

BEFORE THE FEDERAL ELECTION COMMISSION

COMMON CAUSE
805 Fifteenth Street, NW, Suite 800
Washington, DC 20005
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PAUL S. RYAN
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v.

MUR No. 7313

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

THE TRUMP ORGANIZATION
725 Fifth Avenue
New York, NY 10022

MICHAEL D. COHEN
c/o Michael D. Cohen & Associates, PC
30 Rockefeller Plaza, 23rd Floor
New York, NY 10112-0015

ESSENTIAL CONSULTANTS, LLC
160 Greentree Drive
Suite #101
Dover, DE 19904

JOHN DOE, unknown person that reimbursed Michael D. Cohen for payment to Stephanie Clifford via Essential Consultants LLC

COMPLAINT (AMENDED)

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, Donald J. Trump for President, Inc. (FEC I.D.#C00580100), the Trump Organization, Michael D. Cohen, Essential Consultants LLC 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 Michael D. Cohen through Essential Consultants LLC to Ms. Stephanie Clifford was an unreported in-kind contribution to Donald J. Trump and Donald J. Trump for President, Inc., and an unreported expenditure by Donald J. Trump and Donald J. Trump for President, Inc.—because the payment was made for the purpose of influencing the 2016 presidential general election and the payment was made by Donald J. Trump, or an employee and agent of Donald J. Trump (Michael D. Cohen), or in coordination with Donald J. Trump. See 52 U.S.C. §§ 30101(8)(A) (defining “contribution”), 30101(9)(A) (defining “expenditure”) and 30116(a)(7) (coordinated “expenditure” a “contribution”); 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 Michael D. Cohen made, and Donald J. Trump and Donald J. Trump for President, Inc. received, an excessive in-kind contribution in violation of 52 U.S.C. § 30116(a)(1)(A).**
5. **Complainants have reason to believe that Essential Consultants LLC made, and Donald J. Trump 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. **Complainants have reason to believe that the Trump Organization facilitated a contribution to Donald J. Trump and Donald J. Trump for President, Inc. in violation of 11 C.F.R. § 114.2(f)(1) and 52 U.S.C. § 30118(a).**
7. **Complainants have reason to believe that the Trump Organization made, and Donald J. Trump and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).**
8. **Complainants have reason to believe that John Doe made, and Donald J. Trump 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).**

9. “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).
10. “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

11. President Donald J. Trump was a candidate for election to the office of President in the 2016 election and ran the Trump Organization as its chairman and president until January 19, 2017.¹
12. Donald J. Trump for President, Inc. was the principal campaign committee of candidate Donald J. Trump in the 2016 presidential election.²
13. The Trump Organization is a privately held corporation owned nearly entirely by Donald J. Trump.³

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>; see also Jill Disis, Drew Griffin, Curt Devine and Scott Bronstein, “Trump Organization documents say he has resigned from more than 400 businesses,” CNN MONEY, January 23, 2017, *available at* <http://money.cnn.com/2017/01/23/news/donald-trump-resigns-business/index.html>.

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>.

³ See, e.g., Megan Twohey, Russ Buettner and Steve Eder, “Inside the Trump Organization, the Company That Has Run Trump’s Big World,” NEW YORK TIMES, December 25, 2016, *available at*

14. Michael D. Cohen is an attorney licensed to practice law in the State of New York and, in 2016, was employed by the Trump Organization as executive vice president and counsel to Trump Organization chairman and president Donald J. Trump.⁴
15. Essential Consultants LLC is a limited liability company created by Mr. Cohen in the State of Delaware on October 17, 2016.⁵
16. On January 12, 2018, the *Wall Street Journal* reported that Mr. Cohen arranged for a payment of \$130,000 to adult film actress Stephanie Clifford, known professionally as “Stormy Daniels.”⁶
17. 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

<https://www.nytimes.com/2016/12/25/us/politics/trump-organization-business.html>; see also Trump Organization LLC, New York State Department of State, Division of Corporations Entity Information, available at https://appext20.dos.ny.gov/corp_public/CORPSEARCH.ENTITY_INFORMATION?p_token=BB2254921C9A6774118FF322870EBFF5B7047890C19A60AE8F7339397146C73F88AEB3F466B181345BF425299FAA4917&p_nameid=412D34A4B6E8C483&p_corpid=E8EB48F78472048A&p_captcha=17512&p_captcha_check=BB2254921C9A6774118FF322870EBFF5B7047890C19A60AE8F7339397146C73F6B4DBE74546CDD460032599C1CF0E2A5&p_entity_name=trump%20organization&p_name_type=A&p_search_type=BEGINS&p_srch_results_page=0.

⁴ See Attorney Detail, New York State Unified Court System, Michael Dean Cohen, available at <http://iapps.courts.state.ny.us/attorney/AttorneyDetails?attorneyId=ROkQI3NU31LJo1kGBolG4Q%3D%3D>; see also Rosalind S. Helderman, “Michael Cohen will stay Trump’s personal attorney – even in the White House,” NEW YORK TIMES, January 19, 2017, available at https://www.washingtonpost.com/news/post-politics/wp/2017/01/19/michael-cohen-special-counsel-to-donald-trump-will-follow-him-to-washington/?utm_term=.aeb9eefa22d3.

⁵ See Essential Consultants LLC, State of Delaware Limited Liability Company Certificate of Formation, October 17, 2016, available at http://online.wsj.com/public/resources/documents/Essential_Consultants_01_12_17.pdf.

⁶ Michael Rothfeld and Joe Palazzolo, “Trump Lawyer Arranged \$130,000 Payment for Adult-Film Star’s Silence,” 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>.

2017 interview as the “fix-it guy.”⁷ Mr. Cohen was an agent of Mr. Trump and the Trump Organization in October 2016.

18. 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.”⁸

19. This payment of \$130,000 was part of a nondisclosure agreement by which Ms. Clifford would be precluded from publicly discussing the alleged sexual encounters between her and Mr. Trump.⁹

20. 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.¹⁰

21. The *Wall Street Journal* explained:

The agreement with Ms. Clifford came as the Trump campaign confronted allegations from numerous women who described unwanted sexual advances and alleged assaults by Mr. Trump. In October 2016, the Washington Post published a videotape made, but never aired, by NBC’s “Access Hollywood” in which Mr. Trump spoke of groping women.¹¹

22. On February 13, 2018, the *New York Times* reported that Mr. Cohen told the newspaper he “had paid \$130,000 out of his own pocket” and that “[n]either the Trump Organization nor the

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Trump campaign was a party to the transaction with Ms. Clifford, and neither reimbursed [him] for the payment, either directly or indirectly[.]”¹²

23. On February 14, 2018, the *Washington Post* quoted Mr. Cohen’s statement, first reported by the *New York Times*, as:

I am Mr. Trump’s longtime special counsel and I have proudly served in that role for more than a decade[.] . . . In a private transaction in 2016, I used my own personal funds to **facilitate** a payment of \$130,000 to Ms. Stephanie Clifford. Neither the Trump Organization nor the Trump campaign was a party to the transaction with Ms. Clifford, and neither reimbursed me for the payment, either directly or indirectly.¹³

24. In a February 14, 2018, follow-up story the *New York Times* reported that Mr. Cohen had told the newspaper that “he had used his own funds to **facilitate** the payment to the actress.”¹⁴ Mr. Cohen “declined to answer questions about whether Mr. Trump had reimbursed him [or] whether the two men had made any arrangement at the time of the payment[.]”¹⁵

25. On March 5, 2018, the *Wall Street Journal* reported that Mr. Cohen’s payment to Ms. Clifford was received by Ms. Clifford on October 27, 2016—12 days before the presidential election—and that “Mr. Cohen said he missed two deadlines earlier that month to make the \$130,000 payment to Ms. Clifford **because he couldn’t reach Mr. Trump in the hectic final days of the**

¹² Maggie Haberman, “Michael D. Cohen, Trump’s Longtime Lawyer, Says He Paid Stormy Daniels Out of His Own Pocket,” NEW YORK TIMES, February 13, 2018, available at <https://www.nytimes.com/2018/02/13/us/politics/stormy-daniels-michael-cohen-trump.html>.

¹³ Mark Berman, “Longtime Trump attorney says he made \$130,000 payment to Stormy Daniels with his money,” WASHINGTON POST, February 14, 2018 (emphasis added), available at https://www.washingtonpost.com/news/post-nation/wp/2018/02/14/longtime-trump-attorney-says-he-made-130000-payment-to-stormy-daniels-with-his-money/?utm_term=.a308d0220a5f.

¹⁴ Maggie Haberman and Charlie Savage, “Trump Lawyer’s Payment to Porn Star Raises New Questions,” NEW YORK TIMES, February 14, 2018 (emphasis added), available at <https://www.nytimes.com/2018/02/14/us/politics/stormy-daniels-michael-cohen-trump.html>.

¹⁵ *Id.*

*presidential campaign.*¹⁶ And “[a]fter Mr. Trump’s victory, Mr. Cohen complained to friends that *he had yet to be reimbursed* for the payment to Ms. Clifford[.]”¹⁷

26. On March 6, 2018, Stephanie Clifford filed a complaint for declaratory relief against Donald J. Trump and Essential Consultants LLC in California superior court in Los Angeles County, challenging the validity of the October 2016 nondisclosure agreement between Ms. Clifford, Essential Consultants LLC and Donald J. Trump—on the ground that Donald J. Trump had not signed the agreement.¹⁸
27. In the complaint, Ms. Clifford alleges that in October 2016, around the time that the Access *Hollywood* tape was made public, she “sought to share details concerning her relationship and encounters with Mr. Trump with various media outlets.”¹⁹
28. Ms. Clifford further alleges: “As a result of Ms. Clifford’s efforts aimed at publicly disclosing her story and her communications with various media outlets, Ms. Clifford’s plans came to the attention of Mr. Trump and his campaign, including Mr. Michael Cohen[.]”²⁰

After discovering Ms. Clifford’s plans, **Mr. Trump**, with the assistance of his attorney Mr. 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**. Mr. Cohen

¹⁶ Joe Palazzolo and Michael Rothfeld, “Trump Lawyer’s Payment to Stormy Daniels Was Reported as Suspicious by Bank,” WALL STREET JOURNAL, March 5, 2018 (emphasis added), available at <https://www.wsj.com/articles/trump-lawyers-payment-to-porn-star-was-reported-as-suspicious-by-bank-1520273701>.

¹⁷ *Id.* (emphasis added).

¹⁸ Complaint, *Clifford v. Trump*, March 6, 2018, Superior Court for the State of California for the County of Los Angeles, available at <https://assets.documentcloud.org/documents/4403879/Filed-Complaint.pdf> (Attached as APPENDIX 1).

¹⁹ *Id.* at ¶14.

