

## BEFORE THE FEDERAL ELECTION COMMISSION

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2018 APR 16 AM 11:42

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

MUR # 7366*Complainant,*

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

American Media, Inc.  
 4 New York Plaza  
 New York, NY 10004

Mr. David Pecker  
 American Media, Inc.  
 4 New York Plaza  
 New York, NY 10004

*Respondents.*OFFICE OF  
GENERAL COUNSEL

2018 APR 17 PM 1:16

## COMPLAINT

In recent weeks, the American public has been inundated with headline after headline alleging that Mr. Donald Trump, Mr. Michael Cohen, American Media, Inc, and others

conspired to keep multiple individuals from speaking out about alleged affairs and rumors about Mr. Trump prior to the 2016 general election. These articles appear to confirm that Mr. Trump, Mr. Cohen, American Media, Inc. ("AMI"), and the other Respondents (defined below), readily paid off these individuals to silence them just prior to the November election. And on April 10, 2018 -- just a day after the FBI raid of Mr. Cohen's office and hotel -- the New York Times confirmed that the raid was conducted, in part, to look for records about payments to Ms. Karen McDougal and Ms. Stephanie Clifford,<sup>1</sup> two women who claim to have had affairs with Mr. Trump, and to look for records about the role of American Media, Inc in quieting Ms. McDougal.<sup>2</sup> Moreover, on April 12, 2018, the Associated Press confirmed that AMI also paid off a former doorman at one of Mr. Trump's buildings to silence a rumor about Mr. Trump fathering a child with an employee at Trump World Tower.<sup>3</sup>

Though Mr. Trump, Mr. Cohen, and AMI deny any wrongdoing, the actions of the FBI and surrounding stories clearly indicate that there is more to this story. If Mr. Trump, Mr. Cohen, and AMI successfully paid off two individuals, how many others have been paid off? And, who else did AMI payoff for Mr. Trump?

The complainant files this 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; Mr. Timothy Jost, in his official capacity of treasurer for Donald J. Trump for President, Inc.,

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<sup>1</sup> On February 12, 2018, we filed a complaint with the Federal Election Commission alleging similar violations in connection with the payment made to Ms. Stephanie Clifford, as amended by Supplemental Complaint dated February 15, 2018 and Second Supplemental Complaint dated March 8, 2018. See attached hereto as Exhibit A (hereinafter, "Clifford Complaint").

<sup>2</sup> Michael D. Shear, Matt Apuzzo, & Sharon LaFraniere, *Raids on Trump's Lawyer Sought Records of Payments to Women, N.Y. TIMES* (Apr. 10, 2018), <https://www.nytimes.com/2018/04/10/us/politics/trump-russia-mueller-rosenstein.html?smid=tw-share>.

<sup>3</sup> Jake Pearson & Jeff Horwitz, *\$30,000 Rumor? Tabloid Paid for, Spiked, Salacious Trump Tip*, ASSOC. PRESS (Apr. 12, 2018), [https://www.apnews.com/f37ecfc4710b468db6a103a245146172?utm\\_campaign](https://www.apnews.com/f37ecfc4710b468db6a103a245146172?utm_campaign).

Mr. Michael Cohen, agent of Mr. Trump and Donald J. Trump for President, Inc.; American Media, Inc.; and Mr. David Pecker, Chairman and CEO of American Media, Inc. (collectively, “Respondents”) based on information providing reason to believe that Respondents violated contribution 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, as described below.

Based on publicly available published reports from reputable news agencies, a complaint filed by Ms. Karen McDougal, and FEC data, complainant has reason to believe that Respondents violated several provisions of the Act to conceal an extramarital affair between Mr. Trump and Ms. McDougal and rumors about Mr. Trump. In doing so, the Respondents not only directly violated multiple Act provisions, but also conspired to violate several provisions of the Act, including 52 U.S.C. § 30125(e), 52 U.S.C. § 30118, and 52 U.S.C. § 30104. The Respondents’ actions are a betrayal of the public trust and should be investigated promptly to determine the extent of the violations.

## I. FACTS

In 2006 and 2007, Mr. Trump engaged in a 10-month romantic relationship with Ms. Karen McDougal, a fitness model and former Playmate of the Year.<sup>4</sup> Ms. McDougal first met Mr. Trump when he filmed an episode of “Celebrity Apprentice” at the Playboy Mansion in 2006, where he asked for her number.<sup>5</sup> At the time, he was married to his current wife, Ms.

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<sup>4</sup> Complaint for Declaratory Relief, at ¶ 2, 29, McDougal v. American Media, Inc., Case No. BC698956 (Mar. 20, 2018).

<sup>5</sup> Jim Rutenberg, *Ex-Playboy Model Karen McDougal Details 10-Month Affair with Donald Trump*, N.Y. TIMES (Mar. 22, 2018), <https://www.nytimes.com/2018/03/22/us/politics/karen-mcdougal-interview.html>.

Melania Trump.<sup>6</sup> Following that first meeting, there were “dozens of dates and sexual encounters,” in which Ms. McDougal said that “Mr. Trump did not use birth control.”<sup>7</sup> Moreover, Mr. Trump even offered Ms. McDougal “money after their first sexual encounter.”<sup>8</sup> Ms. McDougal also alleged that “she was even whisked to his apartment at Trump Tower, when Mrs. Trump and Barron [his son] were not home.”<sup>9</sup> Finally, in 2007, “[a]n unbearably guilty conscience prompted her to finally end the relationship.”<sup>10</sup>

On June 29, 2015, Mr. Trump formed his principal campaign committee, Donald J. Trump for President, Inc. (the “Committee”), and on July 16, 2015, Mr. Trump launched his presidential campaign.<sup>11</sup> On May 7, 2016, 4 days after Mr. Trump became the presumptive Republican presidential nominee, another former Playboy playmate, Carrie Stevens, tweeted about Ms. McDougal’s past relationship with Mr. Trump.<sup>12</sup> Although Ms. McDougal preferred to keep this matter private, she soon came to believe that the story would become public and that getting out in front of the story would help to ensure that the story was accurate.<sup>13</sup>

In mid-June 2016, Ms. McDougal met and signed with attorney Mr. Keith Davidson who, unbeknownst to her, was a personal friend of Mr. Michael Cohen.<sup>14</sup> Mr. Cohen, Mr. Trump’s private attorney, worked for the Trump Organization<sup>15</sup> from 2007 until after the election and

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Donald J. Trump for President, Inc., FEC Form 1 Statement of Organization (amended July 29, 2016), <https://www.fec.gov/data/committee/C00580100/?cycle=2016&tab=filings#statements>; Alex Altman & Charlotte Alter, *Trump Launches Presidential Campaign with Empty Flair*, TIME (June 16, 2015), <http://time.com/3922770/donald-trump-campaign-launch/>.

