

**BEFORE THE FEDERAL ELECTION COMMISSION**

Ms. Shaunna Thomas  
UltraViolet Education Fund  
P.O. Box 34756  
Washington, DC 20043

*Complainant,*

v.

Mr. Donald J. Trump  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Donald J. Trump for President, Inc.  
725 Fifth Avenue  
New York, NY 10022

Mr. Bradley T. Crate  
c/o Red Curve Solutions  
138 Conant St., 2nd Floor  
Beverly, MA 01915

*Respondents.*

**COMPLAINT**

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Mr. Donald J. Trump, 2016 and 2020 presidential candidate and current President of the United States; Donald J. Trump for President, Inc. (FEC ID# C00580100), Mr. Trump's principal campaign committee; and Mr. Bradley T. Crate, in his official capacity of treasurer for Donald J. Trump for President, Inc. (collectively, "Respondents"), for apparently violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "Commission") regulations by using campaign funds to pay for legal services rendered in connection with a lawsuit in which Mr. Trump is a defendant in his personal capacity. The Commission should immediately launch

an investigation to determine whether \$322,614.29 in payments disclosed for “legal consulting” violated the prohibition on converting campaign funds to personal use.

## FACTUAL BACKGROUND

Ms. Summer Zervos was a contestant on Mr. Trump’s television show “The Apprentice” in 2005.<sup>1</sup> In 2016, Ms. Zervos alleged that Mr. Trump forcibly kissed her in his New York office in 2007 and later groped her at a meeting at a hotel in California.<sup>2</sup> In response, Mr. Trump publicly accused Ms. Zervos of lying about the allegations and attacked her character, including retweeting a statement that called Ms. Zervos’s claims a “hoax” on his public Twitter account.<sup>3</sup> On January 17, 2017, Ms. Zervos filed a civil complaint in New York state court against Mr. Trump in his personal capacity, claiming defamation.<sup>4</sup> Mr. Trump’s principal campaign committee is not a defendant in the lawsuit, nor is any other campaign-related entity. The defamation claim is directed at Mr. Trump as a private citizen and regards his personal actions. Counsel of record for Mr. Trump as defendant in this action are attorneys with the law firm Kasowitz Benson Torres LLP.<sup>5</sup>

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<sup>1</sup> Dena Aubin, *Trump to Provide Written Responses in Summer Zervos Defamation Lawsuit*, REUTERS (Sept. 9, 2018), <https://www.reuters.com/article/us-usa-trump-apprentice/trump-to-provide-written-responses-in-summer-zervos-defamation-lawsuit-idUSKCN1LP0Q4>.

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

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

<sup>4</sup> *See Complaint, Zervos v. Trump*, No. 150522-2017 (N.Y. Sup. Ct. Jan. 17, 2017), <https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=dYwIzFeeBv7mf3k4B/kysA==&system=prod>.

<sup>5</sup> Notice of Appearance, *Zervos v. Trump*, No. 150522-2017 (N.Y. Sup. Ct. Feb. 2, 2017), <https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=uuQcVIU/06aMdLjmdkp18g==&system=prod>. Kasowitz Benson Torres LLP was formerly known as Kasowitz, Benson, Torres & Friedman LLP. *See Notice of Firm Name Change, Zervos v. Trump*, No. 150522-2017 (N.Y. Sup. Ct. March 27, 2017), [https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=PLUS\\_qzS5Ya6UgacLKqN6fUbuW==&system=prod](https://iapps.courts.state.ny.us/fbem/DocumentDisplayServlet?documentId=PLUS_qzS5Ya6UgacLKqN6fUbuW==&system=prod).

Marc Kasowitz of Kasowitz Benson Torres LLP is often referred to as Mr. Trump's "personal lawyer," having represented Mr. Trump in various personal matters for over 15 years.<sup>6</sup> In addition to having represented Mr. Trump in divorces, bankruptcy cases, and sexual misconduct allegations, Mr. Kasowitz briefly assumed the role of Mr. Trump's private counsel for Special Counsel Robert Mueller's probe into Russian interference in the 2016 election.<sup>7</sup> At no point has Mr. Kasowitz or his law firm been known to provide legal services to Mr. Trump's election or reelection campaigns.