²⁰ *Id.* at ¶15.

subsequently prepared a draft non-disclosure agreement and presented it to Ms. Clifford²¹

29. According to Ms. Clifford’s complaint, Essential Consultants LLC “was created by Mr. Cohen ***with Mr. Trump’s knowledge*** for one purpose—to hide the true source of funds to be used to pay Ms. Clifford, thus further insulating Mr. Trump from later discovery and scrutiny.”²²
30. According to Ms. Clifford’s complaint, the nondisclosure agreement, as drafted, was between three parties, Ms. Clifford (using the alias Peggy Peterson), Essential Consultants LLC and Donald J. Trump (using the alias David Dennison). The agreement “imposed various conditions and obligations not only on Ms. Clifford, but also on Mr. Trump” and the agreement “required the signatures of all parties to the agreement, including that of Mr. Trump.”²³

On or about October 28, 2016, only days before the election, two of the parties signed the Hush Agreement—Ms. Clifford and Mr. Cohen (on behalf of [Essential Consultants LLC]). Mr. Trump, however, did not sign the agreement, thus rendering it legally null and void and of no consequence. On information and belief, despite having detailed knowledge of the Hush Agreement and its terms, including the proposed payment of monies to Ms. Clifford and the routing of those monies through [Essential Consultants LLC], Mr. Trump purposely did not sign the agreement so he could later, if need be, publicly disavow any knowledge of the Hush Agreement and Ms. Clifford.²⁴

31. Ms. Clifford’s complaint explains that, under Rule 1.4 of New York Rules of Professional Conduct governing attorneys, Mr. Cohen was required “*at all times* to promptly communicate all material information relating to the [nondisclosure agreement] to Mr. Trump” and to “reasonably consult with [Mr. Trump] about the means by which [his] objectives are to be

²¹ *Id.* at ¶116 (emphasis added).

²² *Id.* at ¶117 (emphasis added).

²³ *Id.* at ¶121.

²⁴ *Id.* at ¶122.

accomplished” and to “keep [Mr. Trump] reasonably informed about the status of the matter.”²⁵

Accordingly, unless 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, the payment of the \$130,000.00, the use of [Essential Consultants LLC] as a conduit, and the recent attempts to intimidate and silence Ms. Clifford by way of the bogus arbitration proceeding.²⁶

32. On March 9, 2018, *NBC News* reported that Ms. Clifford’s attorney had provided the news outlet with an email showing that Mr. Cohen used his Trump Organization corporate email, not his personal email account, to communicate with First Republic Bank to arrange the \$130,000 payment to Ms. Clifford through Essential Consultants LLC.²⁷
33. On March 9, 2018, Mr. Cohen reportedly explained the October 2016 financial transaction to *ABC News* as follows: “I transferred money from one account at [my] bank into my LLC and then wired said funds to Ms. Clifford’s attorney in Beverly Hills, California” and that “the funds were taken from my home equity line and transferred internally to my LLC account in the same bank.”²⁸

²⁵ *Id.* at ¶131.

²⁶ *Id.* at ¶132.

²⁷ Sarah Fitzpatrick and Tracy Connor, “Michael Cohen used Trump Org. email in Stormy Daniels arrangements,” *NBC NEWS*, March 9, 2018, available at https://www.nbcnews.com/news/us-news/michael-cohen-used-trump-org-email-stormy-daniels-arrangements-n855021?cid=sm_npd_nn_tw_ma (Cohen email attached as APPENDIX 2).

²⁸ Tom Llamas, Zunaira Zaki, Katherine Faulders, Christina Peck, “Michael Cohen dismisses claims of email as proof that Trump knew about payment to porn star to buy her silence,” *ABC NEWS*, March 9, 2018, available at <http://abcnews.go.com/Politics/michael-cohen-dismisses-claims-email-proof-trump-knew/story?id=53642094>.

SUMMARY OF THE LAW

“CONTRIBUTION” AND “EXPENDITURE” DEFINITIONS AND RESTRICTIONS

34. 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.
35. 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).
36. 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.
37. 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).

38. FECA limits to \$2,700 per election the amount of a contribution that a person can make to a federal candidate. 52 U.S.C § 30116(a)(1).²⁹
39. FECA prohibits a corporation or labor union from making a contribution to a federal candidate and prohibits a candidate from accepting or receiving a contribution from a corporation or labor union. 52 U.S.C. § 30118(a).
40. Commission regulation makes clear that the prohibition on corporate contributions includes a prohibition on the use of corporate resources to facilitate the making of contributions:

Corporations and labor organizations (including officers, directors or other representatives acting as agents of corporations and labor organizations) are prohibited from facilitating the making of contributions to candidates or political committees Facilitation means using corporate or labor organization resources or facilities to engage in fundraising activities in connection with any federal election[.]

11 C.F.R. § 114.2(f)(1).³⁰

41. Commission regulation provides that a contribution by a limited liability company (LLC) that elects to be treated as a partnership by the Internal Revenue Service shall be considered a partnership for the purpose of the FECA contribution limits. 11 C.F.R. § 110.1(g)(2). An LLC that elected to be treated as a corporation by the Internal Revenue Service shall be considered a corporation for the purpose of the FECA corporate contribution prohibition. 11 C.F.R. § 110.1(g)(3).

²⁹ The statutory limits are \$2,000 and \$25,000, respectively, and are indexed for inflation in odd-numbered years. See 52 U.S.C. § 30116(c); see also FEC, "Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold," 80 Fed. Reg. 5750, 5752, February 3, 2015 (adjusting contribution limit to \$2,700 for 2015-16 election cycle), available at https://transition.fec.gov/law/cfr/ej_compilation/2015/notice2015-01.pdf.

³⁰ Commission regulation exempts from the definition of "contribution" certain *uncompensated* Internet activities, including "sending or forwarding electronic messages." See 11 C.F.R. § 100.94.

42. Generally, federal candidates may make “unlimited expenditures from personal funds.” 11 C.F.R. § 100.10.
43. When a federal candidate receives a contribution or makes any disbursement in connection with her campaign, the candidate “shall be considered as having received such contribution . . . or made such disbursement as an agent of his or her authorized committee(s).” 11 C.F.R. § 101.2(a); see *a/so* 11 C.F.R. §§ 102.7(d), 109.3(b) and 300.2(b).
44. Candidates and political committees are prohibited from knowingly accepting any contribution or making any expenditure in violation of federal law. 11 C.F.R. § 110.9. Similarly, officers and employees of political committees are prohibited from knowingly accepting a contribution made for the benefit or use of a candidate, or making any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures. 11 C.F.R. § 110.9.

COORDINATED SPENDING

45. Any expenditure “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” is considered a contribution to such candidate. 52 U.S.C. 30116(a)(7)(B)(i).
46. Similarly, any expenditure made by any person, other than a candidate or candidate's committee, “in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party” is considered a contribution to such party committee. 52 U.S.C. 30116(a)(7)(B)(ii).

47. “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(a). **Any expenditure that is “coordinated” with a candidate** or political party committee, but that is not made for a “coordinated communication” under 11 C.F.R. § 109.21, **is an in-kind contribution to the “candidate** or political party committee with whom or with which it was coordinated **and must be reported as an expenditure made by that candidate or political party committee”** unless otherwise exempted. 11 C.F.R. § 109.20(b) (emphasis added).

48. In its 2003 *Explanation and Justification* for 11 C.F.R. § 109.20, the Commission made clear that, whereas coordinated expenditures for communications—*i.e.*, political ads—are regulated by 11 C.F.R. § 109.21, coordinated expenditures for things other than political ads are regulated by 11 C.F.R. § 109.20. The Commission explained:

One commenter asserted that only express advocacy communications can constitute coordination, and urged the Commission to provide explicitly that non-communication expenditures will not be considered to be coordination. The Commission disagrees with the commenter’s assertion because Congress has not so limited the statutory provisions relating to coordination.³¹

49. 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).

³¹ FEC, *Coordinated and Independent Expenditures*, Final Rules and Explanation and Justification, 68 Fed. Reg. 421, 425-26 (January 3, 2003).

REPORTING AND DISCLOSURE REQUIREMENTS

50. 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).
51. 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).
52. 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).
53. 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.

CAUSES OF ACTION

COUNT ONE:

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 FECA

54. Paragraphs 1 through 53 are incorporated herein.
55. In October 2016, Michael D. Cohen was an employee and 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 Donald J. Trump and Donald J. Trump for President, Inc.

56. When a federal candidate receives a contribution or makes any disbursement in connection with his campaign, the candidate is considered to have received such contribution or made such disbursement as an agent of his authorized committee. 11 C.F.R. § 101.2(a).
57. 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).
58. 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).
59. 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).
60. 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 TWO:

MICHAEL D. COHEN MADE, AND DONALD J. TRUMP AND DONALD J. TRUMP FOR PRESIDENT, INC. RECEIVED, A CONTRIBUTION IN VIOLATION OF FECA

61. Paragraphs 1 through 53, and 55 through 60 are incorporated herein.

62. In October 2016, Michael D. Cohen was an agent and employee of Donald J. Trump. Based on published reports, there is reason to believe that Donald J. Trump was a party to the nondisclosure agreement negotiated with Ms. Stephanie Clifford that led to the payment of \$130,000 to Ms. Clifford.
63. 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 Donald J. Trump and Donald J. Trump for President, Inc.
64. When a federal candidate receives a contribution or makes any disbursement in connection with his campaign, the candidate is considered to have received such contribution or made such disbursement as an agent of his authorized committee. 11 C.F.R. § 101.2(a).
65. 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).
66. Based on published reports, there is reason to believe that Michael D. Cohen was the source of the \$130,000 paid to Ms. Clifford.
67. Based on published reports, there is reason to believe that Michael D. Cohen made, and Donald J. Trump 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).

COUNT THREE:

ESSENTIAL CONSULTANTS LLC MADE, AND DONALD J. TRUMP AND DONALD J. TRUMP FOR PRESIDENT, INC. RECEIVED, A CORPORATE CONTRIBUTION IN VIOLATION OF FECA

68. Paragraphs 1 through 53, 55 through 60, and 62 through 67 are incorporated herein.
69. In October 2016, Michael D. Cohen was an agent and employee of Donald J. Trump. Based on published reports, there is reason to believe that Donald J. Trump was a party to the nondisclosure agreement negotiated with Ms. Stephanie Clifford that led to the payment of \$130,000 to Ms. Clifford.
70. Based on published reports, there is reason to believe that Mr. Cohen's payment of \$130,000 to Ms. 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 Donald J. Trump and Donald J. Trump for President, Inc.
71. When a federal candidate receives a contribution or makes any disbursement in connection with his campaign, the candidate is considered to have received such contribution or made such disbursement as an agent of his authorized committee. 11 C.F.R. § 101.2(a).
72. 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).
73. Federal law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a).