<sup>12</sup> Complaint for Declaratory Relief, *supra* note 4, at ¶ 30.

<sup>13</sup> *Id.* at ¶ 33.

<sup>14</sup> *Id.* at ¶ 34.

<sup>15</sup> Trump Organization is a privately owned international company that is engaged in real estate development, brand licensing, and entertainment, among other business ventures. See *Company Overview of the Trump Organization LLC*, BLOOMBERG, <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=344985> (last visited Apr. 11, 2018).

acted as agent for Mr. Trump and the Committee throughout that period.<sup>16</sup> His offices were recently raided by the FBI, as discussed in more detail below.<sup>17</sup>

On June 20, 2016, Mr. Davidson introduced Ms. McDougal to AMI executives.<sup>18</sup> Though Ms. McDougal met with AMI executives for several hours, they later told her that they had no interest in pursuing her story.<sup>19</sup> And, on July 7, 2016, Ms. McDougal began negotiations with ABC.<sup>20</sup> However, after she told Mr. Davidson about her ABC negotiations, “AMI resurfaced with renewed and urgent interest in purchasing the story.”<sup>21</sup> AMI was interested in buying the story to *not* publish it since Mr. David Pecker, the Chairman and CEO of AMI, was a close friend of Mr. Trump.<sup>22</sup> In early August 2016, Ms. McDougal signed an agreement that gave AMI the rights to her “Life Story,” including the story of her relationship with “any then-married man.”<sup>23</sup> In exchange, she received a \$150,000 payment from AMI.<sup>24</sup> And, as discussed, AMI did not publish the story.

Soon after the agreement was signed by Ms. McDougal, Mr. Davidson emailed Mr. Cohen asking Mr. Cohen to call him.<sup>25</sup> Then, allegedly, Mr. Davidson “told Mr. Cohen on the phone that the deal was done--Ms. McDougal had been silenced.”<sup>26</sup> The transfer to Ms.

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<sup>16</sup> 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>.

<sup>17</sup> See Shear, Apuzzo, & LaFraniere, *supra* note 2.

<sup>18</sup> Complaint for Declaratory Relief, *supra* note 4, at ¶ 36.

<sup>19</sup> *Id.* at ¶¶ 36-40.

<sup>20</sup> *Id.* at ¶ 42.

<sup>21</sup> *Id.* at ¶ 47.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at ¶¶ 48-55.

<sup>24</sup> *Id.* at ¶ 49.

<sup>25</sup> *Id.* at ¶ 56.

<sup>26</sup> *Id.*

McDougal was made just weeks before the 2016 general election. During this period, Mr. Trump's campaign was flailing in the polls and already mired in scandal.<sup>27</sup>

Notably, this was not the first story that AMI purchased and did not print, *i.e.*, "caught and killed," for Mr. Trump. According to a former AMI senior editor: "Pecker really considered [Mr. Trump] a friend . . . . We never printed a word about Trump without his approval."<sup>28</sup> This is further evidenced by an AP article published on April 12, 2018 confirming that AMI paid a former doorman, from one of Mr. Trump's New York City buildings, \$30,000 in exchange for "signing over the rights, 'in perpetuity,' to a rumor he'd heard about Trump's sex life."<sup>29</sup> This happened just 8 months before AMI made the payment to Ms. McDougal.<sup>30</sup> In particular, the rumor alleged that Mr. Trump "had fathered a child with an employee at Trump World Tower."<sup>31</sup> "The contract subjected [the former doorman] to a \$1 million penalty if he disclosed either the rumor or the terms of the deal to anyone."<sup>32</sup> And, like the situation with Ms. McDougal, AMI discussed this rumor with Mr. Cohen while the company was researching it.<sup>33</sup> As with Ms. McDougal, AMI did not publish this story.

Moreover, on April 10, 2018, the New York Times confirmed that Mr. Cohen's office and hotel room was raided by the FBI, in part, to find "information about Karen McDougal, a former Playboy model who claims she carried on a nearly yearlong affair with Mr. Trump shortly after the birth of his youngest son in 2006," as well as "information related to the role of

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<sup>27</sup> See Gregory Krieg, *Donald Trump's 27-Day Spiral: From Convention Bounce to Campaign Overhaul*, CNN (Aug. 18, 2016), <https://www.cnn.com/2016/08/17/politics/donald-trump-post-convention-controversy-polls-shakeup/index.html>.

<sup>28</sup> Complaint for Declaratory Relief, *supra* note 4, at ¶ 82.

<sup>29</sup> Pearson & Horwitz, *supra* note 3.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

the publisher of The National Enquirer [*i.e.* AMI] in silencing one of the women.”<sup>34</sup> The raid also sought “information related to Stephanie Clifford, better known as Stormy Daniels, a pornographic film actress, who also said she had sex with Mr. Trump while he was married. Mr. Cohen has acknowledged that he paid Ms. Clifford \$130,000 as part of a nondisclosure agreement to secure her silence days before the 2016 presidential election.”<sup>35</sup> And, on April 11, 2018, the New York Times also confirmed that the FBI was seeking all records related to the *Access Hollywood* tape in which Mr. Trump was heard making vulgar comments about women, and information indicating “whether Mr. Cohen, who had no official role in the 2016 campaign, coordinated with it to quash the release of anything detrimental to it *and whether that violated campaign finance laws.*”<sup>36</sup>

## II. LEGAL ARGUMENT

### A. The Respondents Appear to Have Violated Contribution Prohibitions

The Act regulates the influence of money through politics to prevent corruption in federal elections. Under federal law, a federal candidate or officeholder, or agent thereof, may not solicit, receive, direct, transfer, spend, or disburse funds, in connection with a federal election for federal office, which are not subject to the source restrictions and contribution limits under the law.<sup>37</sup> And, any “expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.”<sup>38</sup> Corporate contributions to

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<sup>34</sup> See Shear, Apuzzo, & LaFraniere, *supra* note 2.

