

BEFORE THE
FEDERAL ELECTION COMMISSION

Free Speech For People
Campaign for Accountability

v.

MUR No. 7207

Government of the Russian Federation
Donald J. Trump for President, Inc.

AMENDMENT TO THE COMPLAINT

1. On December 16, 2016, Complainants filed a complaint pursuant to 52 U.S.C. § 30109(a)(1) and 11 C.F.R. § 111.4, seeking an immediate investigation of potential violations of the Federal Election Campaign Act (FECA), 52 U.S.C. §§ 30101 *et seq.*, stemming from Russian government interference in the 2016 presidential election. This amendment to the complaint provides additional factual support which has come to public light since the original filing. The FEC's investigation of this issue is critical because the FEC is the only bipartisan, independent commission before which this matter is currently pending.

2. According to formal findings of the United States government, the Government of the Russian Federation (Russian Government) deliberately attempted to influence the 2016 U.S. presidential election in order to assist the candidacy of Donald J. Trump. FECA prohibits foreign nationals, including foreign governments, from spending money to influence federal elections. As set forth below, it is implausible to believe that such electoral interference by the Russian

Government was accomplished without making illegal contributions and/or expenditures.

3. Furthermore, according to published reports, there is a sufficient basis for the FEC to investigate whether this prohibited activity by the Russian Government was illegally “coordinated,” within the meaning of FECA, with respondent Donald J. Trump for President, Inc. (Trump Campaign), whether at the request of the candidate or his committee, or through shared former employees or contractors.

4. FECA was enacted to protect the republican system of the United States against corruption, *see Buckley v. Valeo*, 424 U.S. 1, 26-27 (1976) (per curiam), and its democratic self-government against foreign influence, *see Bluman v. FEC*, 800 F. Supp. 2d 281 (D.D.C. 2011) (three-judge court), *aff’d*, 132 S. Ct. 1087 (2012). The fact that a foreign state appears to have violated our nation’s laws barring foreign nationals from influencing our elections is a serious threat to our political system and merits urgent investigation.

COMPLAINANTS

5. Free Speech For People is a national non-partisan, non-profit 501(c)(3) organization that works to restore republican democracy to the people, including through legal advocacy concerning the law of campaign finance. Free Speech For People’s supporters around the country engage in education and non-partisan advocacy to encourage and support effective government of, by, and for the

American people, including through efforts to identify and combat foreign influence in our democratic elections.

6. Campaign for Accountability is a national non-partisan, non-profit 501(c)(3) organization that uses research, litigation and communications to expose misconduct and malfeasance in public life. Millions of Americans' lives are negatively impacted by decisions made behind the doors of corporate boardrooms, government offices, and shadowy nonprofit groups. Campaign for Accountability works to bring transparency to government and corporate actors and to reform the campaign finance system to eliminate the corruption that flows from unlimited spending.

RESPONDENTS

7. The Government of the Russian Federation (Russian Government) is the government of, and exercises executive power in, the Russian Federation, a foreign state. Its official address is Government House, 2 Krasnopresnenskaya Naberezhnaya, Moscow, RU-MOW 103274, Russia. It may receive notice within the United States at the Embassy of the Russian Federation, 2650 Wisconsin Ave, Washington, DC 20007, (202) 298-5700. *See, e.g., Agudas Chasidei Chabad v. Russian Fed'n*, 798 F. Supp. 2d 260, 269 (D.D.C. 2011).

8. Donald J. Trump for President, Inc. (ID# C00580100), 725 Fifth Avenue, New York, NY 10022, was the duly-designated Presidential campaign committee of President Donald J. Trump for the 2016 election, and now serves as his duly-designated re-election campaign committee.

FACTS

I. Investigations into Russian Election Interference Thus Far

9. In October 2016, United States government intelligence agencies, including the Office of the Director of National Intelligence (DNI), representing seventeen intelligence agencies and the U.S. Department of Homeland Security, concluded that the Russian Government had deliberately interfered in the 2016 federal elections.¹

10. On December 12, 2016, Senator Mitch McConnell (R-Ky.) and Representative Paul Ryan (R-Wis.) called for an inquiry into possible Russian interference in the 2016 election.²

11. On January 6, 2017, the Office of the DNI released an unclassified report titled *Assessing Russian Activities and Intentions in Recent US Elections (Assessing Russian Activities)*.³ This report was an abbreviated, declassified version of a still-classified detailed report provided to the President and presidentially-approved recipients at the highest levels of the U.S. government. The unclassified report states unequivocally in its header that “its conclusions are identical to those in the highly classified assessment.”⁴

¹ See Ellen Nakashima, *U.S. government officially accuses Russia of hacking campaign to interfere with elections*, Wash. Post, Oct. 7, 2016, <http://wpo.st/H53N2>.

