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American Democracy Legal Fund
455 Massachusetts Avenue, NW
Washington, DC 20001

OFFICE OF GENERAL
COUNSEL

Complainant,

v.

Mr. Donald Trump
725 Fifth Avenue
New York, New York 10022

Donald J. Trump for President, Inc., and Timothy Jost, Treasurer
725 Fifth Avenue
New York, New York 10022

Respondents.

MUR # 7100

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Mr. Donald Trump, Donald J. Trump for President, Inc. (the "Committee"), and Timothy Jost, in his official capacity as Treasurer (collectively "Respondents") for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "Commission") regulations, as described below. Publicly available reports strongly indicate that Mr. Trump is using funds from his presidential campaign to further his business and personal interests in clear violation of 52 U.S.C. § 30114(a)(1).

FACTS

Mr. Trump is the presumptive Republican nominee for President.¹ He is also the chairman and president of the Trump Organization,² a privately owned international company

¹ Stephen Collinson, *Donald Trump: Presumptive GOP Nominee; Sanders Takes Indiana*, CNN (May 4, 2016), <http://www.cnn.com/2016/05/03/politics/indiana-primary-highlights/>.

that is engaged in real estate development, brand licensing, and entertainment.³ In the past, Mr. Trump has stated that, "It's very possible that I could be the first presidential candidate to run and make money on it,"⁴ and publicly available reports indicate that he is using his best efforts to make this a reality. Indeed, "Mr. Trump . . . can seem hazy on the distinction between his political and business pursuits."⁵ This complaint will show that Mr. Trump has used his presidential campaign to support his business interests and may be using his campaign to personally enrich himself and his family. Mr. Trump has engaged in the personal use of his campaign's funds in violation of the Act and its regulations.

A. Mr. Trump Has Used Campaign Resources to Further His Business Interests.

1. Promoting Trump-Brand Products During Campaign Events

Mr. Trump has used campaign press conferences to promote and market products that he owns or are associated with the Trump brand. On March 8, 2016, Mr. Trump held a post-primary press conference.⁶ Rather than focus on his primary victories, Mr. Trump held a "prime-time informational"⁷ where he "launched into a lengthy defense of"⁸ and "veered into sales pitches for his own product lines."⁹ For example, Mr. Trump discussed his Trump-branded wine and boasted that "We make the finest wine. As good a wine as you can get anywhere in the

² *Donald J. Trump Biography*, Trump.com, <http://www.trump.com/biography/> (last visited June 21, 2016).

³ *Company Overview of the Trump Organization LLC*, Bloomberg, <http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=344985> (last visited June 21, 2016).

⁴ Jerry Useem & Theodore Spencer, *What Does Donald Trump Really Want?*, *Fortune* (Apr. 3, 2000), http://archive.fortune.com/magazines/fortune/fortune_archive/2000/04/03/277110/index.htm.

⁵ Nicholas Confessore & Sarah Cohen, *Donald Trump's Campaign Billed as Self-Funded, Risks Little of His Fortune*, *N.Y. Times* (Feb. 5, 2016), <http://www.nytimes.com/2016/02/06/us/politics/donald-trumps-campaign-billed-as-self-funded-risks-little-of-his-fortune.html>.

⁶ James Poniewozik, *With Trump Water, Wine and Steak, Is It Primary Night or an Infomercial*, *N.Y. Times* (Mar. 9, 2016), <http://www.nytimes.com/2016/03/10/arts/television/donald-trump-brings-red-meat-and-wine-to-primary-night-airwaves.html>.

⁷ *Id.*

⁸ Gregory Krieg, *Wine, Water and (Actual) Red Meat—It's a Donald Trump Press Conference*, CNN (Mar. 8, 2016), <http://www.cnn.com/2016/03/08/politics/donald-trump-steak-wine-water-press-conference/>.

⁹ Hadas Gold, *Trump Infomercial Captivates Networks*, *Politico* (Mar. 9, 2016), <http://www.politico.com/story/2016/03/donald-trump-infomercial-220471>.

world.”¹⁰ Indeed, Mr. Trump “managed to plug Trump Steaks, Trump Magazine and Trump Water. He touted his golf courses, his wineries and his business school, [Trump University].”¹¹

2. Promoting Trump Properties During Campaign Events

i. Campaign Press Conference Followed by a Tour of Trump International Hotel in Washington, D.C.