<sup>35</sup> *Id.*

<sup>36</sup> Maggie Haberman, Matt Apuzzo, & Michael S. Schmidt, *Raid on Trump’s Lawyer Sought Records on ‘Access Hollywood’ Tape*, N.Y. TIMES, (Apr. 11, 2018), <https://www.nytimes.com/2018/04/11/us/politics/michael-cohen-trump-access-hollywood.html> (emphasis added).

<sup>37</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>38</sup> *Id.* § 30116(a)(7)(B)(i).

federal candidate committees are prohibited.<sup>39</sup> The Act's contribution prohibitions apply to anything of value for the purpose of influencing a federal election.<sup>40</sup> Candidates may make "unlimited expenditures from personal funds," but expenditures made for the benefit of a candidate must be reported as in-kind contributions.<sup>41</sup> As a presidential committee, the Committee was subject to these limits and prohibitions.<sup>42</sup>

Notably, federal law also provides for a "press exemption" that excludes "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate" from the definition of expenditure.<sup>43</sup> However, this exemption only applies when a news story is distributed by a press entity and when the press entity is acting in its "legitimate press function."<sup>44</sup>

Moreover "[a]ny person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure . . . aggregating \$25,000 or more during a calendar year shall be fined . . . or imprisoned for not more than 5 years, or both."<sup>45</sup>

Based on published reporting and the complaint filed by Ms. McDougal, the circumstances of AMI's payment to Ms. McDougal show that Mr. Pecker agreed to buy the story to silence Ms. McDougal for the purpose of influencing the November federal election. This is evident not only from Mr. Pecker's close relationship with Mr. Trump and the timing of the

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<sup>39</sup> *Id.* § 30118.

<sup>40</sup> *Id.* § 30101(8)(A).

<sup>41</sup> 11 C.F.R. § 110.10; *see FEC, Campaign Guide for Congressional Candidates*, 91 (June 2014), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf>.

<sup>42</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>43</sup> *Id.* § 30101(9)(B)(i).

<sup>44</sup> *See Reader's Digest Ass'n, Inc. v. Fed. Election Comm'n*, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981).

<sup>45</sup> 52 U.S.C. § 30109(d)(1)(A)(i).

payment (just weeks before the November election), but also by AMI's "renewed and urgent interest in purchasing the story" only after Ms. McDougal was in final talks with ABC. Similarly, the circumstances of AMI's payment to the doorman show that AMI agreed to buy the story to silence the doorman for the purpose of influencing the November federal election since the payment was made just months before the election, AMI consulted Mr. Cohen, and AMI ultimately never published the story. Based on these facts, the payments were illegal contributions made by AMI and received by the Committee in violation of the prohibition on corporate contributions to federal candidates.<sup>46</sup>

As we argued in the Clifford Complaint,<sup>47</sup> had these been payments to salvage Mr. Trump's general reputation, they would have been made much earlier. Instead, the timing and circumstances of the payments prove that they were motivated entirely by the election.

Moreover, these payments are outside the press exemption since neither story was actually distributed and the payments were made for the benefit of Mr. Trump and in coordination with Mr. Cohen -- not as part of a legitimate press function.

And, since it appears that Respondents may have knowingly and willfully made and then received the payments in violation of the Act, they could be subject to fines and imprisonment of up to 5 years.<sup>48</sup>

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<sup>46</sup> *Id.* § 30118. As we argued in the Stephanie Clifford Complaint, if the FEC believes that the payments to Ms. McDougal and the former doorman were not made in connection with the election, it would be evident that the Respondents converted campaign funds for "personal use" in violation of the Act. *See id.* § 30114(b). Generally, the Act prohibits any campaign contribution from being "converted by any person to personal use" unless that personal use would have existed irrespective of the candidate's campaign. *Id.* §§ 30114(b)(1)-(2); 11 C.F.R. § 113.2(a). In arranging for and making the payment to Ms. McDougal and the former doorman, the Respondents knowingly and willfully exploited the Committee for Mr. Trump's own personal interests. Moreover, given the timing of the transfer as discussed above, the transfers were only made as a direct consequence of Mr. Trump's presidential candidacy, directly violating the Act's prohibition against personal use of campaign resources.

<sup>47</sup> Clifford Complaint, *supra* note 1.

<sup>48</sup> 52 U.S.C. § 30109(d)(1)(A)(i).

**B. Mr. Trump, Mr. Jost, Mr. Cohen, and the Committee Appear to Have Submitted False FEC Reports in Violation of the Act**

The principal campaign committee of a candidate for U.S. President must file periodic reports with the FEC disclosing contributions received and expenditures made during the reporting period.<sup>49</sup> Each report must include the name and address of each person who makes a contribution in excess of \$200 and the name and address of each person to whom an expenditure in excess of \$200 is made during the reporting period.<sup>50</sup> There are no exceptions to this requirement.

By concealing the payments to Ms. McDougal and the former doorman, Mr. Trump, Mr. Jost, and Mr. Cohen caused the Committee to create and submit campaign finance reports to the FEC which purported to disclose all contributions and expenditures of more than \$200 in an election cycle when the Respondents knew that those reports failed to correctly disclose two contributions to the Committee from AMI. And, since AMI made the payments, though illegal, they should have been reported as in-kind contributions. The failure to disclose the contributions is a blatant violation of federal law and a betrayal of the public trust. Moreover, since it appears that Respondents may have knowingly and willfully submitted false FEC reports in violation of the Act, they could be subject to fines and imprisonment of up to 5 years.<sup>51</sup>

**C. The Respondents Appear to Have Conspired to Violate 52 U.S.C. § 30125(e), 52**

**U.S.C. § 30118, and 52 U.S.C. § 30104**

Federal law prohibits persons from “conspir[ing] either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any

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<sup>49</sup> *Id.* § 30104.

<sup>50</sup> *Id.* § 30104(b)(3).