74. Based on published reports, there is reason to believe that Essential Consultants paid \$130,000 to Ms. Clifford.
75. Pursuant to 11 C.F.R. § 110.1(g), if Essential Consultants LLC elects to be treated as a partnership by the Internal Revenue Service, then Essential Consultants LLC made, and Donald J. Trump 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).
76. Pursuant to 11 C.F.R. § 110.1(g), if Essential Consultants LLC elects to be treated as a corporation by the Internal Revenue Service, then Essential Consultants LLC made, and Donald J. Trump and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).

COUNT FOUR:

THE TRUMP ORGANIZATION FACILITATED A CONTRIBUTION TO DONALD J. TRUMP AND DONALD J. TRUMP FOR PRESIDENT, INC. IN VIOLATION OF FECA

77. Paragraphs 1 through 53, 55 through 60, 62 through 67, and 69 through 76 are incorporated herein.
78. In October 2016, Michael D. Cohen was an agent and employee of Donald J. Trump and the Trump Organization. Based on published reports, there is reason to believe that Donald J. Trump was a party to the nondisclosure agreement negotiated with Ms. Stephanie Clifford that led to the payment of \$130,000 to Ms. Clifford.
79. 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 Donald J. Trump and Donald J. Trump for President, Inc.

80. Based on published reports, there is reason to believe that Michael D. Cohen made the payment of \$130,000 to Ms. Stephanie Clifford in his paid capacity as the Trump Organization’s executive vice president and counsel to Trump Organization chairman and president Donald J. Trump including, but not limited to, the fact that Michael D. Cohen used his Trump Organization email to facilitate the payment to Ms. Clifford.
81. Based on published reports, there is reason to believe that the Trump Organization, through its executive vice president and counsel to Trump Organization chairman and president Donald J. Trump, facilitated the making of a contribution to Donald J. Trump and Donald J. Trump for President, Inc., through its payment of salary to Mr. Cohen and through Mr. Cohen’s use of Trump Organization resources, in violation of 11 C.F.R. § 114.2(f)(1) and 52 U.S.C. § 30118(a).

COUNT FIVE:

THE TRUMP ORGANIZATION MADE, AND DONALD J. TRUMP AND DONALD J. TRUMP FOR PRESIDENT, INC. RECEIVED, A CORPORATE CONTRIBUTION IN VIOLATION OF FECA

82. Paragraphs 1 through 53, 55 through 60, 62 through 67, 69 through 76, and 78 through 81 are incorporated herein.
83. In October 2016, Michael D. Cohen was an agent and employee of Donald J. Trump. Based on published reports, there is reason to believe that Donald J. Trump was a party to the

nondisclosure agreement negotiated with Ms. Stephanie Clifford that led to the payment of \$130,000 to Ms. Clifford.

84. 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 Donald J. Trump and Donald J. Trump for President, Inc.
85. In October 2016, Michael D. Cohen was an employee and agent of the Trump Organization. Based on published reports, there is reason to believe that the Trump Organization reimbursed Michael D. Cohen for the \$130,000 paid to Ms. Clifford.
86. Federal law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a).
87. When a federal candidate receives a contribution or makes any disbursement in connection with his campaign, the candidate is considered to have received such contribution or made such disbursement as an agent of his authorized committee. 11 C.F.R. § 101.2(a).
88. If the Trump Organization reimbursed Michael D. Cohen the \$130,000 paid to Ms. Clifford, the Trump Organization made, and Donald J. Trump and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).

COUNT SIX:

JOHN DOE MADE, AND DONALD J. TRUMP AND DONALD J. TRUMP FOR PRESIDENT, INC. RECEIVED, AN EXCESSIVE OR CORPORATE CONTRIBUTION IN VIOLATION OF FECA

89. Paragraphs 1 through 53, 55 through 60, 62 through 67, 69 through 76, 78 through 81 and 83 through 88 are incorporated herein.
90. In October 2016, Michael D. Cohen was an agent and employee of Donald J. Trump. Based on published reports, there is reason to believe that Donald J. Trump was a party to the nondisclosure agreement negotiated with Ms. Stephanie Clifford that led to the payment of \$130,000 to Ms. Clifford.
91. 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.
92. When a federal candidate receives a contribution or makes any disbursement in connection with his campaign, the candidate is considered to have received such contribution or made such disbursement as an agent of his authorized committee. 11 C.F.R. § 101.2(a).
93. 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).
94. Federal law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a).

95. Based on published reports, there is reason to believe that John Doe reimbursed Michael D. Cohen the \$130,000 paid to Ms. Clifford.
96. If John Doe reimbursed Michael D. Cohen the \$130,000 paid to Ms. Clifford and John Doe is an individual, then John Doe made, and Donald J. Trump 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).
97. If John Doe reimbursed Michael D. Cohen the \$130,000 paid to Ms. Clifford and John Doe is a corporation, then John Doe made, and Donald J. Trump and Donald J. Trump for President, Inc. received, a corporate contribution in violation of 52 U.S.C. § 30118(a).

PRAYER FOR RELIEF

98. Wherefore, the Commission should find reason to believe that Donald J. Trump, Donald J. Trump for President, Inc., the Trump Organization, Michael D. Cohen, Essential Consultants LLC 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.

March 12, 2018

Respectfully submitted,



Common Cause, by

Paul S. Ryan
805 Fifteenth Street, NW, Suite 800
Washington, DC 20005
(202) 833-1200



Paul S. Ryan
805 Fifteenth Street, NW, Suite 800
Washington, DC 20005
(202) 833-1200

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 12th day of March 2018.



Notary Public



APPENDIX 1

COPY

1 Michael J. Avenatti, Bar No. 206929
2 AVENATTI & ASSOCIATES, APC
3 mavenatti@eoalaw.com
4 520 Newport Center Drive, Suite 1400
5 Newport Beach, CA 92660
6 Tel: (949) 706-7000
7 Fax: (949) 706-7050

8 Attorneys for Plaintiff Stephanie Clifford
9 a.k.a. Stormy Daniels a.k.a. Peggy Peterson

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ORIGINAL FILED
Superior Court of California
County of Los Angeles**

MAR 06 2018

**Sherid R. Carter, Executive Officer/Clerk
By: Charletta Robinson, Deputy**

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 STEPHANIE CLIFFORD a.k.a. STORMY
14 DANIELS a.k.a. PEGGY PETERSON, an
15 individual,

16 Plaintiff,

17 vs.

18 DONALD J. TRUMP a.k.a. DAVID DENNISON,
19 an individual, ESSENTIAL CONSULTANTS,
20 LLC, a Delaware Limited Liability Company, and
21 DOES 1 through 10, inclusive

22 Defendants.

Case No.

BC 6 9 6 5 6 8

**COMPLAINT FOR DECLARATORY
RELIEF**

1 Plaintiff Stephanie Clifford a.k.a. Stormy Daniels a.k.a. Peggy Peterson ("Ms. Clifford" or
2 "Plaintiff") hereby alleges the following:
3

4 **THE PARTIES**

5 1. Plaintiff Ms. Clifford, an individual, is a resident of the State of Texas.

6 2. Defendant Donald J. Trump a.k.a. David Dennison ("Mr. Trump"), an individual, is a
7 resident of the District of Columbia (among other places).

8 3. Defendant Essential Consultants, LLC ("EC") is a Delaware limited liability company
9 formed on October 17, 2016.

10 4. Mr. Trump and EC together shall be referred to hereafter as "Defendants."

11 5. The true names and capacities of the defendants DOES 1 through 10, inclusive,
12 whether individual, plural, corporate, partnership, associate or otherwise, are not known to Plaintiff,
13 who therefore sues said defendants by such fictitious names. Plaintiff will seek leave of court to
14 amend this Complaint to show the true names and capacities of defendants DOES 1 through 10,
15 inclusive, when the same have been ascertained.

16 6. Plaintiff is also informed and believe and thereon alleges that DOES 1 to 10 were the
17 agents, principals, and/or alter egos of Defendants, at all times herein relevant, and that they are
18 therefore liable for the acts and omissions of Defendants.

19
20 **JURISDICTION AND VENUE**

21 7. Jurisdiction for this matter properly lies with this Court because Plaintiff seeks
22 declaratory relief.

23 8. Venue is appropriate in the County of Los Angeles, and this Court has personal
24 jurisdiction over Defendants and each of them, by reason of the fact that, among other things, (a) the
25 alleged agreement that is at issue in this Complaint was purportedly made and negotiated, at least in
26 substantial part, in the County of Los Angeles, and (b) many of the events giving rise to this action
27 arose in California, including within the County of Los Angeles.
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FACTUAL BACKGROUND

9. Ms. Clifford began an intimate relationship with Mr. Trump in the Summer of 2006 in Lake Tahoe and continued her relationship with Mr. Trump well into the year 2007. This relationship included, among other things, at least one “meeting” with Mr. Trump in a bungalow at the Beverly Hills Hotel located within Los Angeles County.

10. In 2015, Mr. Trump announced his candidacy for President of the United States.

11. On July 19, 2016, Mr. Trump secured the Republican Party nomination for President.

12. On October 7, 2016, the Washington Post published a video, now infamously known as the *Access Hollywood Tape*, depicting Mr. Trump making lewd remarks about women. In it, Mr. Trump described his attempt to seduce a married woman and how he may start kissing a woman that he and his companion were about to meet. He then added: “I don’t even wait. And when you’re a star, they let you do it, you can do anything . . .”

13. Within days of the publication of the *Access Hollywood Tape*, several women came forward publicly to tell their personal stories about their sexual encounters with Mr. Trump.

14. Around this time, Ms. Clifford likewise sought to share details concerning her relationship and encounters with Mr. Trump with various media outlets.

15. As a result of Ms. Clifford’s efforts aimed at publicly disclosing her story and her communications with various media outlets, Ms. Clifford’s plans came to the attention of Mr. Trump and his campaign, including Mr. Michael Cohen, an attorney licensed in the State of New York. Mr. Cohen worked as the “top attorney” at the Trump Organization from 2007 until after the election and presently serves as Mr. Trump’s personal attorney. He is also generally referred to as Mr. Trump’s “fixer.”

16. After discovering Ms. Clifford’s plans, Mr. Trump, with the assistance of his attorney Mr. 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. Mr. Cohen subsequently prepared a draft non-disclosure agreement and presented it to Ms. Clifford and her attorney (the “Hush Agreement”). Ms. Clifford at the time was represented by counsel in California whose office is located in Beverly Hills, California within the County of Los Angeles.

1 17. The parties named in the Hush Agreement were Ms. Clifford, Mr. Trump, and Essential
2 Consultants LLC. As noted above, Essential Consultants LLC (“EC”) was formed on October 17,
3 2016, just weeks before the 2016 presidential election. On information and belief, EC was created by
4 Mr. Cohen with Mr. Trump’s knowledge for one purpose – to hide the true source of funds to be used
5 to pay Ms. Clifford, thus further insulating Mr. Trump from later discovery and scrutiny.