Mr. Trump’s use of his campaign as a marketing tool does not end at his branded products, but includes his properties as well. Publicly available reports indicate that Mr. Trump has used at least 10 of his properties as backdrops for his campaign events.¹² Even Mr. Trump’s defense of his use of his properties for campaign events is purely promotional: “I have the best properties. Why should I use someone else’s properties.”¹³

On March 21, 2016, Mr. Trump held a campaign press conference in front of the soon-to-be-completed Trump International Hotel that he is building in the Old Post Office in Washington, D.C.¹⁴ During the “campaign” press conference, Mr. Trump stood in front of a Trump Hotels podium rather than a Trump campaign podium and was “flanked by blown-up artist’s renderings of the new hotel’s design.”¹⁵ Publicly available reports indicate that Mr. Trump started his press conference “by touting the marble and bathroom fixtures, describing the hotel as a ‘super luxury’ property.”¹⁶ Mr. Trump told journalists covering the campaign event, “I think when it’s completed it will truly be one of the great hotels of the world.”¹⁷ According to

¹⁰ Daniel Lippman, Darren Samuelsohn, & Issac Arnsdorf, *Trump’s Week of Errors, Exaggerations, and Flat-Out Falsehoods*, Politico (Mar. 13, 2016), <http://www.politico.com/magazine/story/2016/03/trump-fact-check-errors-exaggerations-falsehoods-213730>.

¹¹ Kyle Cheney, *Trump Raises the Steaks After Broiling His Rivals*, Politico (Mar. 8, 2016), <http://www.politico.com/story/2016/03/donald-trump-steaks-press-conference-220468>.

¹² Sara Murray, *Donald Trump Sells Candidacy, Golf Courses*, CNN (June 25, 2016), <http://www.cnn.com/2016/06/25/politics/donald-trump-campaign-properties/>.

¹³ *Id.*

¹⁴ Cameron Joseph, *Donald Trump Led the National Media on an Unusual Tour of His New D.C. Hotel*, Mashable (Mar. 21, 2016), <http://mashable.com/2016/03/21/trump-hotel/#WoKIYfovKkqi>.

¹⁵ *Id.*

¹⁶ Murray, *supra* note 12.

¹⁷ *Id.*

reports, Mr. Trump “appeared momentarily baffled” that at the campaign press conference reporters asked him questions related to the campaign after his promotion of his new hotel.¹⁸ At the conclusion of the event, Mr. Trump gave a tour of the hotel to nearly 200 campaign reporters, noting that hotel tours are “what I’m really good at.”¹⁹

ii. Campaign Press Conference Promoting Trump Turnberry in Turnberry, Scotland

On June 24, 2016, Mr. Trump officially reopened Trump Turnberry, a hotel and golf course that he owns in Turnberry, Scotland.²⁰ Mr. Trump’s official campaign schedule for that day included a press conference at Trump Turnberry followed by a ceremonial ribbon cutting reopening the resort.²¹ The ceremonial ribbon cutting was listed as part of the official campaign event. Although Mr. Trump’s press conference took place only one day after the United Kingdom’s historic referendum on whether to leave the European Union (“Brexit”), publicly available accounts of the event report that Mr. Trump began his press conference with “only a brief flick” at the referendum vote and quickly turned to a “lengthy description” of the upgrades made at Trump Turnberry.²² During the campaign press conference, Mr. Trump said, “The reviews of the course have been phenomenal, not just like good. Even people that truly hate me are saying it’s the best they’ve ever seen.”²³ And even when Mr. Trump did spare a moment to discuss the ramifications of the referendum, he did so in the context of his business interests. While the discussing the impact of Brexit on the pound, Mr. Trump stated that, “When the pound

¹⁸ *Id.*

¹⁹ Joseph, *supra* note 14.

²⁰ *Donald Trump to Attend Turnberry Reopening*, BBC (June 1, 2016), <http://www.bbc.com/news/uk-scotland-glasgow-west-36425368>.

²¹ Donald J. Trump Schedule for June 24, 2016, *available at* <https://www.donaldjtrump.com/schedule/>.

²² Murray, *supra* note 12.