<sup>51</sup> *Id.* § 30109(d)(1)(A)(i).

purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined . . . or imprisoned not more than five years, or both.”<sup>52</sup>

To establish a conspiracy, the government must show that (1) a conspiracy existed; (2) the defendant knew of and voluntarily participated in the conspiracy; and (3) there was an overt act in furtherance of the conspiracy.<sup>53</sup> “The government must prove both intent to agree and intent to commit the substantive offense.”<sup>54</sup> But, proof of the express agreement is not required; rather, “conspiracy may be based on a tacit agreement shown from an implicit working relationship.”<sup>55</sup>

In August 2016, Respondents conspired to violate federal campaign finance law to conceal an extramarital affair between Mr. Donald J. Trump and Ms. Karen McDougal. Similarly, Respondents also conspired to conceal a rumor about Mr. Trump fathering a child with a Trump World Tower employee. Based on the timing of the payments and published reports, it is evident that Respondents agreed to make these transfers in violation of federal campaign finance law. Moreover, since Mr. Cohen acted as an agent for Mr. Trump and the Committee, it is evident that Respondents knew of and voluntarily participated in the conspiracy with AMI and Mr. Pecker to stop Ms. McDougal from publicizing the extramarital affair and to stop the former doorman from spreading the rumor about Mr. Trump. And, Respondents acted overtly in furtherance of the conspiracy when AMI effectuated the agreement with Ms. McDougal and effectuated the agreement with the doorman.<sup>56</sup>

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<sup>52</sup> 18 U.S.C. § 371.

<sup>53</sup> *United States v. Munoz-Franco*, 487 F.3d 25, 45 (1st Cir. 2007).

<sup>54</sup> *Id.*

<sup>55</sup> *United States v. Patrick*, 248 F.3d 11, 20 (1st Cir. 2001).

<sup>56</sup> These allegations are further strengthened given the similar pattern of behavior by the Respondents -- and in particular Mr. Cohen -- as articulated by the Clifford Complaint. See Clifford Complaint, *supra* note 1.

In sum, Respondents conspired to receive and spend funds as prohibited by corporate contribution prohibitions and to submit false, inaccurate FEC reports in direct violation of 52 U.S.C. § 30125(e), 52 U.S.C. § 30118, 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 prohibitions and the reporting requirements of the Act. Complainant respectfully requests that the Federal Election Commission promptly investigate these violations, fine the Respondents the maximum amount permitted by law, and refer any relevant violations to the Department of Justice for criminal prosecution, as deemed appropriate.

Additionally, since published reports have confirmed that AMI paid off two individuals for Mr. Trump just prior to the 2016 election, complainant asks that the Federal Election Commission investigate AMI further to determine whether AMI made any additional payoffs or violated any other provisions of the Act. Complainant also asks that the Federal Election Commission fine AMI the maximum amount permitted by law and refer any relevant violations to the Department of Justice for criminal prosecution, as deemed appropriate.

Sincerely,



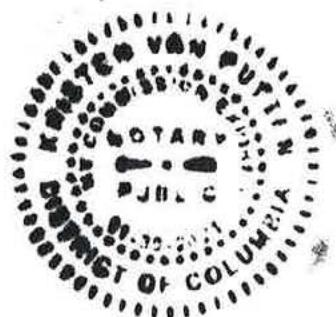
Mr. Shripal Shah  
American Bridge 21st Century Foundation

SUBSCRIBED AND SWORN to before me this 13 day of April, 2018.

Karen Van Pelt  
Notary Public

My Commission Expires:

11-30-2021



**Exhibit A****BEFORE THE FEDERAL ELECTION COMMISSION**

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

*Complainant,*

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  
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*Respondents.*

OFFICE OF  
GENERAL COUNSEL

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**COMPLAINT**

Complainant files this 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; 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, as described below.

Based on publicly available published reports from reputable news agencies and FEC data, complainant has reason to believe that Respondents violated several provisions of the Act to conceal an extramarital affair between Donald J. Trump and Stephanie Clifford. In doing so, the Respondents not only directly violated multiple Act provisions, but also conspired to violate several provisions of the Act, including 52 U.S.C. § 30125(e), 52 U.S.C. § 30118, and 52 U.S.C. § 30104. The Respondents’ actions are a betrayal of the public trust and should be investigated promptly to determine the extent of the violations.

## I. FACTS

In July 2006, then-reality television star Donald J. Trump began an extramarital affair with Stephanie Clifford, an adult-film actor and director also known as Stormy Daniels.<sup>1</sup> They met during a charity golf tournament in Lake Tahoe.<sup>2</sup> Their relationship lasted for nearly a year.<sup>3</sup>

After the end of the affair, Ms. Clifford repeatedly reached out to media outlets to discuss publishing an account of her affair with Mr. Trump, including a sexually explicit interview with

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<sup>1</sup> Michael Rothfeld & Joe Palazzolo, *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>.

<sup>2</sup> *Stormy Daniels’ Explosive Full Interview on Donald Trump Affair: “I Can Describe His Junk Perfectly,”* In Touch Weekly, (Jan. 19, 2018), <http://www.intouchweekly.com/posts/stormy-daniels-full-interview-151788>.

<sup>3</sup> 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>.

*In Touch* in 2011 and discussions with *Slate* and *ABC's Good Morning America* in 2016.<sup>4</sup> Ms. Clifford alleged a variety of interactions that would have proven embarrassing for the star of a reality television show and prominent businessman. For instance, during their first sexual encounter, Ms. Clifford asked about Mr. Trump's wife, Melania Trump, and he said, "Oh, don't worry about her" and then quickly changed the subject.<sup>5</sup> Throughout the affair, Mr. Trump called Ms. Clifford "about every 10 days" to convince her to meet for sex.<sup>6</sup> And, Ms. Clifford once claimed that Mr. Trump asked her to spank him with "a copy of a *Forbes* with Trump on the cover" during their affair.<sup>7</sup> However, despite the nature of these allegations, neither Mr. Trump nor Mr. Cohen appeared to offer any type of payment prior to October 2016, as discussed below.<sup>8</sup>

On June 29, 2015, Mr. Trump formed his principal campaign committee, Donald J. Trump for President, Inc. (the "Committee"), and on July 16, 2015, Mr. Trump launched his presidential campaign.<sup>9</sup>

Michael Cohen, Mr. Trump's private attorney, worked for the Trump Organization<sup>10</sup>

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<sup>4</sup> Michael Rothfeld & Joe Palazzolo, *Trump Lawyer Used Private Company, Pseudonyms to Pay Porn Star 'Stormy Daniels,'* WALL. ST. J. (Jan. 18, 2018), <https://www.wsj.com/articles/trump-lawyer-used-private-company-pseudonyms-to-pay-porn-star-stormy-daniels-1516315731>; see *Stormy Daniels' Explosive Full Interview on Donald Trump Affair: "I Can Describe His Junk Perfectly,"* supra note 2.