² Jennifer Steinhauer, *Senate and House Leaders Call for Inquiry of Russian Hacking in Election*, N.Y. Times, Dec. 12, 2016, <http://nyti.ms/2hfQtFq>.

³ Office of the DNI, *Assessing Russian Activities and Intentions in Recent US Elections*, ICA 2017-01D, Jan. 6, 2017, <https://go.usa.gov/xXB8m>.

⁴ *Id.*, *passim*.

12. As set forth in *Assessing Russian Activities*, the Central Intelligence Agency, Federal Bureau of Investigation (FBI), and National Security Agency jointly concluded that “Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election.” The tactics of this influence campaign included “state-funded media, third-party intermediaries, and paid social media users or ‘trolls.’” In pursuing this campaign, “Russia’s goals were to undermine public faith in the US democratic process, denigrate [former U.S. Secretary of State Hillary] Clinton, and harm her electability and potential presidency,” and reflected Russia’s “clear preference for President-elect Trump.”⁵

II. Russia’s Motive to Interfere in the U.S. Presidential Election

13. According to *Assessing Russian Activities*, Russia had numerous motives for interfering in the U.S. presidential election and, in particular, for working to assist the Trump Campaign. In addition to a history of animosity against Secretary Clinton, Russian President Vladimir Putin has had a consistent preference for “Western political leaders whose business interests made them more disposed to deal with Russia[.]”⁶

14. For the past several years, President Trump’s business empire has received outsized financial support from Russia. In 2008, Mr. Trump’s son said that “Russians make up a pretty disproportionate cross-section of a lot of our assets.”⁷ In

⁵ *Assessing Russian Activities*, at ii.

⁶ *Assessing Russian Activities*, at 1.

⁷ Tom Hamburger *et al.*, *Inside Trump’s Financial Ties to Russia and His Unusual Flattery of Vladimir Putin*, Wash. Post, June 17, 2016, <http://wapo.st/2n5VROl>.

2013, discussing meetings regarding a potential hotel project in Moscow, Mr. Trump stated: “The Russian market is attracted to me. I have a great relationship with many Russians, and almost all of the oligarchs were in the room.”⁸ Although Mr. Trump’s characterizations of his relationship with President Putin have evolved over time, in 2013 he told MSNBC that he had “a relationship” with Putin, who President Trump said was personally “very interested” in Trump’s investment objectives in Russia.⁹

15. Several staff and advisors to the Trump Campaign, including Paul Manafort, Lieutenant General (ret.) Michael Flynn, Carter Page, and Roger Stone, had histories of close ties to the Russian Government and its allies.

16. Manafort served as President Trump’s campaign manager from approximately early April 2016 until August 19, 2016.¹⁰ Before his work on the Trump Campaign, Manafort had long been associated with Russian interests. According to a March 2017 Associated Press exclusive report, Manafort “proposed in a confidential strategy plan as early as June 2005 that he would influence politics, business dealings and news coverage inside the United States, Europe and former

⁸ Julie Strickland, *The Donald, Sapir Mull Bringing Trump Soho to Moscow*, *The Real Deal*, Nov. 12, 2013, <http://bit.ly/2n5T3kl>.

⁹ Nicholas Hautman, *Donald Trump In Resurfaced 2013 Interview: ‘I Do Have a Relationship’ With Vladimir Putin*, *US Magazine*, Jan. 11, 2017, <http://usm.ag/2n5Olmr>.

¹⁰ Accounts differ over exactly when Manafort, who began as a “delegate wrangler,” took over full campaign manager duties, but it appears that he assumed control in early April 2016. See Meghan Keneally, *Reviewing Ex-Manager Paul Manafort’s Rise and Fall in the Trump Campaign*, *ABC News*, Mar. 22, 2017, <http://abcn.ws/2noGOza>.

Soviet republics to benefit President Vladimir Putin’s government.”¹¹ This plan, proposed to “aluminum magnate Oleg Deripaska, a close Putin ally,” led to a \$10 million annual contract beginning in 2006.¹² Manafort also made millions of dollars as a consultant to pro-Russian elements of Ukrainian government and politics, including managing the successful 2014 election campaign of Viktor Yanukovich, which itself was reportedly aided by the Russian Government.¹³

17. Other Trump campaign advisors had similar Russia connections. General Flynn had a history of appearing on, and being paid by, the Russian Government’s television network, RT (formerly “Russia Today”), including a \$33,750 payment for a 2015 speech in Moscow, despite having been warned by the Defense Intelligence Agency in 2014 not to accept compensation from foreign governments without advance approval.¹⁴ Carter Page, for whose communications the FBI sought and received a Foreign Intelligence Surveillance Act warrant in the summer of 2016 “after convincing a Foreign Intelligence Surveillance Court judge that there was probable cause to believe Page was acting as an agent of a foreign

¹¹ Jeff Horowitz & Chad Day, *AP Exclusive: Before Trump job, Manafort worked to aid Putin*, AP, Mar. 22, 2017, <http://apne.ws/2pAAAtBP>.

