rajaratnam, securities laws prohibit company insiders from divulging corporate secrets to those who then profit from them.

The case against Mr. Gupta, who lives in Westport, Conn., would tie up a major loose end in the long-running investigation of Mr. Rajaratnam’s hedge fund, the Galleon Group. Yet federal authorities continue their campaign to ferret out insider trading on multiple fronts. This month, for example, a Denver-based hedge fund manager and a chemist at the Food and Drug Administration pleaded guilty to such charges.

A spokeswoman for the United States attorney in Manhattan declined to comment.

Gary P. Naftalis, a lawyer for Mr. Gupta, said in a statement: “The facts demonstrate that Mr. Gupta is an innocent man and that he acted with honesty and integrity.”

Mr. Gupta, in his role at the helm of



McKinsey, was a trusted adviser to business leaders including Jeffrey R. Immelt, of General Electric, and Henry R. Kravis, of the private equity firm Kohlberg Kravis Roberts & Company. A native of Kolkata, India, and a graduate of the Harvard Business School, Mr. Gupta has also been a philanthropist, serving as a senior adviser to the Bill & Melinda Gates Foundation. Mr. Gupta also served as a special adviser to the United Nations.

His name emerged just a week before Mr. Rajaratnam’s trial in March, when the Securities and Exchange Commission filed an administrative proceeding against him. The agency accused Mr. Gupta of passing confidential information about Goldman Sachs and Procter & Gamble to Mr. Rajaratnam, who then traded on the news.

The details were explosive. Authorities said Mr. Gupta gave Mr. Rajaratnam advanced word of Warren E. Buffett’s \$5 billion investment in Goldman Sachs during the darkest days of the financial crisis in addition to other sensitive information affecting the company’s share price.

At the time, federal prosecutors named Mr. Gupta a co-conspirator of Mr. Rajaratnam, but they never charged him. Still, his presence loomed large at Mr. Rajaratnam’s trial. Lloyd C. Blankfein, the chief executive of Goldman, testified about Mr. Gupta’s role on the board and the secrets he was privy to, including earnings details and the bank’s strategic deliberations.

The legal odyssey leading to charges against Mr. Gupta could serve as a case study in law school criminal procedure class. He fought the S.E.C.’s civil action, which would have been heard before an administrative judge. Mr. Gupta argued that the proceeding denied him of his constitutional right to a jury trial and treated him differently than the other Mr. Rajaratnam-related defendants, all of

whom the agency sued in federal court.

Mr. Gupta prevailed, and the S.E.C. dropped its case in August, but it maintained the right to bring an action in federal court. The agency is expected to file a new, parallel civil case against Mr. Gupta as well. It is unclear what has changed since the S.E.C. dropped its case in August.

An S.E.C. spokesman declined to comment.

The case could be a challenge for the government. Many of the defendants convicted of insider trading, including Mr. Rajaratnam, have been caught on wiretaps swapping secret information.

At Mr. Rajaratnam’s trial, the government played a recorded conversation between Mr. Gupta and Mr. Rajaratnam in July 2008. On that call, Mr. Gupta divulged that Goldman was considering a purchase of either Wachovia or American International Group.

Evidence that Mr. Rajaratnam traded on this information was never presented, however.

Two of the most incriminating calls played in court pertained to tips that the government said had come from Mr. Gupta. But those calls were conversations between Mr. Rajaratnam and his employees, which could make them inadmissible in a trial of Mr. Gupta.

In one call played for the jury, Mr. Rajaratnam told a colleague, “I heard yesterday from somebody who’s on the board of Goldman Sachs that they are going to lose \$2 per share.” In the other, Mr. Rajaratnam said to his trader, “I got a call saying something good is going to happen to Goldman.”

The S.E.C.’s original case also outlined evidence that could potentially be used at trial. That includes Mr. Gupta’s phone records of on Sept. 23, 2008. That day, the Goldman board met via telephone to consider Mr. Buffett’s \$5 billion investment in Goldman.

“Immediately after disconnecting from the board call, Gupta called Rajaratnam from the same line,” the S.E.C. filing says. A minute later, Galleon funds bought more than 175,000 shares of Goldman just before the market closed, the agency says, and later netted a \$900,000 profit when the deal was announced.

Though he had an enviable résumé and earned millions of dollars a year at McKinsey, Mr. Gupta became fixated on the extraordinary wealth showered on hedge fund managers and private equity



The State Duma of the Russian Federation's Letter on Behalf of Viktor Bout

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:18 AM October 26, 2011

Viktor Bout

Dobroyeutro's Blog on October 26, 2011 released the following:

"Translated by Natasha Tenerezza

EDITED by skypotrol.net

The 5th State Duma of the Federal Assembly of the Russian Federation Deputy of the State Duma (2008-2011)

7th of October, 2011

To the Presiding Judge of The Southern District of the Federal Court of New York Shira Scheindlin

USA, District Judge Southern District of New York, United

States Courthouse, 500 Pearl Street, New York, 10007

Your Honor,

The parliamentarians of the highest body of legislative power of Russia, deputies of the State Duma of the Russian Federation are addressing you in the hope that your high professionalism, rich life experiences, independent thinking and attachment to humanitarian ideals will help you to preside objectively in the jury trial all the circumstances that had lead to our compatriot Victor Anatolyevich Bout from his arrest in Thailand and then to his extradition to the U.S.A., imprisonment and this trial.

The mere fact of his arrest, instigated by the secret services of the U.S.A., and then his extradition to the U.S.A., which was handled with gross violations of Thai law and international standards as well as a violation of human rights, makes us extremely concerned and worried about the further fate of Victor Bout, a Russian citizen.