²³ *Id.*

goes down, more people are coming to Turnberry, frankly. For traveling and for other things, I think it very well could turn out to be positive.”²⁴

In the past, presidential nominees have taken overseas trips during a campaign to build their foreign policy credentials.²⁵ However, Mr. Trump was not scheduled to meet British Prime Minister David Cameron during his visit; this trip was focused on his business ventures, which were highlighted with a campaign event.²⁶

Mr. Trump’s “campaign” press conference was so blatantly used as a promotional tool for his resort that one news anchor covering the event noted that he “seems to be trying to profit off a presidential run and not taking it seriously.”²⁷ Spending time advertising private products and properties during what are ostensibly campaign press conferences indicates that Mr. Trump is willfully blurring the lines between his campaign and his business.

2. Using a Campaign Event to Attack the Judge Presiding Over Mr. Trump’s Trump University Case

During campaign rallies, Mr. Trump has taken the opportunity to disparage individuals who he believes will negatively impact his business interests. Specifically, Mr. Trump has “sought to leverage the power of his pulpit” to attack the federal judge presiding over the class-action lawsuit against Trump University.²⁸ At a campaign rally in San Diego, California, on May 27, 2016, Mr. Trump devoted 12 minutes of a 58 minute address to the litigation and called

²⁴ Jenna Johnson & Jose A. DelReal, *Trump Celebrates Brexit Vote: “When the Pound Goes Down, More People Are Coming to Turnberry,”* Wash. Post (June 24, 2016), <https://www.washingtonpost.com/news/post-politics/wp/2016/06/24/in-scotland-trump-celebrates-brexit-vote/>.

²⁵ See, e.g., Jay Newton-Small, *Romney Abroad: A Candidate Tries to Find His Diplomatic Voice*, Time (July 31, 2012), <http://www.nytimes.com/2008/07/24/us/politics/24obama.html>; Jeff Zeleny, *Obama Meets with Israeli and Palestinian Leaders*, N.Y. Times (July 24, 2008), <http://www.nytimes.com/2008/07/24/us/politics/24obama.html>.

²⁶ Steve Holland, *Trump to Detour from Campaign to Visit Scotland Golf Properties*, Reuters (June 22, 2016), <http://www.reuters.com/article/us-usa-election-trump-scotland-idUSKCN0Z8166>.

²⁷ John Avalon, *CNN New Day* (CNN television broadcast June 24, 2016), <http://mediamatters.org/video/2016/06/24/cnns-john-avlon-calls-trumps-failure-discuss-brexit-completely-insane/211175>.

²⁸ Jenna Johnson & Philip Rucker, *In San Diego, Trump Shames Local “Mexican” Judge As Protesters Storm Streets*, Wash. Post (May 27, 2016), <https://www.washingtonpost.com/news/post-politics/wp/2016/05/27/in-san-diego-trump-shames-local-mexican-judge-as-protesters-storm-streets/>.

out federal district court judge Gonzalo Curiel for being a “hater of Trump.”²⁹ Mr. Trump complained during the rally that “there should be no trial” and that the case “should have been dismissed on summary judgment easily.”³⁰ In the course of his tirade, Mr. Trump argued that “[w]e’re in front of a very hostile judge. The judge was appointed by Barack Obama, federal judge. Frankly, he should recuse himself because he’s given us ruling after ruling after ruling, negative, negative, negative.”³¹ Following this remark, Mr. Trump stated that “[t]he judge . . . happens to be, we believe, Mexican.”³² Although Judge Curiel was born in Indiana, Mr. Trump highlighted his ethnicity in later interviews to argue that the judge is biased against him because “he’s a Mexican[, and w]e’re building a wall between here and Mexico.”³³ This tact is emblematic of Mr. Trump’s use of his campaign—as a platform that allows him to viciously defend his businesses and his dealings.

B. Mr. Trump’s Campaign Has Personally Benefitted Him and His Family.

Mr. Trump has repeatedly touted that he is self-funding his campaign.³⁴ Yet, an examination of the Committee’s latest campaign finance report reveals that Mr. Trump’s attempts to self-fund include paying himself for the use of his own business entities. According to Mr. Trump’s latest Commission filing, his campaign committee has paid at least \$1.1 million

²⁹ Reid Epstein, *Trump Attacks Federal Judge in Trump U Case*, Wall St. J. (May 27, 2016), <http://blogs.wsj.com/washwire/2016/05/27/trump-attacks-federal-judge-in-trump-u-case/>.