¹² *Id.*

¹³ See Tom Winter & Ken Dilanian, *Donald Trump Aide Paul Manafort Scrutinized for Russian Business Ties*, NBC News, Aug. 18, 2016, <http://nbcnews.to/2bKHf3e>; Andrew E. Kramer *et al.*, *Secret Ledger in Ukraine Lists Cash for Donald Trump’s Campaign Chief*, N.Y. Times, Aug. 14, 2016, <http://nyti.ms/2n6845p>.

¹⁴ Michael Crowley, *All of Trump’s Russia Ties, in 7 Charts*, Politico, Mar.-Apr. 2017, <http://politi.co/2m3t4X4>; Fredreka Schouten, *Michael Flynn received more than \$33,000 from Russian TV*, USA Today, Mar. 16, 2017, <http://usat.ly/2m6q5kN>; Letter from Defense Intelligence Agency to LTG Flynn, Oct. 8, 2014, <https://go.usa.gov/x5EEE>.

power, in this case Russia,”¹⁵ visited Russia mid-campaign with the approval of the Trump Campaign.¹⁶ Stone has stated that he has “mutual friends” with WikiLeaks publisher Julian Assange,¹⁷ and recently admitted having interacted online in August 2016 with “Guccifer 2.0,” the online persona of the hacker(s) involved in releasing the private email messages of key Clinton allies.¹⁸ Complainants do not have sufficient information to ascertain whether these individuals (re-)entered the employ of the Russian Government during, or after terminating, their engagements with the Trump Campaign.

III. The Russian Influence Campaign’s Conduct Prohibited by FECA

18. According to both media reporting and *Assessing Russian Activities*, the Russian Government’s efforts to influence the U.S. election involved conduct prohibited by FECA including, *inter alia*, expenditures of funds on activities intended to help candidate Trump.

19. According to well-sourced reports, key members of the Democratic National Committee and Secretary Clinton’s campaign were victimized by a “phishing” attack. The attack involved communications transmitted directly to the

¹⁵ Ellen Nakashima *et al.*, *FBI obtained FISA warrant to monitor Trump adviser Carter Page*, Wash. Post, Apr. 11, 2017, <http://wapo.st/2pr7kpE>.

¹⁶ Ivan Nechepurenko, *Carter Page, Ex-Trump Advisor With Russian Ties, Visits Moscow*, N.Y. Times, Dec. 8, 2016, <http://nyti.ms/2hGddMj>.

¹⁷ See Andrew Blake, *Trump ally Roger Stone willing to speak with FBI, rejects ties to Russia and WikiLeaks*, Wash. Times, Oct. 15, 2016, <http://bit.ly/2gJEXxY>.

¹⁸ Andrew Blake, *Roger Stone, Trump confidant, acknowledges ‘innocuous’ Twitter conversation with DNC hackers*, Wash. Times, Mar. 10, 2017, <http://go.shr.lc/2msQ6YG>; see also Peter Stone *et al.*, *Donald Trump and Russia: a web that grows more tangled all the time*, The Guardian, July 30, 2016, <http://bit.ly/2hCUvrQ> (listing more campaign advisors with Russia ties).

targets in the United States. The information obtained through the phishing attack permitted hackers to gain access to thousands of internal Democratic Party and campaign emails stored on U.S. servers, including those of Clinton campaign chairman John Podesta. Hackers then transmitted a database of the stolen e-mails to WikiLeaks, a web site that released this information beginning in the summer of 2016, just before the Democratic National Convention. The release of these email messages is widely agreed to have had the purpose of harming Secretary Clinton's electoral chances and of benefitting her competitor Mr. Trump.¹⁹

20. The U.S. government has concluded that the phishing attacks, subsequent hacking of e-mails, and the distribution of the stolen e-mails to WikiLeaks were performed by individuals employed or paid by the Russian Government.²⁰

21. Furthermore, U.S. intelligence agencies concluded that "Guccifer 2.0," supposedly an independent Romanian hacker who transferred stolen data to WikiLeaks, was actually a persona used by the Russian Government. Similarly, a website named simply "DCLeaks.com" was also a Russian Government operation.²¹

¹⁹ See Rachel Revesz, *Hillary Clinton blames Russia hacking and FBI director James Comey for her election loss*, The Independent, Dec. 16, 2016, <http://ind.pn/2gTmqCQ>; Clint Watts & Andrew Weisburd, *How Russia Wins an Election*, Politico, Dec. 13, 2016, <http://politi.co/2gIt3cJ>; Fred Kaplan, *Did the WikiLeaks Email Dump Cost Hillary the White House?*, Slate, Nov. 14, 2016, <http://slate.me/2pwPHaH>; Thomas Rid, *How Russia Pulled Off the Biggest Election Hack in U.S. History*, Esquire, Oct. 20, 2016, <http://bit.ly/2hCOLOW>.