Despite the complete lack of evidence that Kasowitz Benson Torres LLP has performed any work for Mr. Trump's campaigns, Donald J. Trump for President, Inc. reported a \$322,614.29 expense for "legal consulting" to the law firm "Kasowitz, Benson, Torres [sic] & Friedman" in its 2018 year-end report.<sup>8</sup> The campaign made the payment on November 26, 2018 and indicated the disbursement was made for purposes of the 2020 primary election.<sup>9</sup> Various law firms have provided legal services to Mr. Trump's campaign,<sup>10</sup> but Kasowitz Benson Torres LLP does not appear to be one of them.

As there is no evidence in the public domain that Kasowitz Benson Torres LLP provided legal services to Donald J. Trump for President, Inc., the logical conclusion is that the law firm has simply continued its representation of Mr. Trump in personal matters. Indeed, the firm is

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<sup>6</sup> *Marc Kasowitz and Mark Corallo Depart Trump's Legal Team*, CBS NEWS (July 21, 2017), <https://www.cbsnews.com/news/corallo-kasowitz-depart-trump-legal-team/>; Biography of Mark E. Kasowitz, KASOWITZ BENSON TORRES LLP, <https://www.kasowitz.com/people/marc-e-kasowitz>.

<sup>7</sup> Barbara Demick, *Marc Kasowitz Helped Trump Through Bankruptcy and Divorce. Now He's Taking on the Biggest Case of His Career*, L.A. TIMES (May 25, 2017), <https://www.latimes.com/nation/la-na-kasowitz-20170524-story.html>.

<sup>8</sup> Donald J. Trump for President, Inc., Year-End 2018 5,444, <http://docquery.fec.gov/pdf/587/201901319145350587/201901319145350587.pdf>.

<sup>9</sup> *Id.*

<sup>10</sup> C. Ryan Barber, *Jones Day Again Tops Trump Campaign's Legal Billing*, *New FEC Filings Show*, NAT'L L.J. (Oct. 15, 2018), <https://www.law.com/nationallawjournal/2018/10/15/jones-day-again-tops-trump-campaigns-legal-billing-new-fec-filings-show/>.

counsel to Mr. Trump in the ongoing lawsuit brought by Ms. Zervos, a matter that is indisputably personal to Mr. Trump rather than arising out of his campaign or position in the U.S.

Government. Moreover, the developments in the Zervos suit would surely incur significant legal fees consistent with the amount Mr. Trump's campaign paid to the firm. The case has involved lengthy and contested discovery and several attempts by Mr. Trump's attorneys to stall the proceeding (including an appeal to the New York Supreme Court Appellate Division).<sup>11</sup> These types of activities have the potential to generate legal bills into the hundreds of thousands of dollars, especially for high-priced New York attorneys. As Mr. Kasowitz's only known work for Mr. Trump in the fall of 2018 was for representation in the Zervos suit, the implication is that the Trump campaign appears to have used campaign funds to compensate a law firm that performed *personal* services for Mr. Trump. There is absolutely no evidence that the payment to Kasowitz Benson Torres LLP was for services rendered to Mr. Trump's campaign. Where there is smoke, there is fire; and in this case there is no water to put it out.

#### LEGAL ARGUMENT

The Act prohibits a candidate or any other person from converting “[a] contribution accepted by a candidate, and any other donation received by an individual as support for the activities of the individual as a holder of Federal office,” to “personal use.”<sup>12</sup> Commission regulations define “personal use” as “any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder.”<sup>13</sup> The regulations provide examples of expenditures that are *per se* personal use expenses, such as tuition payments

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<sup>11</sup> See, e.g., Tyler Page, *After Dismissal of Stormy Daniels Suit, Trump Lawyers Target 'Apprentice' Contestant's*, N.Y. TIMES (Oct. 18, 2018), <https://www.nytimes.com/2018/10/18/nyregion/trump-summer-zervos-lawsuit.html>.