<sup>5</sup> See *Stormy Daniels' Explosive Full Interview on Donald Trump Affair: "I Can Describe His Junk Perfectly,"* supra note 2.

<sup>6</sup> *Id.*

<sup>7</sup> Dan Friedman, *Stormy Daniels Once Claimed She Spanked Donald Trump With a Forbes Magazine*, MOTHER JONES (Jan. 18, 2018), <https://www.motherjones.com/politics/2018/01/stormy-daniels-once-claimed-she-spanked-donald-trump-with-a-forbes-magazine/>.

<sup>8</sup> Rothfeld & Palazzolo, supra note 1.

<sup>9</sup> Donald J. Trump for President, Inc., FEC Form 1 Statement of Organization (amended July 29, 2016), <https://www.fec.gov/data/committee/C00580100/?cycle=2016&tab=filings#statements>; Alex Altman & Charlotte Alter, *Trump Launches Presidential Campaign With Empty Flair*, TIME (June 16, 2015), <http://time.com/3922770/donald-trump-campaign-launch/>.

<sup>10</sup> Trump Organization is a privately owned international company that is engaged in real estate development, brand licensing, and entertainment, among other business ventures. See *Company Overview of the Trump Organization LLC*, BLOOMBERG, <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=344985> (last visited Jan. 23, 2018).

from 2007 until after the election and acted as agent for Mr. Trump and the Committee throughout that period.<sup>11</sup> Mr. Cohen has described himself as Mr. Trump's "fix-it guy."<sup>12</sup>

Almost ten years after the end of Mr. Trump and Ms. Clifford's affair, Mr. 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."<sup>13</sup> The payment was made in October 2016 through Essential Consultants LLC to Ms. Clifford using a client-trust account at City National Bank in Los Angeles, California.<sup>14</sup> Mr. Cohen had previously formed Essential Consultants LLC on October 17, 2016.<sup>15</sup>

The transfer to Ms. Clifford was made just weeks before the 2016 general election.<sup>16</sup> During this period, the Respondents were also dealing with the fallout from several accusations of sexual harassment and the *Access Hollywood* tape where Trump discussed groping women saying, "Grab them by the p---y. You can do anything."<sup>17</sup>

While the source of the funds for the payment to Ms. Clifford is not known, the Committee transferred just over \$130,000 to Trump Tower Commercial LLC for "rent" slightly more than a month after the election.<sup>18</sup>

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<sup>11</sup> Rothfeld & Palazzalo, *supra* note 1.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*; Rothfeld & Palazzalo, *supra* note 4.

<sup>15</sup> Essential Consultants LLC, Delaware Limited Liability Company Certificate of Formation (Oct. 17, 2016), available at [http://online.wsj.com/public/resources/documents/Essential Consultants 01\\_12\\_17.pdf](http://online.wsj.com/public/resources/documents/Essential Consultants 01_12_17.pdf).

<sup>16</sup> Rothfeld & Palazzalo, *supra* note 1.

<sup>17</sup> David A. Fahrenthold, *Trump Recorded Having Extremely Lewd Conversation About Women in 2005*, WASH. POST (Oct. 8, 2016), [https://www.washingtonpost.com/politics/trump-recorded-having-extremely-lewd-conversation-about-women-in-2005/2016/10/07/3b9ce776-8cb4-11e6-bf8a-3d26847eed4\\_story.html?utm\\_term=.db287841ffb4](https://www.washingtonpost.com/politics/trump-recorded-having-extremely-lewd-conversation-about-women-in-2005/2016/10/07/3b9ce776-8cb4-11e6-bf8a-3d26847eed4_story.html?utm_term=.db287841ffb4).

<sup>18</sup> Donald J. Trump for President, Inc., FEC Schedule B-P Itemized Disbursements (Dec. 21, 2016) <http://docquery.fec.gov/cgi-bin/fecimg/?201707209066907750>.

## II. LEGAL ARGUMENT

### A. The Respondents May Have Violated Contribution Limit Restrictions and Prohibitions

The Act regulates the influence of money through politics to prevent corruption in federal elections. Under federal law, a federal candidate or officeholder, or agent thereof, may not solicit, receive, direct, transfer, spend, or disburse funds, in connection with a federal election for federal office, which are not subject to the source restrictions and contribution limits under the law.<sup>19</sup> And, any “expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.”<sup>20</sup> To restrict the influence of any single individual, the Act restricted individual contributions to \$2,700 per election in 2016.<sup>21</sup> The Act’s contribution limits apply to anything of value for the purpose of influencing a federal election.<sup>22</sup> Candidates may make “unlimited expenditures from personal funds,” but the expenditures must be reported as in-kind contributions.<sup>23</sup> And, corporate contributions to candidate committees are prohibited.<sup>24</sup> As a presidential committee, the Committee was subject to these limits and prohibitions.<sup>25</sup>

Moreover “[a]ny person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution,

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<sup>19</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>20</sup> *Id.* § 30116(a)(7)(B)(i).

<sup>21</sup> *Id.* § 30116(a)(1)(A); *see* FEC, Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 82 Fed. Reg. 10904, 10906 (Feb. 16, 2017).

<sup>22</sup> 52 U.S.C. § 30101(8)(A).

<sup>23</sup> 11 C.F.R. § 110.10; *see* FEC, *Campaign Guide for Congressional Candidates*, 91 (June 2014), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf>.

<sup>24</sup> 52 U.S.C. § 30118.

<sup>25</sup> *Id.* § 30125(e)(1)(A).

donation, or expenditure . . . aggregating \$25,000 or more during a calendar year shall be fined . . . or imprisoned for not more than 5 years, or both.”<sup>26</sup>

Based on published reporting, the circumstances of the \$130,000 payment point to a desperate campaign attempting to avoid yet another sexually deviant story about Mr. Trump just weeks before the election. The Respondents waited until October 2016, when it was evident that the publication of an extramarital affair could potentially deal a fatal blow to a campaign reeling from sexual harassment claims and the consequences of the *Access Hollywood* video. And, the timing appears even more suspicious when considering that Mr. Trump, an already famous television star and businessman, chose not to make a deal until just weeks before the election, even though Ms. Clifford met with media outlets *years* prior to the ultimate payment. Based on these facts, it is clear that the payment was made for the purpose of influencing the presidential election, making the payment either an “expenditure” or a coordinated or in-kind “contribution” to the Committee and an “expenditure” by the Committee.<sup>27</sup> Had this been a payment to salvage Mr. Trump’s general reputation, it would have been made much earlier; either at the end of the affair, or around the time of Ms. Clifford’s 2011 media interview. Instead, the timing and circumstances of the payment proves that it was motivated entirely by the election. Indeed, Ms. Clifford was convinced the payment was exclusively tied to the election; she told one media

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<sup>26</sup> *Id.* § 30109(d)(1)(A)(i).