6 18. By design of Mr. Cohen, the Hush Agreement used aliases to refer to Ms. Clifford and
7 Mr. Trump. Specifically, Ms. Clifford was referred to by the alias “Peggy Peterson” or “PP.” Mr.
8 Trump, on the other hand, was referred to by the alias “David Dennison” or “DD.”

9 19. Attached hereto as Exhibit 1 is a true and correct copy of the Hush Agreement, titled
10 Confidential Settlement Agreement and Mutual Release; Assignment of Copyright and Non-
11 Disparagment [sic] Agreement. Exhibit 1 is incorporated herein by this reference and made a part of
12 this Complaint as if fully set forth herein.

13 20. Attached hereto as Exhibit 2 is a true and correct copy of the draft Side Letter
14 Agreement, which was Exhibit A to the Hush Agreement. Exhibit 2 is incorporated herein by this
15 reference and made a part of this Complaint as if fully set forth herein.

16 21. Importantly, the Hush Agreement imposed various conditions and obligations not only
17 on Ms. Clifford, but also on Mr. Trump. The agreement also required the signature of all parties to the
18 agreement, including that of Mr. Trump. Moreover, as is customary, it was widely understood at all
19 times that unless all of the parties signed the documents as required, the Hush Agreement, together
20 with all of its terms and conditions, was null and void.

21 22. On or about October 28, 2016, only days before the election, two of the parties signed
22 the Hush Agreement - Ms. Clifford and Mr. Cohen (on behalf of EC). Mr. Trump, however, did not
23 sign the agreement, thus rendering it legally null and void and of no consequence. On information and
24 belief, despite having detailed knowledge of the Hush Agreement and its terms, including the
25 proposed payment of monies to Ms. Clifford and the routing of those monies through EC, Mr. Trump
26 purposely did not sign the agreement so he could later, if need be, publicly disavow any knowledge of
27 the Hush Agreement and Ms. Clifford.

1 23. Despite Mr. Trump's failure to sign the Hush Agreement, Mr. Cohen proceeded to
2 cause \$130,000.00 to be wired to the trust account of Ms. Clifford's attorney. He did so even though
3 there was no legal agreement and thus no written nondisclosure agreement whereby Ms. Clifford was
4 restricted from disclosing the truth about Mr. Trump.

5 24. Mr. Trump was elected President of the United States on November 8, 2016.

6 25. In January 2018, certain details of the draft Hush Agreement emerged in the news
7 media, including, among other things, the existence of the draft agreement, the parties to the draft
8 agreement, and the \$130,000.00 payment provided for under the draft agreement. Also in January
9 2018, and concerned the truth would be disclosed, Mr. Cohen, through intimidation and coercive
10 tactics, forced Ms. Clifford into signing a false statement wherein she stated that reports of her
11 relationship with Mr. Trump were false.

12 26. On or about February 13, 2018, Mr. Cohen issued a public statement regarding Ms.
13 Clifford, the existence of the Hush Agreement, and details concerning the Hush Agreement. He did so
14 without any consent by Ms. Clifford, thus evidencing Mr. Cohen's apparent position (at least in that
15 context) that no binding agreement was in place. Among other things, Mr. Cohen stated: "In a private
16 transaction in 2016, I used my own personal funds to facilitate a payment of \$130,000 to Ms.
17 Stephanie Clifford. Neither the Trump Organization nor the Trump campaign was a party to the
18 transaction with Ms. Clifford, and neither reimbursed me for the payment, either directly or
19 indirectly." Mr. Cohen concluded his statement with lawyer speak: "Just because something isn't
20 true doesn't mean that it can't cause you harm or damage. *I will always protect Mr. Trump.*"
21 (emphasis added).

22 27. Importantly, at no time did Mr. Cohen claim Ms. Clifford did not have an intimate
23 relationship with Mr. Trump. Indeed, were he to make such a statement, it would be patently false.

24 28. Because the agreement was never formed and/or is null and void, no contractual
25 obligations were imposed on any of the parties to the agreement, including any obligations to keep
26 information confidential. Moreover, to the extent any such obligations did exist, they were breached
27 and/or excused by Mr. Cohen and his public statements to the media.

1 29. To be clear, the attempts to intimidate Ms. Clifford into silence and “shut her up” in
2 order to “protect Mr. Trump” continue unabated. For example, only days ago on or about February
3 27, 2018, Mr. Trump’s attorney Mr. Cohen surreptitiously initiated a bogus arbitration proceeding
4 against Ms. Clifford in Los Angeles. Remarkably, he did so without even providing Ms. Clifford with
5 notice of the proceeding and basic due process.

6 30. Put simply, considerable steps have been taken by Mr. Cohen in the last week to
7 silence Ms. Clifford through the use of an improper and procedurally defective arbitration proceeding
8 hidden from public view. The extent of Mr. Trump’s involvement in these efforts is presently
9 unknown, but it strains credibility to conclude that Mr. Cohen is acting on his own accord without the
10 express approval and knowledge of his client Mr. Trump.

11 31. Indeed, Rule 1.4 of New York Rules of Professional Conduct governing attorneys has
12 required Mr. Cohen *at all times* to promptly communicate all material information relating to the
13 matter to Mr. Trump, including but not limited to “any decision or circumstance with respect to which
14 [Mr. Trump’s] informed consent [was] required” and “material developments in the matter including
15 settlement or plea offers.” Moreover, this same Rule required Mr. Cohen *at all times* to “reasonably
16 consult with [Mr. Trump] about the means by which [his] objectives are to be accomplished” and to
17 “keep [Mr. Trump] reasonably informed about the status of the matter.”

18 32. Accordingly, unless Mr. Cohen flagrantly violated his ethical obligations and the most
19 basic rules governing his license to practice law (which is highly unlikely), there can be no doubt that
20 Mr. Trump *at all times* has been fully aware of the negotiations with Ms. Clifford, the existence and
21 terms of the Hush Agreement, the payment of the \$130,000.00, the use of EC as a conduit, and the
22 recent attempts to intimidate and silence Ms. Clifford by way of the bogus arbitration proceeding.

23 33. Because there was never a valid agreement and thus, no agreement to arbitrate, any
24 subsequent order obtained by Mr. Cohen and/or Mr. Trump in arbitration is of no consequence or
25 effect.
26
27
28

1 **FIRST CAUSE OF ACTION**

2 **Declaratory Relief**

3 **(Against all Defendants)**

4 34. Plaintiff restates and re-alleges each and every allegation in Paragraphs 1 through 33
5 above as if fully set forth herein.

6 35. This action concerns the legal significance, if any, of the documents attached hereto as
7 Exhibit 1, entitled Confidential Settlement Agreement and Mutual Release; Assignment of Copyright
8 and Non-Disparagment [sic] Agreement, and Exhibit 2, entitled Side Letter Agreement.

9 36. California Code of Civil Procedure section 1060 authorizes declaratory relief for any
10 person who desires a declaration of rights or duties with respect to one another. In cases of actual
11 controversy relating to the legal rights and duties of the respective parties, such a person may seek a
12 judicial declaration of his or her rights and duties relative to an instrument or contract, or alleged
13 contract, including a determination of any question of construction or validity arising under the
14 instrument or contract, or alleged contract. This includes a determination of whether a contract was
15 ever formed.

16 37. An actual controversy exists between Plaintiff and Defendants as to their rights and
17 duties to each other. Accordingly, a declaration is necessary and proper at this time.

18 38. Specifically, Plaintiff seeks an order of this Court declaring that the agreements in the
19 forms set out in Exhibits 1 and 2 between Plaintiff and Defendants were never formed, and therefore
20 do not exist, because, among other things, Mr. Trump never signed the agreements. Nor did Mr.
21 Trump provide any other valid consideration. He thus never assented to the duties, obligations, and
22 conditions the agreements purportedly imposed upon him. Plaintiff contends that, as a result, she is
23 not bound by any of the duties, obligations, or conditions set forth in Exhibits 1 and 2. Moreover, as a
24 further result, there is no agreement to arbitrate between the parties.

25 39. In the alternative, Plaintiff seeks an order of this Court declaring that the agreements in
26 the forms set out in Exhibits 1 and 2 are invalid, unenforceable, and/or void under the doctrine of
27 unconscionability. Plaintiff contends that, as a result, she is not bound by any of the duties,
28

1 obligations, or conditions set forth in Exhibits 1 and 2. Moreover, as a further result, there is no
2 agreement to arbitrate between the parties.

3 40. In the further alternative, Plaintiff seeks an order of this Court declaring that the
4 agreements in the forms set out in Exhibits 1 and 2 are invalid, unenforceable, and/or void because
5 they are illegal and/or violate public policy. Plaintiff contends that, as a result, she is not bound by
6 any of the duties, obligations, or conditions set forth in Exhibits 1 and 2. Moreover, as a further result,
7 there is no agreement to arbitrate between the parties.

8 41. Defendants dispute these contentions.

9 42. Accordingly, Ms. Clifford desires a judicial determination of her rights and duties with
10 respect to the alleged agreements in the forms set out in Exhibits 1 and 2.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, declaring
14 that no agreement was formed between the parties, or in the alternative, to the extent an agreement
15 was formed, it is void, invalid, or otherwise unenforceable.

16
17 **ON THE FIRST CAUSE OF ACTION**

18 1. For a judgment declaring that no agreement was formed between the parties, or in the
19 alternative, to the extent an agreement was formed, it is void, invalid, or otherwise unenforceable.

20 2. For costs of suit; and

21 3. For such other and further relief as the Court may deem just and proper.

22
23 DATED: March 6, 2018

AVENATTI & ASSOCIATES, APC


24
25 
26 _____
MICHAEL J. AVENATTI
27 Attorneys for Plaintiff

Exhibit 1

**CONFIDENTIAL SETTLEMENT AGREEMENT
AND MUTUAL RELEASE; ASSIGNMENT OF
COPYRIGHT AND NON-DISPARAGEMENT
AGREEMENT**

1.0 THE PARTIES

1.1 This Settlement Agreement and Mutual Release (hereinafter, this "Agreement") is made and deemed effective as of the 28 day of October, 2016, by and between "EC, LLC" and/or DAVID DENNISON, (DD), on the one part, and PEGGY PETERSON, (PP), on the other part. ("EC, LLC," "DD" and "PP" are pseudonyms whose true identity will be acknowledged in a Side Letter Agreement attached hereto as "EXHIBIT A") This Agreement is entered into with reference to the facts and circumstances contained in the following recitals.

2.0 RECITALS

2.1 Prior to entering into this Agreement, PP came into possession of certain "Confidential Information" pertaining to DD, as more fully defined below, only some of which is in tangible form, which includes, but is not limited to information, certain still images and/or text messages which were authored by or relate to DD (collectively the "Property", each as more fully defined below but which all are included and attached hereto as Exhibit "1" to the Side Letter Agreement).