²⁰ *Assessing Russian Activities, supra*, at 1.

²¹ *Id.* at 2-3.

22. Separately, also according to *Assessing Russian Activities*, the Russian Government sponsored cyber intrusions directly into U.S. state and local electoral boards.²² According to published reports, Russian hackers targeted more than 20 state election systems, and successfully infiltrated four.²³

23. In addition, as set forth below, the Russian Government paid individuals to communicate political messages to persons in the United States for the purpose of influencing the election.

24. Specifically, in 2015, *the New York Times* reported on “an army of well-paid ‘trolls’” in St. Petersburg, Russia, trying to “wreak havoc” in “real-life American communities.”²⁴ The group had become known for “employing hundreds of Russians to post pro-Kremlin propaganda online under fake identities, including on Twitter.”²⁵ The author of the *New York Times* article later tracked the “Russian trolls” his reporting had uncovered, and found that by late 2015, many of them had “turned into conservative accounts” and were “all tweeting about Donald Trump.”²⁶

25. According to published reports, this Russian Government-paid team posted substantial amounts of pro-Trump, anti-Clinton material on various third-

²² *Assessing Russian Activities, supra*, at 3.

²³ See, e.g., Mike Levine & Pierre Thomas, *Russian Hackers Targeted Nearly Half of States’ Voter Registration Systems, Successfully Infiltrated 4*, ABC News, Sept. 29, 2016, <http://abcn.ws/2cNnR3x>.

²⁴ Adrian Chen, *The Agency*, N.Y. Times, June 2, 2015, <http://nyti.ms/1M0bqtC>.

²⁵ *Id.*

²⁶ Longform, *Podcast #171: Adrian Chen*, Dec. 9, 2015, <http://bit.ly/2n6GHs9>; Andrew Weisburd & Clint Watts, *How Russia Dominates Your Twitter Feed to Promote Lies (And, Trump, Too)*, Daily Beast, Aug. 6, 2016, <http://thebea.st/2b0eMGk>.

party web sites and communications media, such as Twitter. One of the methods used by these Russian Government-paid actors was to use false or deceptive profiles suggesting that they were actually American citizens.²⁷

26. Many of these paid Russian bloggers used profile names that explicitly incorporated language supporting a specific political candidate, such as the phrase “for Trump,” e.g., “Moms for Trump” and “Veterans for Trump.”²⁸ On information and belief, many of these posts use words that in context could have had no other reasonable meaning than to urge the election of Donald Trump or the defeat of Secretary Clinton, and/or could only be interpreted by a reasonable person as containing advocacy of the election of Donald Trump or defeat of Secretary Clinton.

27. As reported by the *Washington Post*:

The flood of “fake news” this election season got support from a sophisticated Russian propaganda campaign that created and spread misleading articles online with the goal of punishing Democrat Hillary Clinton, helping Republican Donald Trump and undermining faith in American democracy, say independent researchers who tracked the operation. . . . There is no way to know whether the Russian campaign proved decisive in electing Trump, but researchers portray it as part of a broadly effective strategy of sowing distrust in U.S. democracy and its leaders . . .
“The way that this propaganda apparatus supported

²⁷ See Craig Timberg, *Russian propaganda effort helped spread ‘fake news’ during election, experts say*, Wash. Post, Nov. 24, 2016, <http://wpo.st/jT3N2>; Andrew Weisburd *et al.*, *Trolling For Trump: How Russia Is Trying To Destroy Our Democracy*, War on the Rocks, Nov. 6, 2016, <http://bit.ly/TrollingForTrump>; Louise Mensch, *How Russia’s Twitter Bots and Trolls Work with Donald Trump Campaign Accounts*, HeatStreet, Oct. 20, 2016, <http://heat.st/2eq0kUo>; Natasha Bertrand, *It looks like Russia hired internet trolls to pose as pro-Trump Americans*, Business Insider, July 27, 2016, <http://read.bi/2a9J2yg>; see also PropOrNot, *Black Friday Report: On Russian Propaganda Network Mapping*, <https://goo.gl/oEzRek> (Nov. 26, 2016).

²⁸ See Mensch, *supra* (providing examples).