<sup>27</sup> If the FEC believes that the payment to Ms. Clifford was not made in connection with the election, it would be evident that the Respondents converted campaign funds for “personal use” in violation of the Act. *See id.* § 30114(b). Generally, the Act prohibits any campaign contribution from being “converted by any person to personal use” unless that personal use would have existed irrespective of the candidate’s campaign. *Id.* §§ 30114(b)(1)-(2); 11 C.F.R. § 113.2(a). In arranging for and making the \$130,000 payment to Ms. Clifford, the Respondents knowingly and willfully exploited the Committee for Mr. Trump’s own personal interests. Moreover, given the timing of the transfer as discussed above, the transfer was only made as a direct consequence of Mr. Trump’s presidential candidacy, directly violating the Act’s prohibition against personal use of campaign resources.

entity that she believed that if Mr. Trump did not make the payment until after the election, she would not be paid at all.<sup>28</sup>

While the source of the payment is unknown, if made by an individual other than Mr. Trump, the contribution was made by that individual and received by the Committee in violation of the \$2,700 per election contribution limit.<sup>29</sup> In the alternative, if made by a corporation, the contribution was made by that corporation and received by the Committee in violation of the prohibition on corporate contributions to federal candidates.<sup>30</sup> And, since it appears that Respondents may have knowingly and willfully received and then expended \$130,000 in violation of the Act, they could be subject to fines and imprisonment of up to 5 years.<sup>31</sup>

#### **B. The Respondents Submitted False FEC Reports in Violation of the Act**

The principal campaign committee of a candidate for U.S. President must file periodic reports with the FEC disclosing contributions received and expenditures made during the reporting period.<sup>32</sup> Each report must include the name and address of each person who makes a contribution in excess of \$200 and the name and address of each person to whom an expenditure in excess of \$200 is made during the reporting period.<sup>33</sup> There are no exceptions to this requirement.

By concealing the payment to Ms. Clifford, the Respondents caused the Committee to create and submit campaign finance reports to the FEC which purported to disclose all contributions and expenditures of more than \$200 in an election cycle when the Respondents

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<sup>28</sup> See Jacob Weisberg, *Did Donald Trump Pay a Porn Star to Keep Quiet about the Affair?*, 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>.

<sup>29</sup> 52 U.S.C. §§ 30116(a)(1)(A), 30125(e)(1)(A).

<sup>30</sup> *Id.* §§ 30118(a), 30125(e)(1)(A).

<sup>31</sup> *Id.* § 30109(d)(1)(A)(i).

<sup>32</sup> *Id.* § 30104.

<sup>33</sup> *Id.* § 30104(b)(3).

knew that those reports failed to correctly disclose a \$130,000 contribution to the Committee and \$130,000 expenditure to Ms. Clifford. If made directly by Mr. Trump, as some reports suggest, the payment should have been reported by the Committee as an in-kind contribution. If made by Trump Organization, as other reports suggest, the payment, though illegal, should have been reported as an in-kind contribution. Regardless of the actual source of the payment, the failure to disclose the contribution and subsequent expenditure is a blatant violation of federal law and a betrayal of the public trust. Moreover, as noted in Section II.A., since it appears that Respondents may have knowingly and willfully submitted false FEC reports in violation of the Act, they could be subject to fines and imprisonment of up to 5 years.<sup>34</sup>

### **C. The Respondents Failed to Accurately Report the Purpose of the Disbursement**

In addition to filing blatantly false FEC reports, the Respondents failed to accurately report the actual purpose of the disbursement to Ms. Clifford. The Act and Commission regulations require committees to disclose each disbursement in excess of \$200 with the “purpose” of each disbursement.<sup>35</sup> The “purpose” of the disbursement is “a brief statement or description of why the disbursement was made”<sup>36</sup> that “when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of the disbursement clear.”<sup>37</sup> “As a rule of thumb . . . a person not associated with the committee [should be able to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”<sup>38</sup> An intermediary payee cannot be listed; the ultimate payee of the

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<sup>34</sup> *Id.* § 30109(d)(1)(A)(i).

<sup>35</sup> *Id.* § 30104(b)(5).

<sup>36</sup> 11 C.F.R. §§ 104.3(b)(3)-(4).

<sup>37</sup> 72 Fed. Reg. 887-88 (Jan. 9, 2007).

<sup>38</sup> *Id.*

disbursement must be disclosed.<sup>39</sup> It is a clear violation of the Act to list “a conduit for payment” to “conceal the transaction” with the true payee.<sup>40</sup>

As noted above, the timing and circumstances surrounding the payment clearly indicate that the payment was made to influence the presidential election thereby making the payment either an “expenditure” or a coordinated “contribution” *to* the Committee and an “expenditure” *by* the Committee. As an expenditure, the Committee should have disclosed the disbursement of the payment to Ms. Clifford with an explicit description of the purpose, providing a brief statement or description about why the disbursement was made. If, as reports suggest, that the just-over \$130,000 to Trump Tower Commercial LLC for “rent” after the election was in fact the payment to Ms. Clifford, the Respondents failed to accurately disclose the purpose and ultimate payee of the disbursement in violation of the Act. If, as other reports suggest, that the payment was made through another means, the Respondents still failed to accurately disclose the purpose and ultimate payee of the payment to Ms. Clifford in violation of the Act.

And, as noted in Section II.A., since it appears that Respondents may have knowingly and willfully submitted false FEC reports in violation of the Act, they could be subject to fines and imprisonment of up to 5 years.<sup>41</sup>

**D. The Respondents Conspired to Violate 52 U.S.C. § 30125(e), 52 U.S.C. § 30118, and 52 U.S.C. § 30104**

Federal law prohibits persons from “conspir[ing] either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any

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<sup>39</sup> *Id.*

<sup>40</sup> See FEC MUR 4872 Conciliation Agreement (Jenkins for Senate 1996 & Louis E. “Woody” Jenkins) (finding a knowing and willful filing of false disclosure reports).

