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BEFORE THE FEDERAL ELECTION COMMISSION

COMMON CAUSE

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PAUL S. RYAN

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v.

MUR No. _____

PRESIDENT DONALD J. TRUMP

The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

DONALD J. TRUMP FOR PRESIDENT, INC.

725 Fifth Avenue
New York, NY 10022

AMERICAN MEDIA, INC.

4 New York Plaza
New York, NY 10004

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 President Donald J. Trump, Donald J. Trump's campaign committee, Donald J. Trump for President, Inc. (FEC I.D.#CO0580100), and



American Media, Inc. violated reporting requirements and the corporate contribution prohibition of the Federal Election Campaign Act (FECA), 52 U.S.C. § 30101, *et seq.* and Commission regulations.

2. Specifically, based on published reports, complainants have reason to believe that an August 2016 payment of \$150,000 from American Media, Inc. to Ms. Karen McDougal was for the purpose of influencing the 2016 presidential general election (*i.e.*, an “expenditure” under FECA), was coordinated with an agent of President Donald J. Trump (*i.e.*, Michael Cohen), and therefore constituted an in-kind contribution from American Media, Inc. to President Donald J. Trump and Donald J. Trump for President, Inc. See 52 U.S.C. §§ 30101(9)(A) (defining “expenditure”), 30116(a)(7)(B)(i) (treating coordinated “expenditure” as “contribution”), 30101(8)(A) (defining “contribution”).
3. Based on published reports, complainants have reason to believe that American Media, Inc. made, and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).
4. Based on publicly available data and published reports, complainants have reason to believe Donald J. Trump for President, Inc. failed to report its receipt of the \$150,000 in-kind contribution from American Media, Inc. and failed to report its \$150,000 expenditure to Ms. Karen McDougal in violation of 52 U.S.C. § 30104(b).



5. “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).
6. “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

7. President Donald J. Trump was a candidate for election to the office of President in the 2016 election.¹
8. Donald J. Trump for President, Inc. is the principal campaign committee of candidate Donald J. Trump.²
9. American Media, Inc. (AMI) is a corporation that “owns and operates the leading celebrity and health & fitness media brands in the country.” Its “magazines have a

¹ Donald J. Trump, FEC Form 2 Statement of Candidacy, filed June 22, 2015, *available at* <http://docquery.fec.gov/pdf/291/15031432291/15031432291.pdf>.

² Donald J. Trump for President, Inc., FEC Form 1 Statement of Organization, filed June 29, 2015, *available at* <http://docquery.fec.gov/pdf/501/201506299000000501/201506299000000501.pdf>.

combined total circulation of 2.3+ million and reach 41+ million men and women each month” and its “digital properties reach a total of 61+ million unique visitors and 579+ million page views monthly.” AMI’s publications include *National Enquirer*, *US Weekly*, *Star*, *Globe* and others. David J. Pecker is Chairman, President and Chief Executive Officer of AMI.³

10. On November 4, 2016, the *Wall Street Journal* reported that, in early August 2016, the “company that owns the National Enquirer, a backer of Donald Trump, agreed to pay \$150,000 to a former Playboy centerfold model for her story of an affair a decade ago with the Republican presidential nominee, but then didn’t publish it” and that “quashing stories” this way is “known in the tabloid world as ‘catch and kill.’”⁴
11. The *Wall Street Journal* went on to explain that the “Playboy centerfold model” was “Karen McDougal, the 1998 Playmate of the Year,” who alleged that she had a consensual sexual relationship with Mr. Trump in 2006, when “Mr. Trump was married to his current wife, Melania.” Ms. McDougal “told several of her friends she had a

³ American Media, Inc., “About Us,” available at <https://www.americanmediainc.com/about-us/overview>.

⁴ Joe Palazzolo, Michael Rothfeld and Lukas I. Alpert, “National Enquirer Shielded Donald Trump From Playboy Model’s Affair Allegation,” THE WALL STREET JOURNAL, November 4, 2016, available at <https://www.wsj.com/articles/national-enquirer-shielded-donald-trump-from-playboy-models-affair-allegation-1478309380>.

relationship for about 10 months with Mr. Trump, beginning in 2006 and lasting into 2007[.]”⁵

12. A contract reviewed by the *Wall Street Journal* gave AMI “exclusive rights to Ms. McDougal’s story forever, but didn’t obligate the company to publish it and allowed the company to transfer those rights. It barred her from telling her story elsewhere. The company said it also would give her monthly columns to write and would put her on magazine covers.”⁶
13. According to the *Wall Street Journal*, “Ms. McDougal expected her story about Mr. Trump to be published, people familiar with the matter said. American Media didn’t intend to run it, said another person familiar with the matter.”⁷
14. According to the *Wall Street Journal*, in July 2016 “Ms. McDougal was in talks with producers at ABC News to tell her story, but she ultimately agreed to the deal with AMI, guided by her lawyer Keith Davidson,” who also represented Stephanie Clifford (a.k.a. Stormy Daniels), an adult-film star also in discussions with ABC in 2016 about disclosure of details of a past relationship with Mr. Trump.⁸