V. Bout's court case is being made much worse by the U.S. media, which has portrayed him to the mainstream audience an absolutely false image of him as a greedy speculator, cynic, arms magnate and arms dealer with no principles, as well as being connected to such ominous organizations as the Taliban and Bin-Laden's creation, Al-Qaeda.

But in reality everything is the exact opposite. It is not a secret that Victor Bout's name is still on the Taliban and Al-Qaeda's black lists', because he was the major organizer and sponsor of a successful operation (held in August, 1996), which resulted in an impudent escape of a Russian crew of an IL-76 (civil cargo plane) from Taliban captivity which resulted in brining the aircraft safely back to the Russian airline in



Tatarstan. The aircraft and its crew were hijacked by the Taliban in May 1995, and were held for more than a year in an occupied territory close to Kandahar. Considering this context the campaign against Bout, started by the international media across the globe, looks like a premeditated action, organized in advance in order to discredit both a Russian citizen and Russia.

V. Bout's case, according to his lawyers, is based mostly on non proven facts, speculation, dubious allegations, doubtful evidence and unpersuasive accusations, that have been proclaimed in the media for almost 10 years as the truth. Therefore, the formation of a negative international public opinion about V. Bout has started years before the provocative DEA operation [Relentless], which resulted in his arrest.

Also, the thorough analysis, conducted by V. Bout's defense, of the United Nations' documents, showed that reports of expert groups of UNO Security Council to Angola, Sierra Leone and Somalia, where he was mentioned as "head of the biggest illegal arm trade network", in fact does not consist any proof of any unlawful activity by V. Bout and is based almost entirely on hearsay, that came from unreliable sources.

More than that, Russia finds that the mere operation against V. Bout is questionable. Victor Bout claimed to his lawyers many times that before the meeting in Bangkok he had no doubt that people he was going to meet, are not FARC members or their trustees. According to V. Bout, he thought that he is dealing with international swindlers.

Also it is very hard for Russians to understand why V. Bout is being charged for attempting to achieve an agreement in order to commit murders and other grievous crimes if in reality he was talking not to FARC, but to American paid informants [Fake FARC], who were trying to entrap him into unlawful activity. And it is even more difficult for Russian people to agree that the person is being charged based only on what he allegedly had said, considering that there is no solid evidence of the fact that he was really and

materially taking part in agreement.

Also, according to Russian law, similar to the law of most countries (including Thailand, where V. Bout was arrested), FARC is not a terrorist organization.

We ask that you pay special attention to the heavy conditions of V. Bout's imprisonment in Thailand and in the U.S.A., that are also violation's of human rights and international standards and that affect the physical and physiological health of our compatriot.

In the business community, among colleagues, friends and relatives of Victor Bout, they all think about him as an honest, respectable, moral and charitable man and law-abiding, responsible and a reliable businessman for many years.

Victor Bout was never sued in the Russian Federation. He is also an exemplary family man.

Deputies of the State Duma of the Russian Federation believe that there are political motives in this case and attempts of a certain group of people in the U.S.A. to imitate an attachment of this case to fight with international terrorism and by that to harm the Russian Federation interests and reputation, as well as agreements that were achieved earlier as part of "RESET" policy in the Russian-American relationships.

Announced recently by the leaders of our countries "RESET" in relation to the U.S.A. and Russia suppose implies behavior of mutual respect of both governments and the people of our countries', steadfast compliance with citizen rights of U.S.A. and Russia. Will this "RESET" come true de-facto or not that depends not only on the presidents of our countries, but also on each representative of every Branch of Government: the Executive, the Legislative, the Judicial.

American government is famous for independency and objectivism of judges' decisions. We hope that you will continue this honorable tradition and present to the trial jury all the details of the V. Bout's case impartially, objectively and dispassionately, and that that the jury will make their deliberations, fair and a humane verdict.

With due respect,

Deputies of the State Duma of Russian Federation
/signatures/

[Original Letter in Russian](#)

We would like to thank George Mapp @dobroyeutro for providing us the



U.S.

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chiefs, according to trial testimony. Consultants are well paid, but the compensation pales in comparison to those Wall Street titans.

Around the time of his retirement in 2007, he and Mr. Rajaratnam helped start New Silk Route, a private equity firm focused on investments in India. Though Mr. Rajaratnam never had an active role in the firm, he and Mr. Gupta were good friends, having met through their philanthropic interests.

Mr. Gupta periodically visited Mr. Rajaratnam's hedge fund, Galleon, on Madison Avenue and 57th Street in Midtown Manhattan. The two would order Indian or Chinese takeout and kibitz in Mr. Rajaratnam's office. Mr. Gupta became an investor in Galleon's hedge funds.

As part of his foray into Wall Street, Mr. Gupta took a senior adviser post at K.K.R., the firm co-founded by his friend Mr. Kravis. During Mr. Rajaratnam's trial, prosecutors played a tape of the hedge fund manager gossiping with a friend about Mr. Gupta's ambitions. "My analysis of the situation is he's enamored with Kravis, and I think he wants to be in that circle," Mr. Rajaratnam said. "That's a billionaire circle, right?"

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document.

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California-Based DFine Inc. to Pay U.S. More Than \$2.3 Million to Settle Claims That Company Paid Kickbacks to Physicians

(USDOJ: Justice News)

Submitted at 10:32 AM October 26, 2011

DFine Inc. of San Jose, Calif., has agreed to pay the United States \$2.39 million to resolve allegations under the False Claims Act that the company paid kickbacks to induce physicians to use certain of the company's devices that are used in treating spinal fractures.

U.S. v. Hitachi-LG Data Storage, Inc.

(Antitrust Division: Upcoming Public Hearings)

Submitted at 8:24 AM October 26, 2011

Initial appearance and arraignment on November 8, 2011 at 9:30 a.m. Pacific.