<sup>41</sup> 52 U.S.C. § 30109(d)(1)(A)(i).

purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined . . . or imprisoned not more than five years, or both.”<sup>42</sup>

To establish a conspiracy, the government must show that (1) a conspiracy existed; (2) the defendant knew of and voluntarily participated in the conspiracy; and (3) there was an overt act in furtherance of the conspiracy.<sup>43</sup> “The government must prove both intent to agree and intent to commit the substantive offense.”<sup>44</sup> But, proof of the express agreement is not required; rather, “conspiracy may be based on a tacit agreement shown from an implicit working relationship.”<sup>45</sup>

In October 2016, Respondents conspired to violate federal campaign finance law to conceal an extramarital affair between Donald J. Trump and Stephanie Clifford. Based on the timing of the payment and published reports, it is evident that Respondents agreed to make this transfer in violation of federal campaign finance law. Moreover, since Mr. Cohen acted as an agent for Mr. Trump and the Committee, it is evident that Respondents knew of and voluntarily participated in the conspiracy to stop Ms. Clifford from publicizing the extramarital affair. And, Respondents acted overtly in furtherance of the conspiracy when Mr. Cohen set up Essential Consultants LLC and then arranged for and made the \$130,000 payment for Ms. Clifford. Further, while the source of the payment is unknown, the transfer of just over \$130,000 from the Committee to Trump Tower Commercial LLC could be a repayment for \$130,000 payment made to Ms. Clifford, indicating an explicit agreement and additional overt acts in furtherance of the conspiracy.

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<sup>42</sup> 18 U.S.C. § 371.

<sup>43</sup> *United States v. Munoz-Franco*, 487 F.3d 25, 45 (1st Cir. 2007).

<sup>44</sup> *Id.*

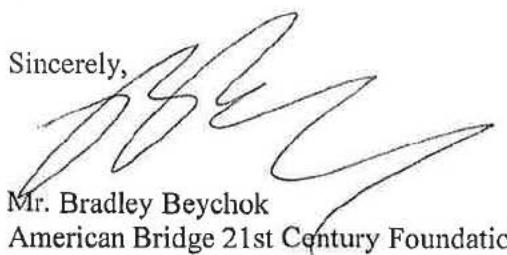
<sup>45</sup> *United States v. Patrick*, 248 F.3d 11, 20 (1st Cir. 2001).

In sum, Respondents conspired to receive and spend funds in excess of the contribution limits or as prohibited by corporate contribution prohibitions and to submit false, inaccurate FEC reports in direct violation of 52 U.S.C. § 30125(e), 52 U.S.C. § 30118, and 52 U.S.C. § 30104.

### III. REQUESTED ACTION

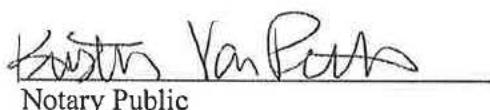
As we have shown, there is a strong possibility that the Respondents have violated federal law by conspiring to violate federal campaign finance law and directly violating the contribution limit restrictions and prohibitions and the reporting requirements of the Act. Complainant respectfully requests 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 12 day of February, 2018.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

11-30-2021



**BEFORE THE FEDERAL ELECTION COMMISSION**

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

*Complainant,*

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.<sup>1</sup> 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.”<sup>2</sup> The payment was made in October 2016, directly before the 2016 general election.<sup>3</sup>

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<sup>1</sup> Michael Rothfeld & Joe Palazzolo, *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>.

<sup>2</sup> Rothfeld & Palazzolo, *supra* note 1.

<sup>3</sup> *Id.*

On February 13, 2018, the New York Times reported that Mr. Cohen admitted to making the \$130,000 payment to Ms. Clifford.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> However, if a client voluntarily discloses a matter to a third party, the client has permanently waived attorney-client privilege on the matter.<sup>8</sup> 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.<sup>9</sup> And, regardless of the initial source of the funds, the Committee failed to accurately report the in-kind contribution, in blatant disregard of

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<sup>4</sup> 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>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See Mod. Rules Prof. Cond. R. § 1.6.

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

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

federal law.<sup>10</sup> 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,



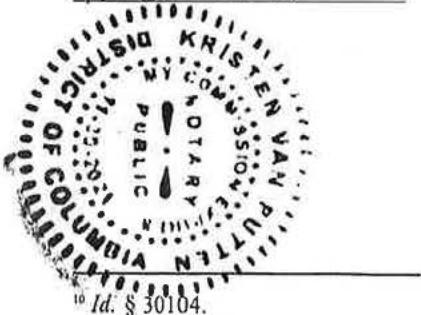
Mr. Bradley Beychok  
American Bridge 21st Century Foundation

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

Kristen Van Pelt  
Notary Public

My Commission Expires:

11-30-2021



<sup>10</sup> *Id.* § 30104.

**BEFORE THE FEDERAL ELECTION COMMISSION**

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

*Complainant,*

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.*

**SECOND 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. This complaint is attached hereto and incorporated by reference as Exhibit A.

Then, on February 15, 2018, after 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 likely an illegal in-kind contribution, we filed a supplemental complaint. This first supplemental complaint is attached hereto and incorporated by reference as Exhibit B.

And now, reports by the Washington Post and the Wall Street Journal and a complaint filed by Ms. Clifford provide further evidence indicating the truth behind our original allegations. These reports and complaint, as detailed below, indicate a more concrete timeline of the events and appear to confirm that Mr. Cohen conspired with Mr. Trump to provide the funds to Ms. Clifford to stop her from publicizing her account of the affair just before the election, further reinforcing our allegations.

As such, we file this second 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.<sup>1</sup> Almost ten years after the end of Mr. Trump and Ms. Clifford’s affair, Mr.

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<sup>1</sup> 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>.

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.”<sup>2</sup>

And, as noted in our first supplemental complaint, on February 13, 2018, the New York Times reported that Mr. Cohen admitted to making the \$130,000 payment to Ms. Clifford in October 2016.<sup>3</sup> 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 individual or entity.