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*



15. According to the *Wall Street Journal*, Mr. Trump and AMI Chairman and CEO David J. Pecker are “longtime friends” and the *National Enquirer* has “supported Mr. Trump’s presidential bid, endorsing him and publishing negative articles about some of his opponents.”⁹
16. On February 16, 2018, *The New Yorker* reported more details of the alleged relationship between Ms. McDougal and Mr. Trump and the \$150,000 “catch and kill” payment from AMI to Ms. McDougal. ¹⁰The *New Yorker* elaborated on the “catch and kill” practice:

Six former A.M.I. employees told me that Pecker routinely makes catch-and-kill arrangements like the one reached with McDougal. “We had stories and we bought them knowing full well they were never going to run,” Jerry George, a former A.M.I. senior editor who worked at the company for more than twenty-five years, told me. George said that Pecker protected Trump. “Pecker really considered him a friend,” George told me. “We never printed a word about Trump without his approval.”¹¹

17. Many of the details in *The New Yorker* article were provided by John Crawford, a friend of McDougal’s who provided *The New Yorker* with an eight-page handwritten document that McDougal wrote memorializing her relationship with Mr. Trump.¹²
- Crawford told *The New Yorker*’s Ronan Farrow “selling McDougal’s story was his idea,

⁹ *Id.*

¹⁰ Ronan Farrow, “A Playboy Model, and a System for Concealing Infidelity,” THE NEW YORKER, February 16, 2018, available at <https://www.newyorker.com/news/news-desk/donald-trump-a-playboy-model-and-a-system-for-concealing-infidelity-national-enquirer-karen-mcdougal>.

¹¹ *Id.*

¹² *Id.*



and that he first raised it when she was living with him, in 2016.” *The New Yorker*

explained:

“She and I were sitting at the house, and I’m watching him on television,” Crawford said, referring to Trump. “I said, ‘You know, if you had a physical relationship with him, that could be worth something about now.’ And I looked at her and she had that guilty look on her face.”

....

Crawford called a friend who had worked in the adult-film industry who he thought might have media connections, and asked whether a story about Trump having an affair would “be worth something.” That friend, Crawford recalled, was “like a hobo on a ham sandwich” and contacted an attorney named Keith M. Davidson, who also had contacts in the adult-film industry and ties to media companies, including A.M.I. Davidson had developed a track record of selling salacious stories. A slide show on the clients page of his Web site includes Sara Leal, who claimed to have slept with the actor Ashton Kutcher while he was married to Demi Moore. Davidson told Crawford that McDougal’s story would be worth “millions.”

Dozens of pages of e-mails, texts, and legal documents obtained by *The New Yorker* reveal how the transaction evolved. Davidson got in touch with A.M.I., and on June 20, 2016, he and McDougal met Dylan Howard, A.M.I.’s chief content officer. E-mails between Howard and Davidson show that A.M.I. initially had little interest in the story. Crawford said that A.M.I.’s first offer was ten thousand dollars.

After Trump won the Republican nomination, however, A.M.I. increased its offer. In an August, 2016, e-mail exchange, Davidson encouraged McDougal to sign the deal. McDougal, worried that she would be prevented from talking about a Presidential nominee, asked questions about the nuances of the contract. Davidson responded, “If you deny, you are safe.” He added, “We really do need to get this signed and wrapped up...”¹³

¹³ *Id.*



18. According to *The New Yorker*, on “August 5, 2016, McDougal signed a limited life-story rights agreement granting A.M.I. exclusive ownership of her account of any romantic, personal, or physical relationship she has ever had with any ‘then-married man.’ Her retainer with Davidson makes explicit that the man in question was Donald Trump.”¹⁴
19. Michael D. 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.”¹⁵ Mr. Cohen was an agent of Mr. Trump in 2016.
20. On February 18, 2018, the *New York Times* reported: “As accounts of past sexual indiscretions threatened to surface during Donald J. Trump’s [2016] presidential campaign, the job of stifling potentially damaging stories fell to his longtime lawyer and all-around fixer, Michael D. Cohen.”¹⁶ According to the article, to “protect his boss” Cohen “relied on intimidation tactics, hush money and the nation’s leading

¹⁴ *Id.*

¹⁵ 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>.