2.2 (a) PP claims that she has been damaged by DD's alleged actions against her, including but not limited to tort claims proximately causing injury to her person and other related claims. DD denies all such claims. (Hereinafter "PP Claims").

(b) DD claims that he has been damaged by PP's alleged actions against him, including but not limited to the alleged threatened selling, transferring, licensing, publicly disseminating and/or exploiting the Images and/or Property and/or other Confidential Information relating to DD, all without the knowledge, consent or authorization of DD. PP denies all such claims. (Hereinafter "DD Claims").

(c) The PP Claims and the DD Claims are hereinafter collectively referred to as "The Released Claims."

2.3 DD desires to acquire, and PP desires to sell, transfer and turn-over to DD, any and all tangible copies of the Property and any and all physical and intellectual property rights in and to all of the Property. As a condition of DD releasing any claims against PP related to this matter, PP agrees to sell and transfer to DD all and each of her rights in and to such Property. PP agrees to deliver each and every existing copy of all tangible Property to DD (and permanently delete any electronic copies that can not be transferred), and agrees that she shall not possess, nor directly nor indirectly disclose convey, transfer or assign Property or any Confidential Information to any Third Party, as more fully provided herein.

2.4 It is the intention of the Parties that Confidential Information, as defined herein, shall remain confidential as expressly provided hereinbelow. The Parties expressly acknowledge, agree and understand that the Confidentiality provisions herein and the



representations and warranties made by PP herein and the execution by her of the Assignment & Transfer of Copyright are at the essence of this Settlement Agreement and are a material inducement to DD's entry into this Agreement, absent which DD would not enter into this Agreement. DD expects and requires that PP never communicate with him or his family for any reason whatsoever.

2.5 The Parties wish to avoid the time, expense, and inconvenience of potential litigation, and to resolve any and all disputes and potential legal claims which exist or may exist between them, as of the date of this Agreement including but not limited to the PP Claims and/or the DD Claims. The Parties agree that the claims released include but are not limited to DD's Claims against PP as relates to PP having allowed, whether intentionally, unintentionally or negligently, anyone else other than those listed in section 4.2 herein below to become aware of the existence of and content of the Property, to have gained possession of the Property, and to PP's having allegedly engaged in efforts to disclose, disseminate and/or commercially exploit the Images and/or Property and/or Confidential Information, and any harm suffered by DD therefrom. The Parties agree that the claims released include but are not limited to PP's Claims against DD as relates to DD having allowed, whether intentionally, unintentionally or negligently, anyone else to have interfered with PP's right to privacy or any other right that PP may possess.

2.6 These Recitals are essential, integral and material terms of this Agreement, and this Agreement shall be construed with respect thereto. The Parties enter into this Agreement in consideration of the promises, covenants and conditions set forth herein, and for good and valuable consideration, the receipt of which is hereby acknowledged. It is an essential element of this Settlement Agreement that the Parties shall never directly or indirectly communicate with each other or attempt to contact their respective families. This matter, the existence of this Settlement Agreement and its terms are strictly confidential.

NOW, THEREFORE, the Parties adopt the foregoing recitals as a statement of their intent and in consideration of the promises and covenants contained herein, and further agree as follows:

///

///

///



PP



DD

3.0 SETTLEMENT TERMS

3.0.1.1 EC, LLC SHALL PAY TO PP \$130,000.00 U.S.D. AS FOLLOWS:

3.0.1.1.1 \$130,000.00 USD shall be wired into PP's Attorney's Attorney Client Trust Account on or before 1600 hrs. PST on 10/27/16. (Hereinafter "Gross Settlement Amount"). PP's Attorney's Wiring Instructions are:

Bank Name:	City National Bank
Bank Address:	8641 Wilshire Blvd. Beverly Hills, CA 90211
ABA Routing No:	122016066
Beneficiary Account Name:	Keith M. Davidson & Associates, PLC, Attorney Client Trust Account
Beneficiary Account No:	600106201
Beneficiary Address:	8383 Wilshire Blvd. Suite 510 Beverly Hills, CA 90211
SWIFT Code:	CINA US6L

3.0.1.1.2 Keith M. Davidson, Esq. shall receive the Gross Settlement Amount in Trust. No portion of the Gross Settlement Amount shall be disbursed by Attorney for PP unless and until PP executes all required Settlement Documents.

3.1 Undertakings & Obligations by PP. PP will do each of the following by 11/01/16:

(a) PP shall execute this Agreement and return a signed copy to DD:

(b) PP shall transfer and/or assign any and all rights in and to the Property to DD (as set forth hereinbelow), and execute an Assignment & Transfer of Copyright, in the form attached hereto, and return a signed copy of same to DD's counsel;

(c) PP shall deliver to DD every existing copy of all tangible Property. PP shall completely divest herself of any and all artistic media, impressions, paintings, video images, still images, e-mail messages, text messages, Instagram message, facebook posting or any other type of creation by DD. PP shall transfer all physical, ownership and intellectual property rights to DD;

(1) PP shall deliver to DD any and all non-privileged correspondence concerning or related to DD between PP and any 3rd party.

(d) PP shall not, at any time from the date of this Agreement forward, directly or indirectly disclose or disseminate any of the Property or any Confidential Information (including confirmation of the fact that it exists or ever existed, and/or confirming any rumors as to any such existence) to any third party, as more fully provided herein.

(e) PP shall provide to DD (to the extent not already done so and set forth in paragraph 4.2 hereinbelow), summary details disclosing to whom PP (or anyone else on PP's behalf) disclosed, displayed to, disseminated, transferred to, provided a copy to, and/or


PP


DD

distributed, sold, licensed or otherwise sought to have commercially exploit, the Images and/or Property and/or any Confidential Information.

(f) PP shall provide to DD's counsel the names and contact information of each and any persons or entities who: (1) PP has provided to or who otherwise obtained possession of the original and/or any copies of any of the Images and/or any Property, if any, (ii) to whom PP has scanned the Images and/or any Property at any time, and (iii) to whom PP knows had, has or may potentially have possession of a copy of the Images and/or any Property at any time, including but not limited to the present time (and specify with detail to which of the referenced categories (i.e., possession, shown, past, present, etc.) any name corresponds, the name so relates).

(g) PP shall provide to DD's counsel copies of any agreements and/or other documentation in PP's possession, custody or control, if any, regarding (e) and/or (f) above, that evidences who has or may have been provided a copy of any of the Property.

3.2 Transfer of Property Rights to DD. In further consideration for the promises, covenants and consideration herein, PP hereby transfers and conveys to DD all of PP's respective rights, title and interest in and to the Property, and any and all physical and intellectual property rights related thereto. Without limiting the generality of the foregoing, PP does hereby sell, assign, and transfer to DD, his successors and assigns, throughout the universe in perpetuity, all of PP's entire right, title, and interest (including, without limitation, all copyrights and all extensions and renewals of copyrights), of whatever kind or nature in and to the Property, without reservation, condition or limitation, whether or not such rights are now known, recognized or contemplated, and the complete, unconditional and unencumbered ownership and all possessory interest and rights in and to the Property, which includes, but is not limited to the originals, copies, negatives, prints, positive, proof sheets, CD-roms, DVD-roms, duplicates, outtake and the results of any other means of exhibiting, reproducing, storing, recording and/or archiving any of the Property or related material, together with all rights of action and claims for damages and benefits arising because of any infringement of the copyright to the Property, and assigns and releases to DD any and all other proprietary rights and usage rights PP may own or hold in the copyright and/or Property, or any other right in or to the Property. PP assigns and transfers to DD all of the rights herein granted, without reservation, condition or limitation, and agrees that PP reserves no right of any kind, nature or description related to the Property and contents therein. Notwithstanding the foregoing, if any of the rights herein granted are subject to termination under section 203 of the Copyright Act, or any similar provisions of the Act or subsequent amendments thereof, PP hereby agrees to re-grant such rights to DD immediately upon such termination. All rights granted herein or agreed to be granted hereunder shall vest in DD immediately and shall remain vested in perpetuity. DD shall have the right to freely assign, sell, transfer or destroy the Property as he desires. DD shall have the right to register sole copyright in and to any of the Property with the US Copyright Office. DD shall also have the right, in respect to the Property, to add to, subtract from, change, arrange, revise, adapt, into any and all form of expression or tangible communication, and the right to combine any of the Property with any other works of any kind and/or to create derivative works with any of the Property, and to do with it as she so deems. To the fullest extent allowable under the applicable law, PP shall irrevocably waive and assign to DD any of PP's so-called "moral rights" or "droit moral" (laws for the protection of copyrights outside of the United States), if any, or any similar rights under any principles of law which PP may now have or later have in the Property. With respect to and in furtherance of the above, PP agrees to and shall execute and deliver to DD an

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"Assignment & Transfer of Copyright", in the form attached hereto as Exhibit "B". For greater certainty the foregoing assignment shall be applicable worldwide.

3.2.1 Notwithstanding the foregoing paragraph 3.2, and without in anyway limiting or diminishing from the full transfer and assignment of rights therein without reservation, the Parties understand the purpose of the transfer of rights is to provide DD the fullest possible ability and remedies to prevent and protect against any publication and/or dissemination of the Property.

3.3 Delivery of the Property to DD. Concurrently upon execution of this Agreement, PP, as applicable, shall deliver to DD, by delivery to his counsel herein, all of the Property which is embodied in tangible form (all originals and duplicates), whether documents, canvasses, paper art, digital copies, letters, prints, electronic data, films, tapes, CD-Roms, DVD-Roms, Images recording tapes, photographs, negatives, originals, duplicates, contact sheets, audio recordings, Images recordings, magnetic data, computerized data, digital recordings, or other recorded medium or any other format of embodying information or data. Without limiting the generality of the foregoing, such tangible Property shall include all documents as defined by California Evidence Code §250 which contain any of the Property. PP represents and warrants that the materials delivered pursuant to the terms of this Paragraph 3.3 comprise the totality of all existing originals and duplicates of all Property in any tangible form, whether within their possession, custody or control, and including otherwise (and that PP knows of no other copies or possible or potential copies not in PP's possession and control and delivered pursuant to this paragraph), and that upon such delivery to DD, PP shall not maintain possession, custody or control of any copy of all or any portion of any tangible Property. The Property Delivered under this Paragraph shall become Exhibit 1 to the Side Letter Agreement. For avoidance of any doubt, PP, nor her attorney are entitled to retain possession of said Property after execution of this Agreement. The retention of said Property by PP is a material breach of this agreement.

3.3.1 This Agreement is conditioned on PP's compliance with each and every term of the Settlement Agreement including Paragraph 3.3 and the personal verification by DD or his attorney of the Images and that the Images are comprised of and captures the content previously represented to his counsel to exist and be captured therein (i.e., text messages between PP and DD)), all of which terms are essential and material.