³⁰ Daniel Politi, *Donald Trump Blasts “Mexican” Judge in Trump University Case*, Slate (May 28, 2016), http://www.slate.com/blogs/the_slates/2016/05/28/donald_trump_criticizes_mexican_judge_in_trump_university_case.html.

³¹ Epstein, *supra* note 29.

³² *Id.*

³³ Nina Totenberg, *Trump Presses Case that “Mexican” Judge Curiel Is Biased Against Him*, NPR (June 4, 2016), <http://www.npr.org/2016/06/04/480714972/trump-presses-case-that-mexican-judge-curiel-is-biased-against-him>.

³⁴ Juana Summers, *Did Donald Trump Self-Fund His Way to the Republican Nomination, Not Exactly*, CNN (June 20, 2016), <http://www.cnn.com/2016/06/19/politics/donald-trump-campaign-finance-crowdpac/>.

to his businesses and to family members for expenses associated with events and travel costs.³⁵

That sum constitutes nearly a fifth of the \$6 million that the Committee spent last month.³⁶

His campaign's expenditures include a \$423,370 payment to Mar-a-Lago, a "private club in Florida that serves as his vacation home;" \$349,540 to TAG Air, Inc., Mr. Trump's private plane company;³⁷ and more than \$125,000 to Trump Restaurants and more than \$170,000 to Trump Tower.³⁸ Other large payments to Trump-owned businesses include \$29,715 to Trump National Golf Club and \$35,845 to Trump International Golf Club.³⁹

Mr. Trump's campaign funds have also benefitted members of his family. Both of Mr. Trump's sons have received money for traveling with the campaign; Eric Trump has received more than \$10,000 in reimbursements and Donald Trump, Jr. has received more than \$3,000.⁴⁰ The Committee also paid Eric Trump Wine Manufacturing, LLC nearly \$5,000 last month alone.⁴¹ In addition, the Committee paid Ace Specialties nearly \$694,000 last month for campaign hats and t-shirts.⁴² Ace Specialties is owned by a board member of Eric Trump's charitable foundation.⁴³

³⁵ FEC, Donald J. Trump for President, Inc., Report of Receipts and Disbursements (June 20, 2016), <http://docquery.fec.gov/pdf/514/201606209018595514/201606209018595514.pdf>.

³⁶ *Id.*

³⁷ *Id.* at 1590, 1600; Julie Bykowicz & Chad Day, *Trump's Campaign Spends \$6 Million with Trump Companies*, Associated Press (June 21, 2016), <http://bigstory.ap.org/article/9f7412236962464f9f2c0a8d2696ba25/trumps-campaign-cycles-6-million-trump-companies>.

³⁸ Report of Receipts and Disbursements, *supra* note 35, at 1610, 1611, 1613, 1615, 1619.

³⁹ *Id.* at 1618.

⁴⁰ *See, e.g., id.* at 1614, 1617-18.

⁴¹ *Id.* at 1307.

⁴² *Id.* at 1119-20.

⁴³ Bykowicz & Day, *supra* note 37.

LEGAL DISCUSSION

A. Mr. Trump's Promotion and Marketing of His Products and Properties at Campaign Events Is a Personal Use Violation.

Under the Act and Commission regulations, campaign contributions may only be used "in connection with the campaign for Federal office."⁴⁴ The Act prohibits any campaign contribution or donation from being "converted by any person to personal use."⁴⁵ The Act's regulations define "personal use" as "any use of funds in a campaign account of a present . . . candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign."⁴⁶ The Commission has determined that marketing commercial items such as a candidate's book is an expense that would exist irrespective of the candidate's campaign and that, therefore, the use of a principal campaign committee's assets to promote such an item would constitute personal use.⁴⁷ A candidate may market a product using committee assets only if the amount of promotion and the cost to the committee is *de minimis*.⁴⁸

Mr. Trump's promotion of his business throughout his campaign is a clear violation of the Act's personal-use rules. The expenses associated with promoting and marketing Mr. Trump's products and properties would exist irrespective of his campaign; therefore, Mr. Trump is precluded from promoting his business by using campaign resources. However, Mr. Trump has repeatedly and brazenly used campaign assets to promote and market his business interests. Mr. Trump used a post-primary press conference that was organized by campaign staffers and occurred in a venue rented by the Committee to hold a "prime-time informational" that promoted

⁴⁴ 52 U.S.C. § 30114(a)(1).