Trump was equivalent to some massive amount of a media buy,” said the executive director of PropOrNot, who spoke on the condition of anonymity to avoid being targeted by Russia’s legions of skilled hackers. **“It was like Russia was running a super PAC for Trump’s campaign. . . . It worked.”**²⁹

A *Bloomberg* report also described “[m]aterial stolen by Russia’s intelligence services” that was “feverishly promoted by online personas and numerous fake accounts,” referencing an analysis of thousands of online postings, links, and documents.³⁰

IV. Evidence Suggesting Coordination Between the Trump Campaign and the Russian Government

28. Considering the Russian Government’s clear preference for Mr. Trump, numerous personal connections to the Trump Campaign, and the Trump Campaign’s documented disregard for laws concerning foreign involvement in U.S. elections (as demonstrated by soliciting monetary contributions from foreign nationals, including foreign government officials, even after prior solicitations had been made public and identified as illegal),³¹ the existing record of public communications between the Trump Campaign and Russian Government actors provides a *prima facie* case warranting a complete investigation into whether the

²⁹ Craig Timberg, *Russian propaganda effort helped spread ‘fake news’ during election, experts say*, Wash. Post, Nov. 24, 2016, <http://wpo.st/jQ8N2> (emphasis added).

³⁰ Chris Strohm, *Russia Weaponized Social Media in U.S. Election, FireEye Says*, Bloomberg, Dec. 1, 2016, <http://bloom.bg/2g9qtYI>.

³¹ Jonathan Swan & Harper Neidig, *Trump Campaign Solicits Illegal Foreign Donations Despite Warnings*, The Hill, July 16, 2016, <http://bit.ly/2mR5Kxa>.

Russian Government coordinated its expenditures with the Trump Campaign in a manner violating FECA.

29. Dramatically, on June 27, 2016, Donald Trump publicly called upon the Russian Government to gain unauthorized access to, and publish, Secretary Clinton’s emails. Mr. Trump stated at a news conference: “Russia, if you’re listening, I hope you’re able to find the 30,000 emails that are missing. I think you will probably be rewarded mightily by our press.”³²

30. As then-White House Press Secretary Joshua Earnest later articulated:

It’s just a fact—you all have it on tape—that the Republican nominee for president was encouraging Russia to hack his opponent because he believed that that would help his campaign.

I don’t know if it was a staff meeting or if he had access to a briefing or he was just basing his assessment on a large number of published reports, but Mr. Trump obviously knew that Russia was engaged in malicious cyberactivity that was helping him and hurting Hillary Clinton’s campaign.³³

31. Then, in July 2016, according to published reports, respected computer security experts searching for malware discovered a pattern of suspicious electronic communications “that began during office hours in New York and continued during office hours in Moscow. The researchers recognized that this wasn’t an attack, but a sustained relationship between a server registered to the Trump Organization and

³² Ashley Parker & David E. Sanger, *Donald Trump Calls on Russia to Find Hillary Clinton’s Missing Emails*, N.Y. Times, June 27, 2016, <http://nyti.ms/2aKnwvY>.

³³ Michelle Kosinski & Kevin Liptak, *Gloves-off White House creates rift between Obama and Trump teams*, CNN, Dec. 15, 2016, <http://cnn.it/2hG8J8E>.

two servers registered to [a Russian financial firm] called Alfa Bank” in Moscow.³⁴ While subsequent commentary from additional computer experts has also offered the possibility that “there could be an innocuous explanation, like a marketing email or spam, for the computer contacts,” other computer scientists and engineers doubt this explanation.³⁵ According to a March 2017 report, the FBI’s counterintelligence team is still investigating the “odd” computer link between Alfa Bank and the Trump Organization.³⁶

32. Moreover, close associates of the Trump Campaign appeared to have advance knowledge of WikiLeaks publication of stolen e-mails. In particular, Roger Stone specifically identified John Podesta as someone who would be “in the barrel,” before it was known that Podesta’s e-mails had been compromised.³⁷ Then, just six days before WikiLeaks released a tranche of Clinton-related e-mails, Stone tweeted, “Wednesday@HillaryClinton is done. #Wikileaks.”³⁸ There is no reasonable interpretation of this other than that Stone had advance knowledge of both the content and timing of the WikiLeaks release of documents stolen by agents of the Russian Government.

³⁴ Franklin Foer, *Was a Trump Server Communicating With Russia?*, Slate, Oct. 31, 2016, <http://slate.me/2dWggCd>.

³⁵ See Franklin Foer, *Trump’s Server, Revisited*, Slate, Nov. 2, 2016, <http://slate.me/2hFBsdU>.

³⁶ Pamela Brown & Jose Pagliery, *Sources: FBI investigation continues into 'odd' computer link between Russian bank and Trump Organization*, CNN, Mar. 10, 2017, <http://cnn.it/2nboh6U>.

³⁷ Roger Stone (@RogerJStoneJr), Twitter (Aug. 21, 2016, 7:24 AM), <https://twitter.com/rogerjstonejr/status/767366825743097856>.

³⁸ Roger Stone (@RogerJStoneJr), Twitter (Oct. 1, 2016, 9:52 PM), <https://twitter.com/RogerJStoneJr/status/782443074874138624>.

33. In addition to these tell-tale electronic signs, multiple high-level members of (and surrogates for) the Trump Campaign had direct communications with senior Russian Government officials. Such extensive communications are not routinely conducted by a political campaign, outside of formal diplomatic channels.

