

DISTRICT COURT
DISTRICT OF N.H.
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

Cr. No. 04-

JAMES TOBIN

INDICTMENT

The Grand Jury charges that:

Count One
(Conspiracy to Violate 47 U.S.C. § 223(a)(1)(C))

The Object of the Conspiracy

1. From in or about October 2002 until on or about November 5, 2002, in the District of New Hampshire and elsewhere, the defendant, **JAMES TOBIN**, did knowingly, willfully, and unlawfully conspire, confederate, combine and agree with other individuals known and unknown to the Grand Jury, to commit an offense against the United States, to wit:

Making harassing telephone calls in interstate communication without disclosing the caller's identity and with intent to annoy and harass any person at the called number or who receives the communications.

Manner and Means of the Conspiracy

2. The manner and means through which the defendant, **JAMES TOBIN**, and his co-conspirators sought to accomplish the objective of the conspiracy included developing and implementing a plan in late October and early November 2002 to disrupt communications to five telephone numbers associated with the New Hampshire Democratic Party and one number associated with the Manchester Professional Firefighters Association on Election Day, November 5, 2002. They planned to accomplish the disruption by hiring a company to call those

six numbers repeatedly throughout the day and hang up with intent to annoy and harass the called persons. The conspirators thereby intended to disrupt these two organizations' efforts to encourage and assist citizens in exercising their rights to vote.

Overt Acts

3. In furtherance of the conspiracy, and to accomplish its objective, the defendant, **JAMES TOBIN**, and co-conspirators known and unknown to the Grand Jury committed and caused to be committed several overt acts, including the following, in the District of New Hampshire and elsewhere:

- a. In or about October 2002, Charles McGee, Executive Director of the New Hampshire State Republican Committee, informed the defendant, **JAMES TOBIN**, then the New England Regional Director of the Republican National Committee, that McGee wanted to hire a telephone services vendor to annoy and harass Democratic telephone volunteers on Election Day. McGee told the defendant, **JAMES TOBIN**, in substance, that he had been unable to identify a vendor to implement the telephone harassment plan;
- b. In or about October 2002, the defendant, **JAMES TOBIN**, knowing that McGee wanted to hire a vendor to annoy and harass Democratic telephone volunteers, provided McGee with contact information for Allen Raymond, a former colleague of Tobin's who operated a Virginia-based telephone services vendor called GOP Marketplace, and recommended that McGee call Raymond to seek his help with the described telephone harassment plan;
- c. On or about October 18, 2002, the defendant, **JAMES TOBIN**, called Raymond, explained McGee's telephone harassment plan to him, and told him in substance to expect a call from McGee;

d. In or about October 2002, McGee called Raymond, introduced himself as having been referred by the defendant, **JAMES TOBIN**, and enlisted Raymond's help in implementing the telephone harassment plan;

e. On or about November 4, 2002, McGee sent a check for \$15,600 drawn on the account of the New Hampshire Republican State Committee to GOP Marketplace as payment for placing hang-up calls to five Democratic "get out the vote" phone numbers and a Manchester Firefighters' "ride to the polls" phone number repeatedly throughout Election Day;

f. On or about November 4, 2002, GOP Marketplace tendered a check for \$2,500 to an Idaho-based telemarketing services vendor (the "vendor co-conspirator") to place the calls; and

g. On or about November 5, 2002, between approximately 7:45 a.m. EST and approximately 9:10 a.m. EST, the employees of the vendor co-conspirator called from Idaho the identified telephone numbers in New Hampshire, causing them to ring repeatedly and continuously, without disclosing their identity and hung up several hundred times.

All in violation of Title 18, United States Code, Section 371 and Title 47, United States Code, Section 223(a)(1)(C).

Count Two
(Aiding & Abetting Violation of 47 U.S.C. § 223(a)(1)(C))

4. The facts set forth in the previous paragraphs numbered 2 and 3 are hereby re-alleged as though set forth in full herein.

5. From in or about October 2002 until on or about November 5, 2002, in the District of New Hampshire and elsewhere, the defendant, **JAMES TOBIN**, did aid, abet, induce and procure the making of harassing telephone calls in interstate communication without

disclosing the caller's identity and with intent to annoy and harass persons at the called number and who received the communications.

All in violation of Title 18, United States Code, Section 2 and Title 47, United States Code, Section 223(a)(1)(C).

Count Three
(Conspiracy to Violate 47 U.S.C. § 223(a)(1)(D))

6. The facts set forth in the previous paragraphs numbered 2 and 3 are hereby re-alleged as though set forth in full herein.

7. From in or about October 2002 until on or about November 5, 2002, in the District of New Hampshire and elsewhere, the defendant, **JAMES TOBIN**, did knowingly, willfully, and unlawfully conspire, confederate, combine and agree with other individuals known and unknown to the Grand Jury, to commit an offense against the United States, to wit: to make or cause in interstate communications the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number.

All in violation of Title 18, United States Code, Section 371 and Title 47, United States Code, Section 223(a)(1)(D).

Count Four
(Aiding & Abetting Violation of 47 U.S.C. § 223(a)(1)(D))

8. The facts set forth in the previous paragraphs numbered 2 and 3 are hereby re-alleged as though set forth in full herein.

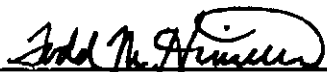
9. From in or about October 2002 until on or about November 5, 2002, in the District of New Hampshire and elsewhere, the defendant, **JAMES TOBIN**, did aid, abet, induce

and procure others in making or causing in interstate communications the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number.

All in violation of Title 18, United States Code, Section 2 and Title 47, United States Code, Section 223(a)(1)(D).

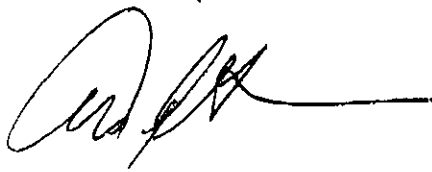
December 1, 2004

United States Department of Justice
Martha Stansell-Gamm, Chief
Computer Crime & Intellectual Property Section

By: 

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A True Bill



Grand Jury Foreperson