



**FEDERAL ELECTION COMMISSION
Washington, DC 20463**

May 6, 2021

E. Stewart Crosland
Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001

scrosland@jonesday.com

RE: MUR 7571
Donald J. Trump for President, Inc.,
and Bradley T. Crate in his official
capacity as treasurer

Dear Mr. Crosland:

On February 27, 2019, the Federal Election Commission notified you of a complaint concerning your client, Donald J. Trump for President, Inc., and Bradley T. Crate in his official capacity as treasurer (“Committee”), alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time. On March 8, 2019, we received your response to the Complaint.

Upon review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 20, 2021, voted to dismiss the allegations as they pertain to your client. The Factual and Legal Analysis, which more fully explains the Commission’s decision, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Mark Shonkwiler

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Donald J. Trump for President, Inc., MUR 7571
and Bradley T. Crate in his official capacity as treasurer
Donald J. Trump

I. INTRODUCTION

9 The Complaint alleges that Donald J. Trump and his principal campaign committee,
10 Donald J. Trump for President, Inc., and Bradley T. Crate, in his official capacity as treasurer
11 (the “Committee”), violated the Federal Election Campaign Act of 1971, as amended (the
12 “Act”), by using campaign funds to pay a law firm to represent Trump in a civil defamation
13 action that the Complaint alleges raises a question of improper personal use. The Response
14 states that the payment was not made for the defamation matter identified in the Complaint, but
15 rather was made on behalf of the Committee for legal services regarding an unrelated
16 employment matter. Based on the available information, we dismiss this matter and close the
17 file.

18 II. FACTUAL AND LEGAL ANALYSIS

19 A. Factual Background

20 Donald J. Trump is the president of the United States and is a candidate for re-election in
21 2020. The Committee is the principal campaign committee for Donald Trump's 2016 and 2020
22 presidential campaigns.¹

23 The Complaint alleges that Marc Kasowitz of Kasowitz Benson is a lawyer who has
24 represented Trump, in a personal capacity, for more than 15 years.² Summer Zervos was a

¹ See Amended Statement of Organization, Donald J. Trump for President (Jan. 20, 2017).

2 MUR 7571, Compl. at 3.

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1 contestant on the television show “The Apprentice” in 2005, who filed a defamation lawsuit
 2 against Trump in his personal capacity on January 17, 2017.³ The available information shows
 3 that Marc Kasowitz represents Trump in that lawsuit.⁴ Commission filings by the Committee
 4 report that it paid Kazowitz Benson \$322,614.29 on November 26, 2018, for “legal consulting.”⁵

5 The Complaint alleges that, based on the timing of the payments to the Kasowitz Benson
 6 firm and the firm’s representation of Trump in the Zervos defamation suit, the “only reasonable
 7 conclusion” is that the payment by the Committee was for that representation, and thus the
 8 Committee violated the Act by paying Kasowitz Benson for representation that Marc Kasowitz
 9 provided to Trump in the Zervos lawsuit.⁶ The Complaint further asserts that various other law
 10 firms have provided services to the Committee in other matters involving the Committee’s
 11 interests, but that Kazowitz Benson does “not appear” to have been one of these firms.⁷ Other
 12 than these circumstantial arguments, however, the Complaint does not otherwise provide
 13 information supporting its conclusion that the payment from the Committee to Kazowitz Benson
 14 was made to compensate the firm for its work on the Zervos lawsuit.

15 The single-page Response from the Committee denies that the payment from the
 16 Committee was for Kazowitz Benson’s representation in the Zervos lawsuit, and states that the
 17 payment was for “legal costs incurred by the Campaign in connection with an employment

³ See *Zervos v. Trump*, 59 Misc. 3d 790, 794 (N.Y. Sup. Ct. 2018), *aff’d*, 171 A.D.3d 110 (N.Y. App. Div. 2019); Compl. at 2-3.

⁴ See *Zervos*, 59 Misc. 3d at 790; Compl. at 2.

⁵ Amended 2019 Year-End Report at 5,501, Donald J. Trump for President (Mar. 13, 2019). The Committee also paid Kasowitz Benson \$69,316.50 on July 31, 2016. Amended August 2016 Quarterly Report at 98,808, Donald J. Trump for President (Nov. 19, 2018). According to the Committee’s filings, these are the only payments it has made to Kasowitz Benson.

⁶ Compl. at 2-3, 6.

⁷ *Id.* at 3.

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1 matter and certain legal research done on the Campaign’s behalf — and had nothing to do with
2 the lawsuit speculatively described in the Complaint.”⁸ Neither the Response nor publically
3 available information we were able to locate provide further information or corroboration
4 regarding the nature of this employment matter.

B. Legal Analysis

6 Under the Act, a contribution accepted by a candidate may be used for, *inter alia*,
7 “otherwise authorized expenditures in connection with the campaign for Federal office of the
8 candidate.”⁹ However, a contribution to a candidate shall not be converted by any person to
9 “personal use.”¹⁰ “Personal use” means any use of funds in a campaign account of a present or
10 former candidate to fulfill a commitment, obligation, or expense of any person that would exist
11 irrespective of the candidate’s campaign or duties as a Federal officeholder.¹¹

12 The Complaint does not provide a compelling basis upon which to believe that the
13 Committee’s payment was made in connection with the Zervos defamation lawsuit. The
14 Complaint’s theory finds some support by relying on Marc Kasowitz’s representation of Trump
15 in that lawsuit, the timing of the subject payment and the representation, and the assertion that
16 Kasowitz Benson does “not appear” to have provided legal counsel to the Committee.¹² These
17 factual points, even if true, do not appear to take into account the possibility that the Committee
18 paid Kasowitz Benson for its services in connection with another matter. That scenario is
19 precisely what the Response asserts, denying that the payment was for the Zervos lawsuit, and

⁸ MUR 7571, Resp. at 1 (Mar. 8, 2019).

9 52 U.S.C. § 30114(a).

10 *Id.* § 30114(b)(1).

¹¹ *Id.* § 30114(b)(2); 11 C.F.R. § 113.1(g); Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,863 (Feb. 9, 1995).

12 Compl. at 3.

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1 stating the payment instead was for services regarding a separate employment matter and legal
2 research that related to the Trump campaign.¹³ Although the Response is unaccompanied by a
3 sworn statement or other evidence supporting the asserted employment matter work, and we did
4 not locate publicly available information corroborating that assertion, on balance, the
5 Complaint's allegation is unpersuasive in urging the Commission to investigate its “[w]here
6 there is smoke, there is fire” theory.¹⁴

7 Accordingly, the available information does not support a reasonable inference that the
8 subject payment would have existed irrespective of Trump's campaign. We thus dismiss this
9 matter and close the file.

¹³ Resp. at 1.

¹⁴ Compl. at 4.