Notably, Mr. Cohen did not state whether the funds came directly from Mr. Trump.<sup>4</sup>

Since we filed the first supplemental complaint, on March 3, 2018, the Washington Post reported that, on October 17, 2016, an attorney for Ms. Clifford threatened to publicize the alleged affair with Mr. Trump; and, that same morning, Mr. Cohen created Essential Consultants LLC, the limited liability company that ultimately served as the vehicle for Ms. Clifford’s payoff.<sup>5</sup> A short time later in October 2016, Ms. Clifford’s attorney confirmed that Ms. Clifford “deem[ed] her settlement agreement canceled and void.”<sup>6</sup> This timeline coincides with Ms. Clifford’s previously reported discussions with reporters.<sup>7</sup> Ms. Clifford even suggested, during one of those conversations, that “she was talking to [the reporter] and sharing these details because Trump was stalling on finalizing the confidentiality agreement and paying her.”<sup>8</sup> And, in the complaint filed by Ms. Clifford on March 6, 2018, she further confirms that “Mr. Trump, with the assistance of his attorney Mr.

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<sup>2</sup> Rothfeld & Palazzalo, *supra* note 1.

<sup>3</sup> 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>.

<sup>4</sup> *Id.*

<sup>5</sup> Beth Reinhard, Frances Stead Sellers, & Emma Brown, *Days Before the Election, Stormy Daniels Threatened to Cancel Deal to Keep Alleged Affair with Trump Secret*, Wash. Post (Mar. 2, 2018), [https://www.washingtonpost.com/investigations/days-before-the-election-stormy-daniels-threatened-to-cancel-deal-to-keep-alleged-affair-with-trump-secret/2018/03/02/770a446a-1d9b-11e8-8a2c-1a6665f59e95\\_story.html?utm\\_term=.d9a3753ca532](https://www.washingtonpost.com/investigations/days-before-the-election-stormy-daniels-threatened-to-cancel-deal-to-keep-alleged-affair-with-trump-secret/2018/03/02/770a446a-1d9b-11e8-8a2c-1a6665f59e95_story.html?utm_term=.d9a3753ca532).

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., Weisberg, *supra* note 1.

<sup>8</sup> *Id.*

Cohen, aggressively sought to silence Ms. Clifford as part of an effort to avoid her telling the truth, thus helping to ensure he won the Presidential Election.”<sup>9</sup> The complaint also confirms that Mr. Cohen prepared a “Hush Agreement,” an agreement that used aliases to identify Ms. Clifford and Mr. Trump.<sup>10</sup> This Hush Agreement was signed on October 28, 2016 and \$130,000 was wired to Ms. Clifford.<sup>11</sup> Once the payment arrived, Ms. Clifford’s communication with reporters abruptly ended.<sup>12</sup> This all happened just *11 days* before the presidential election.

In addition to the more detailed timeline, the Wall Street Journal and the complaint filed by Ms. Clifford elucidate more details about the payment itself, reaffirming the appearance of conspiracy. On March 5, 2018, the Journal reported that Mr. Cohen said he missed previous deadlines to make the payment to Ms. Clifford because he could not reach Mr. Trump in the final days of the presidential campaign, according to a people familiar with the matter.<sup>13</sup> Moreover, the complaint filed by Ms. Clifford further alleges that “it strains credibility to conclude that Mr. Cohen [was] acting on his own accord without the express approval and knowledge of his client Mr. Trump.”<sup>14</sup> “[U]nless Mr. Cohen flagrantly violated his ethical obligations and the most basic rules governing his license to practice law (which is highly unlikely), there can be no doubt that Mr. Trump *at all times* has been fully aware of the negotiations with Ms. Clifford, the existence and terms of the Hush Agreement, [and] the payment of the \$130,000.00. . . .”<sup>15</sup> And, the Journal reported that after Mr. Trump won the election, Mr. Cohen complained to friends that he had not yet

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<sup>9</sup> Complaint for Declaratory Relief at ¶ 16, Clifford v. Trump, No. BC-696568 (Cal. Super. Ct. Mar. 6, 2018).

<sup>10</sup> *Id.* at ¶¶ 16-18.

<sup>11</sup> *Id.* at ¶¶ 22-23.

<sup>12</sup> *Id.* at ¶ 16; Weisberg, *supra* note 1.

<sup>13</sup> Joe Palazzolo & Michael Rothfeld, *Trump Lawyer’s Payment to Stormy Daniels Was Reported as Suspicious by Bank*, WALL ST. J. (Mar. 5, 2018), <https://www.wsj.com/articles/trump-lawyers-payment-to-porn-star-was-reported-as-suspicious-by-bank-1520273701>.

<sup>14</sup> Complaint for Declaratory Relief at ¶ 30, Clifford v. Trump, No. BC-696568 (Cal. Super. Ct. Mar. 6, 2018).

<sup>15</sup> *Id.* at ¶ 32 (emphasis in original).

been reimbursed for the payment to Ms. Clifford.<sup>16</sup> These details provide further evidence for an illegal in-kind campaign contribution and possible conspiracy, as discussed below.

## II. LEGAL ARGUMENT

As articulated in our original complaint and further outlined in our first supplemental complaint, the timing and circumstances of the payment indicate that it was motivated entirely by the election for the direct benefit of Mr. Trump and the Committee. This is further evidenced by the fact that Mr. Cohen delayed the payment because he was not able to get a hold of Mr. Trump and that the agreement was actually called *the "Hush Agreement."* Moreover, since it now appears evident that Mr. Cohen made the payment to Ms. Clifford, the payment was an illegal excessive in-kind contribution to the Committee<sup>17</sup> and, the Committee failed to accurately report the in-kind contribution, in blatant disregard of federal law.<sup>18</sup>

And, based on these more detailed reports and complaint alleging that Mr. Cohen was waiting to make payment until he could discuss the details with Mr. Trump, that Mr. Cohen had an ethical obligation to keep Mr. Trump informed, and that Mr. Cohen later complained about not getting reimbursed for making the contribution, it is further clear that Respondents conspired to 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.<sup>19</sup>

## 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 investigate these violations, fine the Respondents the

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<sup>16</sup> Joe Palazzolo & Michael Rothfeld, *supra* note 13.

<sup>17</sup> 52 U.S.C. §§ 30116(a)(1)(A), 30125(e)(1)(A).

<sup>18</sup> *Id.* § 30104.

<sup>19</sup> 18 U.S.C. § 371.

maximum amount permitted by law, and refer 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 8 day of March, 2018.

Kristen Van Pelt  
Notary Public

My Commission Expires:

11-30-2021

