

**BEFORE THE FEDERAL ELECTION COMMISSION**

**COMMON CAUSE**

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**PAUL S. RYAN**

805 Fifteenth Street, NW, Suite 800  
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v.

MUR No. \_\_\_\_\_

**DONALD J. TRUMP FOR PRESIDENT, INC.**

725 Fifth Avenue  
New York, NY 10022

**THE TRUMP ORGANIZATION**

725 Fifth Avenue  
New York, NY 10022

**JOHN DOE, unknown source of funds paid by Essential Consultants LLC**

**COMPLAINT**

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that Donald J. Trump's campaign committee, Donald J. Trump for President, Inc. (FEC I.D.#C00580100), the Trump Organization, and/or unknown persons ("John Doe") violated reporting requirements and contribution limits and restrictions of the Federal Election Campaign Act (FECA), 52 U.S.C. § 30101, *et seq.* and Commission regulations.
2. Specifically, based on publicly available data and published reports, complainants have reason to believe that the payment of \$130,000 from Essential Consultants LLC to Ms. Stephanie Clifford was an unreported in-kind contribution to President Trump's 2016 presidential campaign committee, Donald J. Trump for President, Inc., and an unreported

expenditure by the committee—because the funds were paid for the purpose of influencing the 2016 presidential general election. *See* 52 U.S.C. §§ 30101(8)(A) (defining “contribution”) and 30101(9)(A) (defining “expenditure”); *see also* 52 U.S.C. § 30104(b) (requiring reporting of “contributions” and “expenditures” by political committees).

3. Regardless of the source of the funds paid to Ms. Stephanie Clifford (including, *e.g.*, if Donald J. Trump provided the funds), complainants have reason to believe that Donald J. Trump for President, Inc. failed to report its receipt of the \$130,000 in-kind contribution and failed to report its \$130,000 expenditure to Ms. Stephanie Clifford in violation of 52 U.S.C. § 30104(b).
4. Complainants have reason to believe that the Trump Organization made, and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).
5. Complainants have reason to believe that John Doe made, and Donald J. Trump for President, Inc. received, an excessive in-kind contribution in violation of 52 U.S.C. § 30116(a)(1)(A) or a corporate contribution in violation of 52 U.S.C. § 30118(a).
6. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission shall make an investigation of such alleged violation . . . .” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).
7. “A ‘reason to believe’ finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its

exact scope.” FEC, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545 (March 16, 2007).

### FACTS

8. On January 12, 2018, the *Wall Street Journal* reported that Michael Cohen arranged for the payment of \$130,000 to adult film actress Stephanie Clifford, known professionally as “Stormy Daniels.”<sup>1</sup>
9. Mr. Cohen worked as “top attorney” at the Trump Organization “from 2007 until after the election,” serves as Donald J. Trump’s personal attorney, and referred to himself in a January 2017 interview as the “fix-it guy.”<sup>2</sup> Mr. Cohen was an agent of Mr. Trump and the Trump Organization in October 2016.
10. According to the *Wall Street Journal*, Ms. Clifford has alleged that she had a sexual encounter with Mr. Trump in 2006 and “had been in talks with ABC’s ‘Good Morning America’ in the fall of 2016 about an appearance to discuss Mr. Trump.”<sup>3</sup>
11. Mr. Cohen created Essential Consultants LLC on October 17, 2016 and used a bank account linked to the entity to pay Ms. Clifford.
12. This payment of \$130,000 was part of an agreement by which Ms. Clifford would be precluded from publicly discussing alleged sexual encounters between her and Mr. Trump.

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<sup>1</sup> Michael Rothfeld and Joe Palazzolo, “Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence,” THE WALL STREET JOURNAL, January 12, 2018, *available at* <https://www.wsj.com/articles/trump-lawyer-arranged-130-000-payment-for-adult-film-stars-silence-1515787678> .