4.0 CONFIDENTIALITY & REPRESENTATIONS & WARRANTIES.

4.1 Definition of Confidential Information. "Confidential Information" means and includes each and all of the following:

(a) All *intangible* information pertaining to DD and/or his family, (including but not limited to his children or any alleged children or any of his alleged sexual partners, alleged sexual actions or alleged sexual conduct or related matters),and/or friends learned, obtained, or acquired by PP, including without limitation information contained in letters, e-mails, text messages, agreements, documents, audio or Images recordings, electronic data, and photographs;

(b) All *intangible* information pertaining to the existence and content of the Property;


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(c) All *intangible* private information (*i.e.*, information not generally available to and/or known by the general public) relating and/or pertaining to DD, including without limitation DD's business information, familial information, any of his alleged sexual partners, alleged sexual actions or alleged sexual conduct, related matters or paternity information, legal matters, contractual information, personal information, private social life, lifestyle, private conduct, (all information/items in 4.1 "(a)", "(b)" and "(c)" are sometimes collectively referred to as, "Intangible Confidential Information");

(d) All *tangible* materials of any kind containing information pertaining to DD learned, obtained, participated or acquired by PP, including without limitation letters, agreements, documents, audio or Images recordings, electronic data, and photographs, canvas art, paper art, or art in any other form on any media. The Images and Photos and all information/items in 4.1(d) are collectively referred to as, the "Property" and/or the "Tangible Confidential Information");

4.2 PP's Representations & Warranties Regarding Prior Disclosures of Tangible Confidential Information. PP represents and warrants that prior to entry into this Agreement, PP has directly or indirectly disclosed any *Tangible* an/or *Intangible Confidential Information* (*i.e.*, any of the Property), to any Third Party, including without limitation disclosure or indirect disclosure of the content of such Confidential Information in tangible form, other than the following persons or entities to whom PP has made such prior disclosures (herein "PP Disclosed Individuals/Entities"):

- a) Mike Mosney
- b) Angel Ryan
- c) Gina Rodriguez
- d) Keith Munyan
- e) _____
- f) _____
- g) _____
- h) _____
- i) _____

PP shall not be responsible for any subsequent public disclosure of any of the Confidential Information (a) attributable directly to each of them; and/or (b) not disclosed hereinabove as a previously disclosed PP Disclosed Individuals/Entities, and any such disclosure shall be deemed a breach of this Agreement by PP. For greater clarity, PP must not induce, promote or actively inspire anyone to disclose Confidential Information.


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4.3 Representations & Warranties and Agreements.

(a) Representations & Warranties and Agreements By DD. The following agreements, warranties and representations are made by DD as material inducements to PP to enter into this Agreement, and each Party acknowledges that she/he is executing this Agreement in reliance thereon:

(b) DD warrants and represents that, as relates to or in connection with any of PP's attempts to sell, exploit and/or disseminate the Property prior to the date of this Agreement, DD and his counsel will refrain (i) from pursuing any civil action against PP, and/or (ii) absent a direct inquiry from law enforcement, from disclosing PP's name to the authorities. Notwithstanding the foregoing, if DD is informed that or should or if it is believed that either of PP has possession, custody and/or control of any of the Property after the date of this Agreement and/or transferred any copies to any Third Party, and/or it is believed that any of PP, whether directly or indirectly, intends the release, use, display, dissemination, disclosure or exploitation, whether actual, threatened or rumored, of any for the Property, then DD and his counsel shall be entitled to, at DD's sole discretion, (i) contact the respective member of PP, including with legal demands and related statements of liability and legal action, and/or (ii) advance a civil action against the respective member of PP, and/or (iii) disclose any of PP's name to the authorities.

4.3.2 Representations & Warranties and Agreements By PP. The following agreements, warranties and representations are made by PP as material inducements to DD to enter into this Agreement, without which DD would not enter into this Agreement and without which DD would not agree to pay any monies whatsoever hereunder, and with the express acknowledgment that DD is executing this Agreement in reliance on the agreements, warranties, and representations herein which are at the essence of this Agreement, including, the following:

(a) PP agrees and warrants and represents that PP will permanently cease and desist from any efforts to and/or attempting to and/or engaging in and/or arranging the use, License, distribution, dissemination or sale of any of the Confidential Information and/or Property, including any Tangible and/or Intangible Confidential information created by or relating to DD;

(b) PP agrees and warrants and represents that PP will permanently cease and desist from any posting or dissemination or display of the Confidential Information, Tangible and/or Intangible Confidential information created by or relating to DD and/or Property, including the Images (including, but not limited to, to any form media outlet, on any blog or posting board, on the Internet, or otherwise);

(c) PP agrees and warrants and represents that PP will permanently cease and desist from using or disseminating or disclosing any information to any Third Persons (including, but not limited to, to any media outlet, on any blog or posting board, on the Internet, or otherwise) about any details of or as to the contents of the Confidential Information, Tangible and/or Intangible Confidential information created by or relating to DD and/or Property, including any Text Messages, and/or as to any other personal details of or about or pertaining to DD and/or his family and/or friends and/or social interactions;

(d) PP agrees and warrants and represents that PP will permanently cease and desist from and will not, at any time, make any use of or reference to the name, image or likeness


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of DD in any manner whatsoever, including without limitation, through any print or electronic media of any kind or nature for any purpose, including, but not limited to, on any websites;

(e) PP agrees and warrants and represents that any and all existing copies of the Images, Text Messages and any Property (other than as expressly specified in paragraphs 3.2 and 3.3 herein) have been turned over and provided to counsel; and PP further warrants and represents that the only copy of the Images and Property that has ever existed, at any time, has been turned over to DD's counsel pursuant to this Agreement, and the Images and any Property has never been transferred to or existed in any other form, including not in electronic form, nor on any computer, or electronic device and other storage media;

(f) PP warrants and represents that PP has not provided any copies, whether hard-copy or electronic copies, of the Property to anyone other than as specified in paragraph 4.2 herein);

(g) PP warrants and represents that the information PP is obligated to provide pursuant to the terms herein will be complete and truthful;

(h) PP warrants and represents that PP has not omitted or withheld any information that PP is obligated to provide pursuant to the terms herein;

(i) PP warrants and represents that PP has not contracted to earn and/or collect any monies as compensation from the sell, license and/or any other exploitation of the Images and/or any Property and/or any Confidential Information, Tangible and/or Intangible Confidential information created by or relating to DD nor any monies as compensation or an advance for any efforts to sell, license and/or any other exploitation of the Images and/or any Property and/or any Confidential Information or any Tangible and/or Intangible Confidential information created by or relating to DD;

(j) PP warrants and represents that PP has not assigned nor transferred, either in whole or in part, any purported rights in or to the Images and/or any Property to any other person or entity, other than to DD pursuant to this Agreement.

4.3.3 Agreement By PP Not to Disclose/Use Confidential Information, Tangible and/or Intangible Confidential information created by or relating to DD. As further material inducements for DD to enter into this Agreement, PP agrees, represents and warrants that she shall not directly or indirectly, verbally or otherwise, publish, disseminate, disclose, post or cause to be published, disseminated, disclosed, or posted (herein "disclose"), any Confidential Information or Tangible and/or Intangible Confidential information created by or relating to DD to any person, group, firm or entity whatsoever, including, but not limited to, family members, friends, associates, journalists, media organizations, newspapers, magazines, publications, television or radio stations, publishers, databases, blogs, websites, posting boards, and any other enterprise involved in the print, wire or electronic media, including individuals working directly or indirectly for, or on behalf of, any of said persons or entities ("Third Parties" and/or Third Party"). In no event shall PP be relieved of such party's confidentiality obligations herein by virtue of any breach or alleged breach of this Agreement. In no event shall any dispute in connection with this Agreement relieve PP of her confidentiality obligations arising pursuant to this Agreement, and any disclosure of Confidential Information and/or Tangible and/or Intangible Confidential information created by or relating to DD in connection with any such


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proceeding or dispute shall constitute a breach of this Agreement. PP shall use their best efforts to prevent the unauthorized disclosure of Confidential Information in connection with any such proceeding or dispute.

4.3.4 Any direct or indirect disclosure of Confidential Information or Tangible and/or Intangible Confidential information created by or relating to DD to any Third Party by PP and/or any of her representatives, heirs, agents, children, family members, relatives, confidants, advisors, employees, attorneys, transferors, transferees, successors or assigns, and/or any friend of any of PP (collectively "PP Group"), after the date of this Agreement, shall be deemed a disclosure by PP in breach of the terms of this Agreement, entitling the non-breaching Party to all rights and remedies set forth herein.

4.3.5 PP separately and further warrants and represent that, prior to entering into this Agreement, that she has not written, published, caused to be published, or authorized the writing, publication, broadcast, transmission or public dissemination of any interview, article, essay, book, memoir, story, photograph, film, script, Images tape, biography, documentary, whether written, oral, digital or visual, whether fictionalized or not, about the opposing Party to this Agreement or their family, whether truthful, laudatory, defamatory, disparaging, deprecating or neutral, which discloses any Confidential Information and/or which includes any description or depiction of any kind whatsoever whether fictionalized or not, about any Party to this agreement or their respective family, other than as expressly disclosed by PP hereto in writing and as set forth herein in paragraph 4.2 above.

4.3.6 Agreement By PP Not to Disparage DD. PP hereby irrevocably agrees and covenants that she shall not, directly or indirectly, publicly disparage DD, nor write, publish, cause to be published, or authorize, consult about or with or otherwise be involved in the writing, publication, broadcast, transmission or dissemination of any book, memoir, letter, story, photograph, film, script, Images, interview, article, essay, biography, diary, journal, documentary, or other written, oral, digital or visual account or description or depiction of any kind whatsoever whether fictionalized or not, about DD or his family, whether truthful, laudatory, defamatory, disparaging, deprecating or neutral. PP further warrants and represents that PP has not and will not enter into any written or oral agreement with any third party purportedly requiring or obligating PP to do so. For greater clarity PP will never discuss with anyone the contents of this Settlement Agreement, nor will she voluntarily confirm the existence of this Settlement Agreement.

4.4 Disclosure Of Confidential Information Is Prohibited: The Parties to this Agreement hereby recognize and agree that substantial effort and expense have been dedicated to limit the efforts of the press, other media, and the public to learn of personal and business affairs involving DD. PP further acknowledges that any future disclosure of Confidential Information to any Third Party would constitute a serious and material breach of the terms of this Agreement, and shall constitute a breach of trust and confidence, invasion of privacy, and a misappropriation of exclusive property rights, and may also constitute fraud and deceit. Some of the Confidential Information may also constitute and include proprietary business information and trade secrets which have independent economic value. The Parties hereto acknowledge that any unauthorized use, dissemination or disclosure of Confidential Information, or the fabrication and dissemination of false and/or misleading information, about DD would result in irreparable injury to him, and would be injurious to a reasonable person, and/or would constitute an injurious violation of the right of privacy or publicity, and/or would be injurious to his business,


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profession, person, family and/or career. The Parties acknowledge that substantial and valuable property rights and other proprietary interests in the exclusive possession, ownership and use of Confidential Information, and recognizes and acknowledges that such Confidential Information is a proprietary, valuable, special and unique asset which belongs to DD and to which the PP has no claim of ownership or other interest.