34. Among other things:

- a. Attorney General (then Senator) Jeff Sessions, a key Trump campaign surrogate, met twice during the campaign with the Russian ambassador to the United States, including during the Republican National Convention. After being sworn in, he admitted that he had not disclosed these communications despite having been questioned about Russian contacts during his confirmation hearing, and has since recused himself from any Department of Justice investigation into these matters;³⁹
- b. In July 2016, Trump Campaign advisor Carter Page traveled to Moscow to give a speech and, while there, met with the leadership of Russian energy companies Gazprom (wholly state owned) and Rosneft (majority state owned).⁴⁰ It has since been reported that Page's contacts with Russian intelligence were so extensive that the

³⁹ Zach Beauchamp, *The 3 Trump-Russia Scandals Explained*, Vox Media, Feb. 15, 2017, <http://bit.ly/Vox3TrumpRussia>.

⁴⁰ Josh Meyer & Kenneth Vogel, *Trump Campaign Approved Adviser's Trip to Moscow*, Politico, Mar. 7, 2017, <http://politi.co/2nvXupD>.

FBI obtained a Foreign Intelligence Surveillance Act warrant to monitor Page's communications in the summer of 2016.⁴¹

V. Post-Election Events Supporting the Need for Investigation

35. Unusual activity by Mr. Trump's presidential transition team, senior advisers, and Mr. Trump himself *after* the election supports the need for investigation. These actions, while post-election, may be probative of the existence and nature of relationships with the Russian Government, including potential corruption of the very type that FECA was designed to prevent.

36. In December 2016, General Flynn and Jared Kushner (President Trump's son-in-law and a key campaign official) met, apparently in secret, with the Russian ambassador to the United States in Trump Tower in New York City. This meeting was not disclosed until March 2017.⁴²

37. Also in December 2016, General Flynn had numerous private communications with the Russian ambassador, including about newly-imposed

⁴¹ Ellen Nakashima *et al.*, *FBI obtained FISA warrant to monitor Trump adviser Carter Page*, Wash. Post, Apr. 11, 2017, <http://wapo.st/2pr7kpE>.

⁴² Christopher Brennan & Jessica Schladebeck, *Jared Kushner Was At Meeting Between Disgraced Adviser Michael Flynn and Russian Ambassador*, N.Y. Daily News, Mar. 2, 2017, <http://nydn.us/2mRgsnq>. Because media photographers had cameras constantly trained on the main entrances to Trump Tower during December 2016 and did not observe the Russian ambassador entering, it appears that the ambassador may have been ushered in through a back or private entrance, suggesting a desire to conceal the meeting. See Nick Allen, *Donald Trump brands Democrats 'hypocrites' over Russian links*, Telegraph, Mar. 2, 2017, <http://bit.ly/2n6zN64>.

sanctions. Flynn’s dissembling regarding these communications ultimately led to his resignation.⁴³

38. In January 2017, President Trump’s personal lawyer, Michael Cohen, hand-delivered a “peace plan” for Ukraine to General Flynn (then serving as National Security Advisor), which Cohen had received at his home from Felix Sater (a Russian national, former Trump business associate and convicted felon) and a pro-Russia Ukrainian legislator.⁴⁴

39. President Trump gave senior governmental positions to persons with close historical ties to Russia. In addition to General Flynn, these included Secretary of State Rex Tillerson, who had been awarded the “Order of Friendship” by Russian President Putin in 2013, and Secretary of Commerce Wilbur Ross, who owned a bank in Cyprus that reportedly “caters to wealthy Russians.”⁴⁵

40. Peculiarly, President Trump has repeatedly claimed that none of his advisors have any ties to Russia. For example, on February 16, 2017, Trump stated: “I have nothing to do with Russia. To the best of my knowledge no person that I deal with does.”⁴⁶

⁴³ Greg Miller & Philip Rucker, *Michael Flynn Resigns as National Security Adviser*, Wash. Post, Feb. 14, 2017, <http://wapo.st/2mXWk4D>.

⁴⁴ Megan Twohey & Scott Shane, *A Back-Channel Plan for Ukraine and Russia, Courtesy of Trump Associates*, N.Y. Times, Feb. 19, 2017, <http://nyti.ms/2mDAQHD>.

⁴⁵ Philip Bump, *The Web of Relationships Between Team Trump and Russia*, Wash. Post, Mar. 3, 2017, <http://wapo.st/2m3VCCy>.

⁴⁶ Conor Friedersdorf, *President Trump’s Untruths are Piling Up*, The Atlantic, Mar. 3, 2017, <http://theatl.n.tc/2oY6SOS>; John Kelly & Steve Reilly, *Trump Team Issued At Least 20 Denials of Contacts with Russia*, USA Today, Mar. 2, 2017, <http://usat.ly/2oYmjqr>.

