

OFFICE OF
GENERAL COUNSELBEFORE THE FEDERAL ELECTION COMMISSION
2018 FEB 20 PM 1:02

Mr. Bradley Beychok
American Bridge 21st Century Foundation
455 Massachusetts Avenue NW
Washington, DC 20001

Complainant,

MUR # 7319 Supplement

v.

Mr. Donald J. Trump
1600 Pennsylvania Avenue NW
Washington, DC 20500

Donald J. Trump for President, Inc.
725 Fifth Avenue
New York, NY 10022

Mr. Timothy Jost
c/o Red Curve Solutions
138 Conant St., 2nd Floor
Beverly, MA 01915

Mr. Michael Cohen
725 Fifth Avenue
New York, NY 10022

Essential Consultants LLC
160 Greentree Drive, Suite # 101
Dover, DE 19904

Respondents.

SUPPLEMENTAL COMPLAINT

On February 12, 2018, we filed a complaint under 52 U.S.C. § 30109(a)(1) against Mr. Donald J. Trump, 2016 presidential candidate and current President of the United States; Donald J. Trump for President, Inc. (FEC ID# C00580100), Mr. Trump's principal campaign committee (the "Committee"); Mr. Timothy Jost, in his official capacity of treasurer for Donald J. Trump for President, Inc., Mr. Michael Cohen, agent of Mr. Trump and Donald J. Trump for President, Inc.; and Essential Consultants LLC, a LLC established by Mr. Cohen (collectively, "Respondents") based on

information providing reason to believe that Respondents violated contribution limit restrictions and prohibitions and filed false and inaccurate reports, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), 52 U.S.C. § 30101, *et seq.* and Federal Election Commission (“FEC” or the “Commission”) regulations, in addition to conspiring to violate several provisions of the Act.

On February 13, 2018, additional facts came to light that confirmed that the payment to Ms. Stephanie Clifford was, in fact, made in October 2016 and that the payment was not from the Committee. This affirms that the payment -- unless funded by Mr. Trump directly -- was an illegal in-kind contribution from another entity, reinforcing our initial allegations and confirming what we suspected. As such, we file this supplemental complaint under 52 U.S.C. § 30109(a)(1) based on information providing reason to believe that Respondents violated contribution limit restrictions and filed false and inaccurate reports, in violation of the Act and FEC regulations, in addition to conspiring to violate several provisions of the Act.

I. FACTS

As stated in our original complaint, in 2006, Mr. Donald J. Trump engaged in an extramarital affair with Stephanie Clifford, an adult-film actor and director also known as Stormy Daniels, that lasted nearly a year.¹ Almost ten years after the end of Mr. Trump and Ms. Clifford’s affair, Mr. Michael Cohen arranged for a \$130,000 payment for Ms. Clifford “as part of an agreement that precluded her from publicly discussing an alleged sexual encounter with Mr. Trump.”² The payment was made in October 2016, directly before the 2016 general election.³

¹ Michael Rothfeld & Joe Palazzalo, *Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence*, WALL. ST. J. (Jan. 12, 2018), <https://www.wsj.com/articles/trump-lawyer-arranged-130-000-payment-for-adult-film-stars-silence-1515787678>; Jacob Weisberg, *Stormy’s Story*, SLATE (Jan. 16, 2018), <https://slate.com/news-and-politics/2018/01/did-donald-trump-pay-porn-star-stormy-daniels-to-keep-quiet-about-an-affair.html>.

² Rothfeld & Palazzalo, *supra* note 1.

³ *Id.*

On February 13, 2018, the New York Times reported that Mr. Cohen admitted to making the \$130,000 payment to Ms. Clifford.⁴ This report confirms that the formerly alleged payment to Ms. Clifford is now established as fact by the involved parties. Moreover, Mr. Cohen explicitly stated that “[n]either the Trump Organization nor the Trump campaign was a party to the transaction with Ms. Clifford,” meaning that this payment, unless funded by Mr. Trump directly, was a clear illegal in-kind contribution by another entity. Notably, Mr. Cohen did not state whether the funds came directly from Mr. Trump.⁵ He also refused to answer whether Mr. Trump had been aware of the payment or whether Mr. Cohen had made similar payments to others over the years.⁶

By discussing the matter on the record, it can be inferred that Mr. Trump authorized Mr. Cohen to speak about this matter publicly. In doing so, Mr. Trump waived attorney-client privilege on this subject matter for all future investigations. In general, attorneys have a broad duty of confidentiality to their clients.⁷ However, if a client voluntarily discloses a matter to a third party, the client has permanently waived attorney-client privilege on the matter.⁸ Thus, as this situation is investigated further, Mr. Trump will no longer be able to claim attorney-client privilege when discussing the payment and the surrounding circumstances.

II. LEGAL ARGUMENT

As articulated in our original complaint, the timing and circumstances of the payment proves that it was motivated entirely by the election for the direct benefit of Mr. Trump and the Committee. As such, if made directly by Mr. Cohen, or funded by someone other than Mr. Trump, it was an illegal excessive in-kind contribution to the Committee.⁹ And, regardless of the initial source of the funds, the Committee failed to accurately report the in-kind contribution, in blatant disregard of

⁴ Maggie Haberman, *Michael D. Cohen, Trump's Longtime Lawyer, Says He Paid Stormy Daniels Out of His Own Pocket*, N.Y. TIMES (Feb. 13, 2018), <https://www.nytimes.com/2018/02/13/us/politics/stormy-daniels-michael-cohen-trump.html>.

⁵ *Id.*

⁶ *Id.*

⁷ See Mod. Rules Prof. Cond. R. § 1.6.

⁸ See, e.g., *United States v. Jones*, 696 F.2d 1069, 1072 (4th Cir. 1982).

⁹ 52 U.S.C. §§ 30116(a)(1)(A), 30125(e)(1)(A).

federal law ¹⁰ Finally, given the continued unanswered questions and possible involvement of Mr. Trump, there continues to be a possibility that Respondents conspired to receive and spend funds in excess of the contribution limits and to submit false, inaccurate FEC reports in direct violation of 52 U.S.C. § 30125(e) and 52 U.S.C. § 30104.

III. REQUESTED ACTION

As we have shown, there is a strong possibility that the Respondents have violated federal law by conspiring to violate federal campaign finance law and directly violating the contribution limit restrictions and the reporting requirements of the Act. Complainant respectfully requests that the Federal Election Commission promptly investigates these violations, fines the Respondents the maximum amount permitted by law, and refers any relevant violations to the Department of Justice for criminal prosecution, as deemed appropriate.

Sincerely,

Mr. Bradley Beychok
American Bridge 21st Century Foundation

SUBSCRIBED AND SWORN to before me this 15th day of February, 2018.

Notary Public

My Commission Expires:

11-30-2021



¹⁰ Id. § 30104.