4.4.1 Disclosures Permitted By PP. Notwithstanding the foregoing, PP shall only be permitted to disclose Confidential Information to another person or entity only if compelled to do so by valid legal process, including without limitation a subpoena duces tecum or similar legal compulsion, provided that PP shall not make any such disclosure unless PP has first provided DD with notice of such order or legal process not less than ten (10) days in advance of the required date of disclosure pursuant to the Written Notice provisions set forth hereinbelow, providing DD with an opportunity to intervene and with full and complete cooperation should she choose to oppose such disclosure. PP agrees that if the valid legal process can be stopped by her consent or at her behest then PP shall agree to use best efforts to avoid the disclosure of the Confidential Information.

5.0 REMEDIES

5.1 DD's Remedies for Breach of Agreement. Each breach or threatened breach (e.g., conduct by PP reflecting that said person intends to breach the Agreement), including without limitation by breach of any representation or warranty, by failing to deliver to DD all tangible Property as required, by the disclosure or threatened disclosure of any Confidential Information to any Third Party by PP (herein "Prohibited Communication"), or otherwise, shall render PP liable to DD for any and all damages and injuries incurred as a result thereof, including but not limited to the following, all of which rights and remedies shall be cumulative:

5.1.1 Disgorgement of Monies: In the event an Arbitrator determines there has been a breach or threatened breach of this Agreement by PP, PP shall be obligated to account to, and to disgorge and turn over to DD any and all monies, profits, or other consideration, or benefits, which PP, or anyone on PP's behalf or at PP's direction, directly or indirectly derive from any disclosure or exploitation of any of the Confidential Information; and

5.1.2 Liquidated Damages: PP agrees that any breach or violation of this Settlement Agreement by either of PP individually or the PP Group by his/her/their unauthorized disclosure of any of the Confidential Information (as defined in paragraphs 4.1(a), (b), (c), and (d)) to any Third Party, and/or any unauthorized exploitation or prohibited use of the same, and/or by the breach of and/or by any false representations and warranties set forth in this Agreement, and/or any public disparagement of DD by PP (collectively, the "LD Breach Terms"), shall result in substantial damages and injury to DD, the precise amount of which would be extremely difficult or impracticable to determine, even after the Parties have made a reasonable endeavor to estimate fair compensation for such potential losses and damages to DD. Therefore, in addition to disgorgement of the full amount of all monies or other consideration pursuant to paragraph 5.1.2, in the event an Arbitrator determines there has been a breach of the LD Breach Terms of this Agreement by PP individually or the PP Group, PP shall also be obligated to pay, and agree to pay to DD the sum of One-Million Dollars (\$1,000,000.00 as a reasonable and fair amount of liquidated damages to compensate DD for any loss or damage


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resulting from each breach, it being understood that the Liquidated damages calculation is on a per item basis. The Parties agree that such sum bears a reasonable and proximate relationship to the actual damages which DD will or might suffer from each breach of the terms of this Agreement and that this amount is not a penalty. Alternatively, at DD's sole discretion, DD may seek to recover actual damages proximately caused by each such breach, according to proof. Any other breaches not a LD Breach Terms shall be subject to a claim for actual damages according to proof; furthermore, any monies held in Trust by PP's Attorney shall be frozen and shall not be disbursed to PP until the Arbitrator finally resolves the allegation of Breach.

5.1.3 Injunctive Relief. PP acknowledges and agrees that any unauthorized disclosure to Third Parties of any Confidential Information will cause irreparable harm to DD, which damages and injuries will most likely not be measurable or susceptible to calculation. PP further acknowledges and agrees that any breach or threatened breach of this Agreement due to the unauthorized disclosure or threatened disclosure by PP to Third Parties, of any Confidential Information shall entitle DD to immediately obtain, either from the Arbitrator and/ or from any other court of competent jurisdiction, an *ex parte* issuance of a restraining order and preliminary injunction or other similar relief (herein "Injunctive Relief") without advance notice to any of PP, preventing the disclosure or any further disclosure of Confidential Information protected by the terms hereof, pending the decision of the Arbitrator or Court. The Parties further acknowledge and agree that in connection with any such proceeding, any Party may obtain from the Court or Arbitrator on an *ex parte* application or noticed motion without opposition, an order sealing the file in any such proceeding, and the Parties stipulate to the factual and legal basis for issuance of an order sealing the file in any such proceedings. The rights and remedies set forth in this Injunctive Relief Section are without prejudice to any other rights or remedies, legal or equitable, that the Parties may have as a result of any breach of this Agreement.

5.2 Dispute Resolution. In recognition of the mutual benefits to DD and PP of a voluntary system of alternative dispute resolution which involves binding confidential arbitration of all disputes which may arise between them, it is their intention and agreement that any and all claims or controversies arising between DD on the one hand, and PP on the other hand, shall be resolved by binding confidential Arbitration to the greatest extent permitted by law. Arbitration shall take place before JAMS ENDISPUTE ("JAMS") pursuant to JAMS Comprehensive Arbitration Rules and Procedures (including Interim Measures) ("JAMS Rules") and the law selected by DD, (such selection shall be limited to either, California, Nevada or Arizona), or before ACTION DISPUTE RESOLUTION SERVICES ("ADRS") pursuant to the ADRS Rules (including Interim Measures) and the law selected by DD (whichever the claimant elects upon filing an arbitration), in a the location selected by DD, and will be heard and decided by a sole, neutral arbitrator ("Arbitrator") selected either by agreement of the Parties, or if the Parties are unable to agree, then selected under the Rules of the selected arbitration service. The costs and fees associated with any Arbitrator and/or Arbitration service shall be split equally among the parties to any such dispute. The Parties shall have the right to conduct discovery in accordance with the California Code of Civil Procedure Section 1283.05 *et. seq.* or any similar provision existing in the jurisdiction selected by DD and the written discovery requests and results of discovery shall be deemed to constitute Confidential Information. The Arbitrator shall have the right to impose all legal and equitable remedies that would be available to any Party before any governmental dispute resolution forum or court of competent jurisdiction, including without limitation temporary, preliminary and permanent injunctive relief, compensatory damages, liquidated damages, accounting, disgorgement, specific performance, attorneys fees and costs,



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and punitive damages. It is understood and agreed that each of the Parties shall bear his/its own attorneys' fees, expert fees, consulting fees, and other litigation costs (if any) ordinarily associated with legal proceedings taking place in a judicial forum, subject to the Arbitrator's reassessment in favor of the prevailing party to the extent permitted by law. Each of the Parties understands, acknowledges and agrees that by agreeing to arbitration as provided herein, each of the Parties is giving up any right that he/she/it may have to a trial by judge or jury with regard to the matters which are required to be submitted to mandatory and binding Arbitration pursuant to the terms hereof. Each of the Parties further understands, acknowledges and agrees that there is no right to an appeal or a review of an Arbitrator's award as there would be a right of appeal or review of a judge or jury's decision.

6.0 MUTUAL RELEASES

6.1 Except for the rights and obligations of the Parties set forth in this Agreement, DD, for himself, and each of his representatives, agents, assigns, heirs, partners, companies, affiliated companies, employees, insurers and attorneys, absolutely and forever releases and discharges PP, individually, and all of PP's heirs, and PP's attorneys, and each of them ("PP Releasees"), of and from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs (including attorney's fees), expenses, liens, actions and causes of actions of every kind and nature whatsoever, whether known or unknown, from the beginning of time to the effective date of this Agreement, including without limitation any and all matters, facts, claims and/or defenses asserted or which could have been asserted in the Matter, or which could have been asserted in any other legal action or proceeding, except as may be provided herein (the "DD Released Claims").

6.2 Except for the rights and obligations of the Parties set forth in this Agreement, PP, for herself, and her representatives, agents, assigns, heirs, partners, companies, affiliated companies, employees, insurers and attorneys, absolutely and forever release and discharge DD, individually, and each of his representatives, agents, assigns, heirs, partners, companies, affiliated companies, subsidiaries, employees, attorneys, successors, insurers, and each of them ("DD Releasees"), of and from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs (including attorney's fees), expenses, liens, actions and causes of actions of every kind and nature whatsoever, whether known or unknown, from the beginning of time to the date of this Agreement, including without limitation any and all matters, facts, claims and/or defenses asserted or which could have been asserted in the Action, or which could have been asserted in any other legal action or proceeding (the "PP Released Claims").

6.3 The subject matter referred to in paragraphs 6.1 and 6.2, above (i.e., the DD Released Claims and PP Released Claims), are collectively referred to as the "Released Matters."

6.4 The Parties hereto, and each of them, hereby warrant, represent and agree that each of them is fully aware of §1542 of the Civil Code of the State of California, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."



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The Parties, and each of them, voluntarily waive the provisions of California Civil Code § 1542, and any other similar federal and state law as to any and all claims, demands, causes of action, or charges of every kind and nature whatsoever, whether known or unknown, suspected or unsuspected.

6.4.1 For avoidance of any doubt, by virtue of this Settlement and this Settlement Agreement, the parties hereby waive any unknown claims against each other individually, and each of their representatives, agents, assigns, heirs, partners, companies, affiliated companies, subsidiaries, employees, attorneys, successors, insurers, and each of them.

6.5 Each of the Parties hereto acknowledges and agrees that this Agreement constitutes a settlement and compromise of claims and defenses in dispute, and shall not be construed in any fashion as an admission of liability by any party hereto.

7.0 CONFIDENTIALITY OF THIS AGREEMENT

7.1 The Parties, respectively, shall not to disclose the terms of this Agreement, either directly or indirectly, to the media or to anyone else other than their respective attorneys and representatives and/or as may be required by law. PP may not comment or make any press releases or otherwise discuss the resolution of the subject of this Agreement.

8.0 MISCELLANEOUS TERMS

8.1 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding concerning the Released Matters hereof between the Parties hereto and supersedes any and all prior negotiations and proposed agreement and/or agreements, written and/or oral, between the Parties. Each of the Parties hereto acknowledges that neither they, nor any other party, nor any agent or attorney of any other party has made any promise, representation, or warranty whatsoever, expressed or implied, written or oral, which is not contained herein, concerning the subject matter hereof, to induce it to execute this Agreement, and each of the Parties hereto acknowledges that she/he has not executed this Agreement in reliance on any promise, representation, and/or warranty not contained herein. This Agreement shall be binding on and inure to the benefit of the Parties, the Releasees, and each of their respective successors and assigns and designees.