<sup>2</sup> *Id.*

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

13. Although the alleged sexual affair between Mr. Trump and Ms. Clifford occurred in 2006, the nondisclosure agreement was reached less than one month before the 2016 Presidential election.
14. The source of the \$130,000 paid from Essential Consultants LLC to Ms. Clifford is currently unknown.

#### SUMMARY OF THE LAW

15. The term “contribution” is defined in FECA to mean “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i) (emphasis added); *see also* 11 C.F.R. §§ 100.51–100.56.
16. As used in the definition of “contribution,” the phrase “anything of value” includes “all in-kind contributions.” The “provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution.” 11 C.F.R. § 100.52(d)(1).
17. The term “expenditure” is defined in FECA to mean “any purchase, payment, distribution, loan, advance, deposit, or gift or money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9)(A)(i) (emphasis added); *see also* 11 C.F.R. §§ 100.110–100.114.
18. As used in the definition of “expenditure,” the phrase “anything of value” includes “all in-kind contributions.” The “provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is an expenditure.” 11 C.F.R. § 100.111(e)(1).
19. Any expenditure that is “coordinated” with a candidate is an in-kind contribution to the candidate and must be reported as a contribution to and expenditure by that candidate’s

authorized committee. “Coordinated” means made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee or an agent thereof. 11 C.F.R. § 109.20.

20. Commission regulations provide that “agent” means “any person who has actual authority, either express or implied,” to engage in campaign spending and other specified campaign-related activities. *See* 11 C.F.R. §§ 109.3 and 300.2(b).
21. The authorized committee of a candidate for federal office must report to the Commission the identification of each person who makes a contribution to the committee with an aggregate value in excess of \$200 within an election cycle. 52 U.S.C. § 30104(b)(3)(A).
22. The authorized committee of a candidate for federal office must report as a designated category of receipt “contributions from the candidate.” 11 C.F.R. § 104.3(a)(3)(ii).
23. The authorized committee of a candidate for federal office must report to the Commission the name and address of each person to whom an expenditure in an aggregate amount in excess of \$200 within the calendar year is made by the committee. 52 U.S.C. § 30104(b)(5)(A).
24. Generally, federal candidates may make “unlimited expenditures from personal funds.” 11 C.F.R. §100.10.
25. Expenditures of a candidate’s personal funds must be reported to the Commission as in-kind contributions to the candidate’s campaign. *See, e.g.*, FEC Advisory Opinion 1990-09.

26. Corporations and labor organizations may not make contributions to federal candidates, and federal candidates may not accept contributions from corporations or labor organizations. 52 U.S.C. § 30118(a).
27. No individual may make contributions to federal candidates that, in the aggregate, exceed \$2,700 per election. 52 U.S.C. § 30116(a)(1)(A).<sup>4</sup>

### CAUSES OF ACTION

#### COUNT I:

#### **DONALD J. TRUMP FOR PRESIDENT, INC. FAILED TO REPORT RECEIPT OF A \$130,000 IN-KIND CONTRIBUTION AS WELL AS A \$130,000 EXPENDITURE IN VIOLATION OF THE FEDERAL ELECTION CAMPAIGN ACT**

28. In October 2016, Michael Cohen was an agent of Donald J. Trump. Based on published reports, there is reason to believe that Mr. Cohen’s payment of \$130,000 to Ms. Stephanie Clifford was for the purpose of influencing the 2016 presidential election and, therefore, constituted an “expenditure” by Mr. Trump or an “expenditure” coordinated with Mr. Trump—and, therefore, constituted an in-kind “contribution” to and an “expenditure” by Mr. Trump’s authorized campaign committee, Donald J. Trump for President, Inc.
29. Under FECA, Donald J. Trump for President, Inc. was required to report to the Commission the identification of each person who makes a contribution to the committee with an aggregate value in excess of \$200 within an election cycle. 52 U.S.C. § 30104(b)(3)(A).

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<sup>4</sup> As prescribed by statute under 52 U.S.C. § 30116(c), the \$2,000 limit has been adjusted for changes in the cost of living at the beginning of every odd-numbered year since 2002, most recently in February 2017. *See* FEC, Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 82 Fed. Reg. 10904, 10906 (Feb. 16, 2017).