VIOLATIONS

41. Under FECA and FEC regulations, it is unlawful for “a foreign national, directly or indirectly, to make a contribution or donation of money or other thing of value . . . in connection with a Federal, State, or local election,” or to make an “expenditure” to influence a federal election. 52 U.S.C. §§ 30121(a)(1)(A), (C); 11 C.F.R. §§ 110.20(b), (f). An “expenditure” includes “any purchase, payment, distribution, loan, advance, deposit, or gift 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(9)(A).

42. Any person that is not a political committee and that makes independent expenditures exceeding \$250 for a particular election in a calendar year “shall file a verified statement or report on FEC Form 5 in accordance with 11 CFR 104.4(e).” 11 C.F.R. § 109.10(b). If the aggregated independent expenditures exceed \$10,000 per election for a particular election up to and including the 20th day before an election, the person making the independent expenditures “must report the independent expenditures on FEC Form 5, or by signed statement if the person is not otherwise required to file electronically under 11 CFR 104.18.” 11 C.F.R. § 109.10(c).

43. Any payment for a communication made for the purpose of influencing a federal election that meets the definition of “coordinated communication” under 11 C.F.R. § 109.21, or which is “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, but does *not* meet the definition of “coordinated

communication,” must be reported as an expenditure by the candidate whom it was intended to benefit, and is deemed, except in specific circumstances, to be an in-kind contribution to that candidate. 11 C.F.R. §§ 109.20, 109.21(b)(1)-(2).

44. Any political committee, including a candidate committee, that receives a contribution (including the value of an in-kind contribution) exceeding \$200 must report that receipt. 11 C.F.R. §§ 104.3, 104.8. Similarly, political committees, including candidate committees, must report expenditures (including expenditures by others that are deemed to be made by the campaign because they are coordinated) exceeding \$200. 11 C.F.R. §§ 104.3, 104.9.

45. It is unlawful for any person to knowingly solicit, accept, or receive a contribution from a foreign national. 52 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g). The “knowingly” standard “does not require knowledge that one is violating the law, but merely requires an intent to act.” *FEC v. Malenick*, 310 F. Supp. 2d 230, 237 n.9 (D.D.C. 2004) (quoting *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986)), *rev’d in other part on reconsideration*, No. Civ. A. 02-1237, 2005 WL 588222 (D.D.C. Mar. 7, 2005)).

Count I – Unlawful Expenditure by Foreign National

46. Respondent Russian Government is a “person” under 52 U.S.C. § 30101(11) because it is an “organization or group of persons.”

47. Respondent Russian Government is a “foreign national” under 52 U.S.C. § 30121(b)(1) and 22 U.S.C. § 611(b).

48. During the 2016 U.S. presidential election, the Russian Government paid money with the purpose of influencing the outcome of the election, for the

benefit of Mr. Trump, and to the detriment of Secretary Clinton. Specifically, as detailed above, respondent Russian Government paid money to computer hackers to gain access to Democratic National Committee emails and to transmit those emails to WikiLeaks for the purpose of public distribution.

49. These payments were made “for the purpose of influencing an[] election for Federal office” and therefore constitute “expenditure[s]” under 52 U.S.C. § 30101(9)(A)(i) and 11 C.F.R. § 100.111(a). The exception for uncompensated Internet activity in 11 C.F.R. § 100.155 does not apply because the work was done for pay. The media exception in 52 U.S.C. § 30101(9)(B)(i) and 11 C.F.R. § 100.132 does not apply because payments to Russian computer hackers did not constitute a “news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication.”

50. Accordingly, respondent Russian Government has violated 52 U.S.C. § 30121(a)(1)(C) and 11 C.F.R. § 110.20(f) by making “expenditure[s]” in the 2016 presidential election.

Count II – Unlawful Expenditure by Foreign National

51. As detailed above, respondent Russian Government paid money to individuals operating on social media to post material on others’ web sites to promote the candidacy of Mr. Trump and/or oppose the candidacy of Secretary Clinton.

52. These payments were made “for the purpose of influencing an[] election for Federal office” and therefore constitute “expenditure[s]” under 52 U.S.C. § 30101(9)(A)(i) and 11 C.F.R. § 100.111(a). The exception for uncompensated

Internet activity in 11 C.F.R. § 100.155 does not apply because the work was done for pay. The media exception in 52 U.S.C. § 30101(9)(B)(i) and 11 C.F.R. § 100.132 does not apply because payments to Russian social media posters did not constitute a “news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication.”

53. Accordingly, respondent Russian Government has violated 52 U.S.C. § 30121(a)(1)(C) and 11 C.F.R. § 110.20(f) by making “expenditure[s]” in the 2016 presidential election.