8.2 **DD's Election of either California, Nevada or Arizona Law & Venue.** This Agreement and any dispute or controversy relating to this Agreement, shall in all respects be construed, interpreted, enforced and governed by the laws of the State of California, Arizona or Nevada at DD's election. **Attorneys' Fees in the case of a Dispute.** In the event of any dispute, action, proceeding or controversy regarding the existence, validity, interpretation, performance, enforcement, claimed breach or threatened breach of this Agreement, the prevailing party in any resulting arbitration proceeding and/or court proceeding shall be entitled to recover as an element of such Party's costs of suit, and not as damages, all attorneys' fees, costs and expenses incurred or sustained by such prevailing Party in connection with such action, including, without limitation, legal fees and costs.


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8.3 Attorney Fees and Costs in Formation of this Agreement. The Parties shall each bear their own costs, expert fees, attorneys' fees and other fees incurred in connection with the creation this Settlement Agreement.


8.4 Waivers: Modification. This Agreement cannot be modified or changed except by written instrument signed by all of the Parties hereto. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

8.5 Scope of Provisions/Severability/Headings. None of the Parties hereto shall be deemed to be the drafter of this Agreement, but it shall be deemed that this Agreement was jointly drafted by each of the Parties hereto. Should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against any party herein, but rather construing the terms of this Agreement as a whole according to their fair meaning. In the event that any provision hereof is deemed to be illegal or unenforceable, such a determination shall not affect the validity or enforceability of the remaining provisions thereof, all of which shall remain in full force and effect. Notwithstanding the foregoing, if a provision is deemed to be illegal the Parties agree to waive any defense on said grounds. In the event that such any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law. The captions appearing at the commencement of certain paragraphs herein are descriptive only and for convenience of reference. Should there be any conflict between any such caption or heading and the paragraph at the caption of which it appears, the paragraph, and not such caption, shall control and govern.

8.6 Advice of Counsel and Understanding of this Binding Agreement. Each of the Parties represents, acknowledges, and declares that she/he has received the advice of legal counsel of his/her own choosing regarding the form, substance, and effect of this Agreement. Each of the Parties represents, acknowledges, and declares that she/he has carefully read this Agreement, knows and understands this Agreement's contents, and signs this Agreement freely, voluntarily, and without either coercion or duress. Each of the Parties represents and warrants that she/he is fully competent to manage his/her business affairs, and that she/he has full power and authority to execute this Agreement, and to do any and all of the things reasonably required hereunder; and that this Agreement, when signed by all Parties, is a valid and binding agreement, enforceable in accordance with its terms.

8.7 Further Execution. In order to carry out the terms and conditions of this Agreement, PP agrees to promptly execute, upon reasonable request, any and all documents and instruments necessary to effectuate the terms of this Agreement.

8.8 Notice Provisions. Any notice, demand or request that one Party desires, or is required to give (including service of any subpoena, court pleadings, summons and/or complaint), to the other Party must be promptly communicated to the other Party by using their respective contact information below, by both (i) e-mail or facsimile; *and* (ii) telephone. Either Party may change his or her contact information by notifying the other Party of said change(s) pursuant to the applicable terms herein.



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8.8.1 To DD as follows:

ESSENTIAL CONSULTANTS, LLC
C/O: MICHAEL COHEN, ESQ.
500 PARK AVENUE 410A
NEW YORK, NY 10022

8.8.2 To PP, as follows:

C/O KEITH M. DAVIDSON, ESQ.
8383 Wilshire Boulevard, Suite 510
Beverly Hills, CA 90211
tel. 323.658.5444
fax. 323-658-5444
e-mail: keith@KmdLaw.com

8.9 . This Agreement may be executed with one or more separate counterparts, each of which, when so executed shall be deemed to be an original and, together shall constitute and be one and the same instrument. Any executed copies or signed counterparts of this Agreement, the Declaration, and any other documentation may be executed by scanned/printed pdf copies of signatures and/or facsimile signatures, which shall be deemed to have the same force and effect as if they were original signatures.

IN WITNESS WHEREOF, by their signatures below, the Parties each have approved and executed this Agreement as of the effective date first set forth above.

DATED: _____, 2016

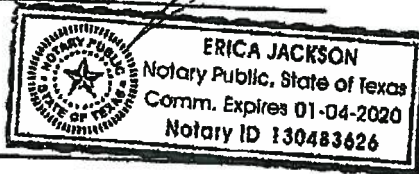
DD

DATED: Oct 28, 2016

PP

DATED: 10/28, 2016

EC, LLC

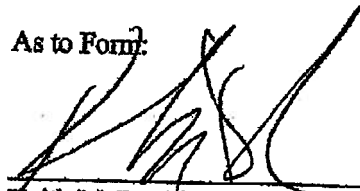


PP

EC
DD

DATED: 10/30/16, 2016

As to Form:



Keith M. Davidson, Esq., Attorney for PP


DATED: _____, 2016


As to Form:


Attorney for DD

DATED: 10/28, 2016

As to Form:



MICHAEL D. CARTER, ESQ.
Attorney for 
ESSENTIAL CONSULTANTS, LLC



PP

Exhibit 2

**EXHIBIT "A" TO THE CONFIDENTIAL
SETTLEMENT AGREEMENT AND RELEASE;
ASSIGNMENT OF COPYRIGHT AND NON-
DISPARAGEMENT AGREEMENT**

SIDE LETTER AGREEMENT

DATED 10/28/2016.

To Whom It May Concern:

This Side Letter agreement is entered into by and on behalf of the Parties with respect to the Confidential Settlement Agreement and Mutual Release entered into by and between them on or about Oct 28, 2016 ("Settlement Agreement"), in which Stephanie Gregory Clifford a.k.a. Stormy Daniels, is referred to by the pseudonym, "PEGGY PETERSON," and [REDACTED] is referred to by the pseudonym "DAVID DENNISON."

It is understood and agreed that the true name and identity of the person referred to as "PEGGY PETERSON" in the Settlement Agreement is Stephanie Gregory Clifford a.k.a. Stormy Daniels and that any reference or designation to PEGGY PETERSON shall be deemed the same thing as referring to Stephanie Gregory Clifford a.k.a. Stormy Daniels by her true name as identified herein.

It is understood and agreed that the true name and identity of the person referred to as "DAVID DENNISON" in the Settlement Agreement is [REDACTED], and that any reference or designation to DAVID DENNISON shall be deemed the same thing as referring to [REDACTED], by his true name as identified herein.

It is understood and agreed that the true name and identity of the entity referred to as "EC, LLC" in the Settlement Agreement is [REDACTED] LLC and that any reference or designation to EC, LLC shall be deemed the same thing as referring to [REDACTED] LLC, by his true name as identified herein. jr

It is further acknowledged and agreed by the parties that notwithstanding the provisions of Paragraph 7.1 of the Settlement Agreement (which provides that the Settlement Agreement constitutes the entire agreement between the Parties with respect to the matters herein and in supersedes all prior and contemporaneous oral and written agreements and discussions pertaining to the matters herein), this Side Letter agreement shall be deemed part of the agreement between the Parties. Accordingly, Paragraph 7.1 of the Settlement Agreement is hereby amended via supplanting to provide as follows:

"7.1.1 Integration. The Side Letter agreement entered into by the Parties concurrently with their entry into this Agreement shall be deemed part of this Agreement, and this Agreement and the Side Letter agreement together constitute the entire agreement between the Parties with

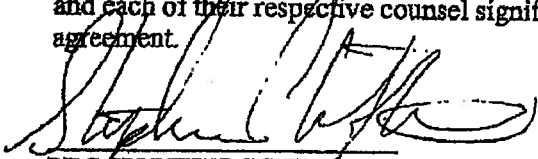
respect to the matters herein and supersedes all prior and contemporaneous oral and written agreements and discussions pertaining to the matters herein."

For avoidance of doubt, it is further agreed that this Side Letter agreement shall constitute Confidential Information as defined in the Settlement Agreement, that neither this Side Letter agreement nor any portion hereof may be disclosed to anyone except as and to the extent expressly provided in the Settlement Agreement, and that any unauthorized disclosure or use of this Side Letter agreement or any portion hereof shall constitute a material breach of the confidentiality provisions of the Settlement Agreement.

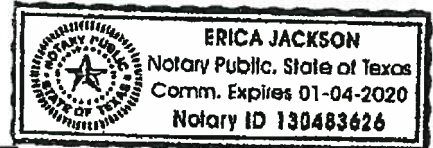
It is further agreed that neither party shall keep a copy of this document, and that only Keith M. Davidson, Esq. AND [REDACTED] counsel for the parties herein), shall maintain possession of it or access to this Side Letter agreement. FOR AVOIDANCE OF DOUBT, THE PARTIES HERETO AGREE AND CONFIRM THAT THIS SIDE LETTER AGREEMENT IS DEEMED "ATTORNEY'S EYES ONLY."

This Side Letter agreement may be executed in counterparts and when each Party has signed and delivered one such counterpart to the other Party, each counterpart shall be deemed an original, and all counterparts taken together shall constitute one and the same Agreement, which shall be binding and effective as to the Parties. The Agreement may be executed by facsimile or electronic PDF signatures, which shall have the same force and effect as if they were originals.

By signing below, each of the Parties signifies their agreement to the terms hereof and each of their respective counsel signify their approval as to the form of this letter agreement.



PEGGY PETERSON a.k.a. Stephanle Gregory
Clifford a.k.a. Stormy Daniels

10/28/16
date




DAVID DENNISON a.k.a. _____

date


Keith M. Davidson, Esq.

10/31/16
date


_____, Esq.
[REDACTED]

10/28/16
date

APPENDIX 2

From: Michael Cohen
To: Keith Davidson
Subject: Fwd: FW: First Republic Bank Transfer
Date: October 26, 2016 1:51:11 PM

----- Forwarded message -----

From: Michael Cohen <mcohen@trumporg.com>
Date: Wed, Oct 26, 2016 at 4:49 PM
Subject: FW: First Republic Bank Transfer
To: "mdcohen[REDACTED]@gmail.com" <mdcohen[REDACTED]@gmail.com>

From: Rappaport, Elizabeth [mailto:erappaport@firstrepublic.com]
Sent: Wednesday, October 26, 2016 4:15 PM
To: Michael Cohen <mcohen@trumporg.com>
Subject: RE: First Republic Bank Transfer

Good Afternoon Mr. Cohen,

The funds have been deposited into your checking account ending in x1897.

Best,

Lizzy

Elizabeth Rappaport
Assistant to Gary Farro
First Republic Bank

1230 Ave of the Americas, 3rd Floor | New York, NY 10020