<sup>12</sup> 52 U.S.C. § 30114(a), (b)(1); 11 C.F.R. § 113.2.

<sup>13</sup> 11 C.F.R. § 113.1(g).

other than those associated with training campaign staff, mortgage or rent payments for the candidate's personal residence, and dues at a country club for the candidate's personal use.<sup>14</sup> The list in the regulations is not exhaustive<sup>15</sup> and reinforces the statutory rule that an expense is personal if it arises out of the candidate's private life rather than the candidate's campaign for elected office.

Outside of the list in the regulations, the Commission determines on a case-by-case basis whether other uses of campaign funds "fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign or duties as a Federal officeholder, and therefore are personal use."<sup>16</sup> The regulations specifically identify "[l]egal expenses" as a use of campaign funds that will receive case-by-case review.<sup>17</sup> The Commission has explained that "campaign funds may be used to pay for legal expenses incurred in proceedings that directly relate to the candidate's campaign activities or other officeholder duties."<sup>18</sup> For example, the Commission has approved the use of campaign funds to pay for the legal expenses of a candidate in order to gain ballot access for a primary election<sup>19</sup> and of congressional staffers relating to illegal campaign contributions.<sup>20</sup>

Mr. Trump and his campaign committee, Donald J. Trump for President, Inc., appear to have unlawfully used campaign funds to pay for legal expenses that Mr. Trump incurred in his personal capacity. On November 26, 2018, Mr. Trump's campaign paid a sum of \$322,614.29 to Kasowitz Benson Torres LLP for "legal consulting."<sup>21</sup> The law firm is only ever known to have

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<sup>14</sup> See 11 C.F.R. § 113.1(g)(1)(i)(A)-(J).

<sup>15</sup> See *id.*

<sup>16</sup> *Id.* § 113.1(g)(1)(ii).

<sup>17</sup> *Id.* § 113.1(g)(1)(ii)(A).

<sup>18</sup> Advisory Opinion 2018-09 (Clements for Congress) at 3 (FEC June 28, 2018).

<sup>19</sup> *Id.* at 2-3.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> Donald J. Trump for President, Inc., Year-End 2018, *supra* note 8, at 5,444.

provided personal legal services to Mr. Trump. There is no public information that suggests the law firm has represented or otherwise provided legal consulting services to Mr. Trump's campaign within the last two years. The timing of the payment coincides with Kasowitz Benson Torres LLP's representation of Mr. Trump *personally* in the lawsuit brought against him by Ms. Zervos. The only reasonable conclusion is that Donald J. Trump for President, Inc. used campaign funds to pay for the law firm's private representation of Mr. Trump in this matter.

If, as it appears, the Trump campaign used campaign funds to pay for legal fees incurred in the defense of Mr. Trump in the Zervos suit, the expenditure would constitute an unlawful conversion of campaign funds to personal use. Fees for defending Mr. Trump in a tort action are not expenses that would exist irrespective of Mr. Trump's campaign. A campaign committee does not need to finance the representation of a candidate in a personal legal action to win a federal election. As the legal fees were not incurred in a proceeding that directly relates to Mr. Trump's campaign activities or other officeholder duties, it was unlawful to use campaign funds to pay Kasowitz Benson Torres LLP for its services.