¹⁶ Jim Rutenberg, Megan Twohey, Rebecca R. Ruiz, Mike McIntire and Maggie Haberman, “Tools of Trump’s Fixer: Payouts, Intimidation and the Tabloids” *NEW YORK TIMES*, February 18, 2018, available at <https://www.nytimes.com/2018/02/18/us/politics/michael-cohen-trump.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region®ion=top-news&WT.nav=top-news>.

tabloid news business, American Media Inc., whose top executives include close Trump allies.”¹⁷

An examination of the efforts to shield Mr. Trump from aspects of his own past shows how Mr. Cohen maneuvered in the pay-to-play gossip world—populated by porn stars and centerfold models, tabloid editors and lawyers with B- and C-list entertainment clients—that came to unusual prominence in an American presidential election.

Mr. Cohen exploited mutual-self interest. By heading off trouble involving Mr. Trump’s history with women, he accrued loyalty points, the ultimate currency with Mr. Trump. He dealt with lawyers who could win fat cuts of any settlements women might reach with American Media or with Mr. Trump.

At least two women got money and, in Ms. McDougal’s case, a promise of favorable attention in American Media publications, which include *The National Enquirer*, *Star*, *Us Weekly* and *Radar*. Mr. Trump, of course, benefited the most: avoiding more scrutiny as he struggled to dismiss multiple allegations of groping and unwanted advances that arose during the campaign.¹⁸

21. American Media, Inc. acknowledged to the *New York Times* in a statement that “Michael Cohen and President Trump have been personal friends of [AMI Chairman, President and CEO] Mr. Pecker’s for decades.”¹⁹
22. According to the *New York Times*, in the “summer of 2016, American Media came to Mr. Cohen with a story involving Ms. McDougal, the former *Playboy* Playmate” who claimed she had a consensual affair with Mr. Trump in the mid-2000s. “A.M.I. had shared her allegations with Mr. Cohen, though it said it did so only as it worked to

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*



corroborate her claims, which it said it ultimately could not do. But that was not the only heads-up Mr. Cohen received.”

Soon after Ms. McDougal signed the confidential agreement on Aug. 5, 2016, Mr. Davidson emailed Mr. Cohen, “Michael, please give me a call at your convenience.” Mr. Davidson followed up by explaining to Mr. Cohen over the phone that the McDougal transaction had been completed, according to a person familiar with the conversation.²⁰

23. According to the *New York Times*, after the deal between Ms. McDougal and AMI was completed, “Mr. Davidson regularly exchanged emails, text messages and calls with Mr. Cohen, according to people familiar with the contacts.”²¹

SUMMARY OF THE LAW

24. 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.
25. FECA provides that “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.” 52 U.S.C. § 30116(a)(7)(B)(i). *See also* 11 C.F.R. § 109.20(a).

²⁰ *Id.*

²¹ *Id.*

26. 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. 11 C.F.R. § 109.20(b).
27. 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.
28. 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).
29. FECA so-called “press exemption” provides that the term “expenditure” does not include “any news story, commentary, or editorial *distributed* through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication” 52 U.S.C. § 30101(9)(B)(i) (emphasis added) (so-called “press exemption” for news stories *distributed* by media entities).
30. The Commission provides by regulation that “[a]ny cost incurred in *covering or carrying* a news story, commentary, or editorial by any . . . newspaper, magazine, or

other periodical publication, including any Internet or electronic publication, is not” a contribution or expenditure. 11 C.F.R. §§ 100.73 and 100.132 (emphasis added).

31. The Commission conducts a two-step analysis to determine whether the “press exemption” applies to a specific expenditure. *First*, the Commission asks whether the entity engaging in the activity is a press entity. *See, e.g.,* AO 2010-08 at 4 (Citizens United). *Second*, the Commission applies the two-part analysis presented in *Reader’s Digest Ass’n v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981): (1) Whether the press entity is owned or controlled by a political party, political committee or candidate; and (2) Whether the press entity is *acting as a press entity* in conducting the activity at issue (*i.e.,* whether the entity is *acting in its “legitimate press function”*). *See, e.g.,* AO 2010-08 at 5 (citing *FEC v. Phillips Publ’g*, 517 F. Supp. 1308, 1312-13 (D.D.C. 1981).

Regarding the “legitimate press function” requirement, the district court in *Readers Digest Association* explained:

The press exemption has certain limitations. First, in exempting the “distribut(ion)” of news or commentary “through the facilities of any broadcasting station, newspaper, magazine or other periodical publication . . .”, the statute would seem to exempt only those kinds of distribution that fall broadly within the press entity’s legitimate press function. It would not seem to exempt any dissemination or distribution using the press entity’s personnel or equipment, no matter how unrelated to its press function. If, for example, on Election Day a partisan newspaper hired an army of incognito propaganda distributors to stand on street corners denouncing allegedly illegal acts of a candidate and sent sound trucks through the streets blaring the same denunciations, all in a manner unrelated to the sale of its newspapers, this activity would not come within the press exemption even though it might

comply with a technical reading of the statutory exemption, being a “news story . . . distributed through the facilities of . . . (a) newspaper.”