⁴⁵ *Id.* § 30114(b)(1); 11 C.F.R. § 113.2(a).

⁴⁶ 11 C.F.R. § 113.1(g).

⁴⁷ See FEC, AO 2011-02 (Brown), at 6 (Feb. 17, 2011).

⁴⁸ See *id.* at 7.

Trump Steaks, Trump Magazine, Trump University, Trump Winery, and Trump Water.⁴⁹ On March 21, Mr. Trump held a campaign press conference outside of his under-construction Trump International Hotel while standing behind a Trump Hotels podium and flanked by an artist's renderings of his hotel. He touted the construction of his new hotel and its amenities and then gave a guided tour of the hotel after the event.

On June 24, Mr. Trump held a campaign-financed press conference at the grand reopening of his private hotel and resort in Turnberry, Scotland, and his campaign openly promoted the ribbon cutting ceremony that followed the event. The event itself served as a forum to promote the renovations to his resort. Even though the "campaign" press conference took place one day after the Brexit vote, Mr. Trump focused the event on Trump Turnberry and spoke of the Brexit vote in terms of its benefit to the success of the resort. The fact that his Committee paired the campaign press conference with the opening of Trump Turnberry indicates that Mr. Trump used his campaign to bring attention to the grand reopening of his new resort. These promotional and marketing events are activities that the Trump Organization should be conducting; they are not "in connection with the campaign" but rather events in connection with Mr. Trump's business interests.

In addition, Mr. Trump's disparaging of Judge Curiel to defend Trump University at his San Diego campaign event is another significant personal-use violation. Mr. Trump's attacks on Judge Curiel were meant to shield his business from the fallout of the Trump University suit by discrediting the judge and his potential rulings. Indeed, Mr. Trump's comments served no other purpose than to protect his business's brand and profitability, and the use of campaign resources furthered that purpose. Mr. Trump's rally was paid for by his campaign and was staffed by

⁴⁹ Brett Neely, *Trump Doesn't Own Most of the Products He Pitched Last Night*, NPR (Mar. 9, 2016), <http://www.npr.org/2016/03/09/469775355/trump-doesnt-own-most-of-the-products-he-pitched-last-night>.

campaign employees; as such, any message originating from Mr. Trump during the rally was a product of campaign resources. Mr. Trump's defense of his business arose irrespective of the campaign and was the job of the Trump Organization's legal team and public relations department, not of Mr. Trump during a campaign rally. Thus, Mr. Trump's attack on Judge Curiel violated the Act's personal-use rule.

B. Mr. Trump May Be Personally Benefitting from Campaign Expenditures to His Businesses and Family Members.

Commission regulations permit a candidate's campaign to rent real or personal property from the candidate or a member of his family, so long as the amount charged is not above the usual and normal rental fees.⁵⁰ According to the Committee's June campaign filing, nearly 20 percent of the funds that the Committee spent were expenditures for the use of properties owned by Mr. Trump or a member of his family. While Mr. Trump and his family are not precluded from receiving rental fees from the Committee for its use of their properties, the magnitude of the proportion of campaign funds spent to compensate Mr. Trump and his family calls for stricter scrutiny by the Commission of this practice.

REQUESTED ACTION

As we have shown, Respondents have violated the Act and Commission regulations by using the campaign to further Mr. Trump's business and personal interests. As such, we respectfully request that the Commission immediately investigate these violations and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

⁵⁰ 11 C.F.R. § 113.1(g)(1)(i)(E)(2).

Sincerely,



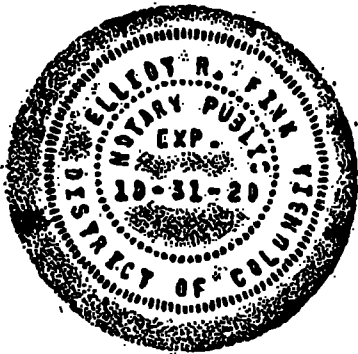
SUBSCRIBED AND SWORN to before me this 29th day of June, 2016.



Notary Public

My Commission Expires:

10/31/2020



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