30. Under FECA, Donald J. Trump for President, Inc. was required to report to the Commission the name and address of each person to whom an expenditure in an aggregate amount in excess of \$200 within the calendar year is made by the committee. 52 U.S.C. § 30104(b)(5)(A).
31. Based on published reports and review of FEC records, there is reason to believe that Donald J. Trump for President, Inc. failed to report its receipt of this \$130,000 contribution in violation of 52 U.S.C. § 30104(b)(3)(A).
32. Based on published reports and review of FEC records, there is reason to believe that Donald J. Trump for President, Inc. failed to report this \$130,000 expenditure in violation of 52 U.S.C. § 30104(b)(5)(A).

**COUNT II:**

**THE TRUMP ORGANIZATION MADE, AND DONALD J. TRUMP FOR PRESIDENT, INC. RECEIVED, A CORPORATE CONTRIBUTION IN VIOLATION OF THE FEDERAL ELECTION CAMPAIGN ACT**

33. In October 2016, Michael Cohen was an agent of Donald J. Trump. Based on published reports, there is reason to believe that Mr. Cohen's payment of \$130,000 to Ms. Stephanie Clifford was for the purpose of influencing the 2016 presidential election and, therefore, constituted an "expenditure" by Mr. Trump or an "expenditure" coordinated with Mr. Trump—and, therefore, constituted an in-kind "contribution" to and an "expenditure" by Mr. Trump's authorized campaign committee, Donald J. Trump for President, Inc.
34. In October 2016, Michael Cohen was an agent of the Trump Organization. Based on published reports, there is reason to believe that the Trump Organization was the source of the \$130,000 paid to Ms. Clifford.
35. Federal law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a).

36. If the Trump Organization was the source of the \$130,000 paid to Ms. Clifford, the Trump Organization made, and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).

**COUNT III:**

**JOHN DOE MADE, AND DONALD J. TRUMP FOR PRESIDENT, INC. RECEIVED, AN EXCESSIVE OR CORPORATE CONTRIBUTION IN VIOLATION OF THE FEDERAL ELECTION CAMPAIGN ACT**

37. In October 2016, Michael Cohen was an agent of Donald J. Trump. Based on published reports, there is reason to believe that Mr. Cohen’s payment of \$130,000 to Ms. Stephanie Clifford was for the purpose of influencing the 2016 presidential election and, therefore, constituted an “expenditure” by Mr. Trump or an “expenditure” coordinated with Mr. Trump—and, therefore, constituted an in-kind “contribution” to and an “expenditure” by Mr. Trump’s authorized campaign committee, Donald J. Trump for President, Inc.
38. Federal law prohibits individuals from making contributions to federal candidates in excess of \$2,700 per election. 52 U.S.C. § 30116(a)(1)(A).
39. Federal law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a).
40. Based on published reports, there is reason to believe that John Doe was the source of the \$130,000 paid to Ms. Clifford.
41. If John Doe was the source of the \$130,000 paid to Ms. Clifford and John Doe is an individual, then John Doe made, and Donald J. Trump for President, Inc. received, a contribution in violation of the \$2,700 limit established by 52 U.S.C. § 30116(a)(1)(A).
42. If John Doe was the source of the \$130,000 paid to Ms. Clifford and John Doe is a corporation, then John Doe made, and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).



**PRAYER FOR RELIEF**

43. Wherefore, the Commission should find reason to believe that Donald J. Trump for President, Inc., the Trump Organization, and/or John Doe violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin respondent(s) from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

January 22, 2018

Respectfully submitted,



Common Cause, by  
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**VERIFICATION**

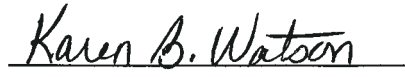
The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

**For Complainants Common Cause and Paul S. Ryan**



Paul S. Ryan

Sworn to and subscribed before me this 22<sup>nd</sup> day of January 2018.



Notary Public