Count III – Failure to Disclose Independent Expenditures

54. As detailed above, the theft and distribution of e-mails by Russian-paid hackers described in Count I was done to influence the outcome of the presidential election.

55. All such paid expenditures constitute “independent expenditures” under 52 U.S.C. § 30101(9)(A)(i) and 11 C.F.R. § 100.111(a)11.

56. As detailed above, the paid posts described in Count II included communications that were “expressly advocating” for the election of Mr. Trump and/or against the election of Secretary Clinton, within the meaning of 11 C.F.R. § 110.22.

57. All such paid express advocacy expenditures constitute “independent expenditures” under 11 C.F.R. § 100.16.

58. On information and belief, the Russian Government spent more than \$250 on these independent expenditures during 2016. On information and belief, there is sufficient basis for the FEC to investigate whether the Russian Government

spent more than \$10,000 on these independent expenditures during 2016 up to and including 20 days before the election.

59. Respondent Russian Government has failed to file any FEC disclosure reports regarding the above-cited independent expenditures.

60. Respondent Russian Government has violated 11 C.F.R. §§ 109.10(b) and (c) by failing to report independent expenditures.

Count IV – Illegal Payment for Coordinated Communications and Failure to Report Coordinated Communications

61. Both the release of hacked emails through a third-party conduit, and the paid social media posts, constituted “communication” that was “paid for, in whole or in part” by respondent Russian Government, under 11 C.F.R. § 109.21(a)(1).

62. Both the release of hacked emails through a third-party conduit, and the paid social media posts, constituted “public communication” because they were general public political advertising under 11 C.F.R. § 100.26. They do not meet the exception for Internet communications under that provision, because the persons who posted this material on third party web sites (such as WikiLeaks and Twitter) were paid to do so, and thus the posts were “placed for a fee on another person's Web site.”

63. Both the release of hacked emails through a third-party conduit, and the paid social media posts, “refer[red] to a clearly identified Presidential . . . candidate and [were] publicly distributed or otherwise publicly disseminated”

during the presidential election. 11 C.F.R. § 109.21(c)(4)(ii). Thus, they meet the “content standard” of 11 C.F.R. § 109.21(a)(2).

64. On information and belief, there is sufficient basis for the FEC to investigate whether one or more of the following have occurred, either of which would satisfy the “conduct standard” of 11 C.F.R. § 109.21(a)(3):

a. *Request or suggestion*: Based on (1) Mr. Trump’s public request for the Russian Government to gain unauthorized access to, and conduct further distribution of, Secretary Clinton’s e-mails, (2) the unexplained communications between a Trump server and a Moscow-based server, and (3) the various undisclosed meetings between Trump Campaign advisors and Russian Government officials, there is reason to investigate whether these communications were created, produced, or distributed at the request or suggestion of the candidate or his committee, or, alternatively, whether these communications were created, produced, or distributed at the suggestion of the Russian Government, and the candidate or his committee assented to the suggestion, within the meaning of 11 C.F.R.

§§ 109.21(d)(1)(i)-(ii);

b. *Former employee or contractor*: Based on the past employment relationships with the Russian Government of at least two individuals who worked for or advised the Trump Campaign at

various points during 2016, and the relationship with WikiLeaks of one individual who advised the Trump Campaign at various points during 2016, it is possible that, after concluding their formal engagement with the Trump Campaign, one or more of them may have (re-)entered a business relationship with the Russian Government within 120 days, and while the Russian Government was making the expenditures alleged above, thus constituting a “former employee or independent contractor” relationship within the meaning of 11 C.F.R. § 109.21(a)(5).

65. Therefore, there is sufficient basis for the FEC to investigate whether the above-described conduct constituted “coordinated communications” under 11 C.F.R. § 109.21, or an expenditure otherwise coordinated under 11 C.F.R. § 109.20(b).

66. Such payment for “coordinated communications” by the Russian Government would violate 11 C.F.R. § 109.22. Furthermore, such payments made at the request of the candidate’s request or suggestion would be deemed in-kind contributions and thus violate 52 U.S.C. § 30121(a)(1)(A) and 11 C.F.R. § 110.20(b) on the part of the Russian Government, and would violate 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.120(g) on the part of the Trump Campaign. Finally, the Trump Campaign’s failure to report such communications as in-kind contributions would violate 11 C.F.R. §§ 104.3(a)-(b) and 109.21(b)(3).

PRAYER FOR RELIEF

67. Based on the above-described facts that indicate that the Russian Government spent money to influence the 2016 presidential election, with possible coordination from the Trump Campaign, the FEC should conduct an immediate investigation under 52 U.S.C. § 30109. Furthermore, in light of the potential national security implications of this case and FECA's requirement (52 U.S.C. § 30106(f)(3)) that "[i]n carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States," the FEC should avail itself of the assistance of such other agencies and departments of the United States as necessary to conduct a full investigation.

Respectfully submitted,

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