Respondents will likely argue that the legal fees associated with the Zervos suit would not have existed but for Mr. Trump's campaign for federal office and therefore using campaign funds to pay Kasowitz Benson Torres LLP does not constitute converting campaign funds to personal use. But the facts come down decisively against this position, and the integrity of the system requires condemning this misuse of campaign funds. Mr. Trump was named as the defendant in the lawsuit as a private citizen. Ms. Zervos has alleged that Mr. Trump sexually assaulted her long before he announced any intention to seek federal office. When these allegations came to light, Mr. Trump used his personal Twitter account and numerous other

public forums to disparage Ms. Zervos.<sup>22</sup> Whether or not Mr. Trump legally defamed Ms. Zervos is irrelevant. It is only relevant that Mr. Trump is *personally* alleged to have committed the tort. The claim is not against Mr. Trump's campaign and the alleged tort did not arise as a necessity of his candidacy. Moreover, the Commission has explained that "legal expenses will not be treated as though they are campaign or officeholder related merely because the underlying proceedings have some impact on the campaign or officeholder's status."<sup>23</sup> An argument premised on the impact that the defamation suit would have on Mr. Trump's campaign or position in government would therefore be unpersuasive.

Any attempt by Mr. Trump to argue that payments related to the Zervos suit are campaign-related would contradict the stance Mr. Trump has taken with respect to the hush money payments made to two women claiming to have had affairs with him. Mr. Trump's personal attorney, Rudolph Giuliani, has argued that these payments did not violate campaign finance law because they were personal, rather than campaign related.<sup>24</sup> Of the payment to Stormy Daniels, Mr. Giuliani said: "The payment was made to resolve a personal and false allegation in order to protect the President's family. It would have been done in any event, whether he was a candidate or not."<sup>25</sup> If Mr. Trump's stance is that the hush money payments were personal in nature, it would be contradictory to argue that the legal expenses associated with the Zervos suit are campaign related. Mr. Trump's team made the hush money payments to the two women in order to protect Mr. Trump's personal reputation and family. It follows that when Ms. Zervos made allegations against Mr. Trump, those allegations implicated him

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<sup>22</sup> See Complaint, *Zervos v. Trump*, *supra* note 4, at 11-16.

<sup>23</sup> Advisory Opinion 2018-03 (Committee to Elect Michael Gilmore) at 4 (FEC Apr. 30, 2018) (citing Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7868 (Feb. 9, 1995)).

<sup>24</sup> See, e.g., Roberta Rampton, *Trump Lawyer Giuliani Defends Legality of Porn Star Payment*, REUTERS (May 4, 2018), <https://www.reuters.com/article/us-usa-trump-russia/trump-lawyer-giuliani-defends-legality-of-porn-star-payment-idUSKBN1151S6>.

<sup>25</sup> *Id.*

*personally*. In response, Mr. Trump attacked Ms. Zervos's character in his personal capacity, giving rise to the defamation suit. Just as Mr. Giuliani recognized with respect to the hush money payments, Mr. Trump's involvement in the Zervos suit is entirely personal.

Given these facts, all expenses associated with representing Mr. Trump in the Zervos lawsuit must be considered personal and non-campaign related. The apparent use of campaign funds for these expenses is in clear violation of federal campaign finance law and regulations. To determine otherwise would allow candidates across the country to sexually assault, harass, defame, and commit other bad acts against innocent people with impunity—and then use campaign funds to defend themselves.

#### **REQUESTED ACTION**

As we have shown, there is a strong possibility that Respondents have violated federal law by using campaign funds to defray legal expenses that Mr. Trump personally incurred as the defendant in a defamation lawsuit. Complainant respectfully requests that the Commission promptly investigate these violations of the Act and Commission regulations, and that Respondents be enjoined from further violations and fined the maximum amount permitted by law.

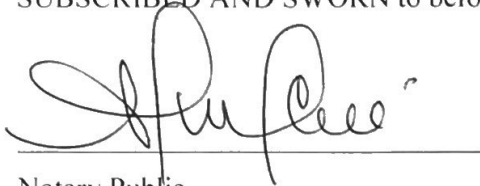
Sincerely,



Ms. Shaunna Thomas  
UltraViolet Education Fund  
P.O. Box 34756  
Washington, DC 20043



SUBSCRIBED AND SWORN to before me this 21 day of February, 2019.



Notary Public

My Commission Expires:

12/22/2022

