

**BEFORE THE FEDERAL ELECTION COMMISSION**

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.*

**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 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>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 Palazzalo, *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 & Palazzalo, *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,

American Bridge 21st Century Foundation

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day of February, 2018.

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Notary Public

My Commission Expires:  
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