509 F. Supp. at 1214 (emphasis added).

32. Commission regulations provide that “agent” means “any person who has actual authority, either express or implied,” to engage in campaign spending and other specified activities. See 11 C.F.R. §§ 109.3 and 300.2(b).
33. 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).
34. 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).
35. 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).



CAUSES OF ACTION

COUNT I:

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

36. In 2016, Michael Cohen was an agent of Donald J. Trump, serving as Mr. Trump's personal lawyer and "fix-it guy."
37. Based on published reports, there is reason to believe that American Media, Inc.'s "catch and kill" payment of \$150,000 to Ms. Karen McDougal was for the purpose of influencing the 2016 presidential general election and, therefore, an "expenditure" under FECA, 52 U.S.C. § 30101(9)(A)(i).
38. Based on published reports, there is reason to believe that American Media, Inc.'s payment of \$150,000 to Ms. Karen McDougal was *not* for the distribution of any "news story, commentary, or editorial," was *not* for any "legitimate press function," and therefore was *not* covered by the so-called "press exemption" to the definition of "expenditure" established by 52 U.S.C. § 30101(9)(B)(i).
39. Based on published reports, there is reason to believe that American Media, Inc., which, in the summer of 2016, "came to Mr. Cohen with a story involving Ms. McDougal," made its payment of \$150,000 to Ms. Karen McDougal "in cooperation, consultation, or concert, with, or at the request or suggestion of" Mr. Cohen, and agent of Donald J. Trump, therefore rendering American Media, Inc.'s payment a coordinated

expenditure and an in-kind contribution to Donald J. Trump and Donald J. Trump for President, Inc. under 52 U.S.C. § 30116(a)(7)(B)(i). See also 11 C.F.R. § 109.20(a).

40. Based on published reports, there is reason to believe that American Media, Inc., made and Donald J. Trump for President, Inc. received a \$150,000 in-kind contribution in violation of the FECA prohibition on corporate contributions established by 52 U.S.C. § 30118(a).

COUNT II:

DONALD J. TRUMP FOR PRESIDENT, INC. FAILED TO REPORT RECEIPT OF A \$150,000 IN-KIND CONTRIBUTION AS WELL AS A \$150,000 EXPENDITURE IN VIOLATION OF THE FEDERAL ELECTION CAMPAIGN ACT

41. In 2016, Michael Cohen was an agent of Donald J. Trump, serving as Mr. Trump's personal lawyer and "fix-it guy."
42. Based on published reports, there is reason to believe that American Media, Inc.'s "catch and kill" payment of \$150,000 to Ms. Karen McDougal was for the purpose of influencing the 2016 presidential general election and, therefore, an "expenditure" under FECA, 52 U.S.C. § 30101(9)(A)(i).
43. Based on published reports, there is reason to believe that American Media, Inc.'s payment of \$150,000 to Ms. Karen McDougal was *not* for the distribution of any "news story, commentary, or editorial," was *not* for any "legitimate press function," and



therefore was *not* covered by the so-called “press exemption” to the definition of “expenditure” established by 52 U.S.C. § 30101(9)(B)(i).

44. Based on published reports, there is reason to believe that believe that American Media, Inc. made its payment of \$150,000 to Ms. Karen McDougal “in cooperation, consultation, or concert, with, or at the request or suggestion of” Mr. Cohen, an agent of Donald J. Trump, therefore rendering American Media, Inc.’s payment a coordinated expenditure and an in-kind contribution to Donald J. Trump and Donald J. Trump for President, Inc. under 52 U.S.C. § 30116(a)(7)(B)(i). *See also* 11 C.F.R. § 109.20(a).
45. 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).
46. 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).
47. 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 \$150,000 contribution from American Media, Inc., in violation of 52 U.S.C. § 30104(b)(3)(A).




48. 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 \$150,000 expenditure to Ms. Karen McDougal in violation of 52 U.S.C. § 30104(b)(5)(A).

PRAYER FOR RELIEF

49. Wherefore, the Commission should find reason to believe that President Donald J. Trump, Donald J. Trump for President, Inc. and American Media, Inc. 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.

February 20, 2018

Respectfully submitted,



Common Cause, by
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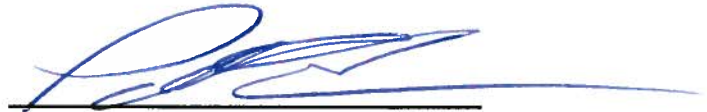


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VERIFICATION

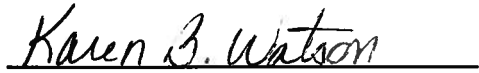
The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

For Complainants Common Cause and Paul S. Ryan



Paul S. Ryan

Sworn to and subscribed before me this 20th day of February 2018.



Notary Public

