

BEFORE THE
FEDERAL ELECTION COMMISSION

Free Speech For People
Campaign for Accountability

v.

MUR No. _____

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

COMPLAINT

1. This complaint is filed under 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.*
2. According to the United States government, the Russian government deliberately attempted to influence the 2016 presidential election in order to assist the candidacy of Donald J. Trump. FECA prohibits foreign nationals from spending money to influence federal elections.
3. Furthermore, according to published reports, there is a sufficient basis for the FEC to initiate an investigation as to whether this activity by the Russian government met the legal definition of having “coordinated” with the Trump campaign, whether at the request of the candidate or his committee, or through shared former employees, contractors, or business associates.
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 engaged in direct violation of our nation's campaign finance 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, 1340 Centre St., Suite 209, Newton, MA 02459, 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 thousands of supporters around the country engage in education and non-partisan advocacy to encourage and support effective government of, by, and for the American people.

6. Campaign for Accountability, 1201 Connecticut Ave., NW, Suite 300, Washington, DC 20036, is a national non-partisan project of the Hopewell Fund, a non-profit 501(c)(3) organization. Campaign for Accountability 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 (hereafter “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 of U.S. v. Russian Fed’n*, 798 F. Supp. 2d 260, 269 (D.D.C. 2011).

8. Donald J. Trump for President, Inc. (ID# P80001571) (hereafter “Trump campaign”), 725 Fifth Avenue, New York, NY 10022, is the presidential campaign of Donald J. Trump, the President-elect of the United States.

FACTS

Russian hacks

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 (DHS), concluded that the Russian government had deliberately interfered in the 2016 federal elections. *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>.

10. According to reports, computer hackers paid by the Russian government used a “phishing” attack to gain access to emails sent to and from key members the Democratic National Committee, including those of Clinton campaign chairman John Podesta, and then uploaded a database of those emails 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 harmed Hillary Clinton’s electoral chances and thus to have benefitted her competitor Donald J. Trump. *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 and 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/2hWU08L>; Thomas Rid, “How Russia Pulled Off the Biggest Election Hack in U.S. History,” Esquire, Oct. 20, 2016, <http://bit.ly/2hCOLOW>.

11. According to published reports, intelligence agencies of the United States government have further concluded with “high confidence” that the Russian government took these steps specifically “to harm Hillary Clinton’s chances and promote Donald J. Trump.” David E. Sanger & Scott Shane,

“Russian Hackers Acted to Aid Trump in Election, U.S. Says,” N.Y. Times, Dec. 9, 2016, <http://nyti.ms/2hu1ZJW>.

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

13. On December 15, 2016, President Obama announced that the United States will respond to Russian cyberattacks that the intelligence community has concluded were part of an effort to influence the 2016 presidential election. See Scott Detrow, “Obama On Russian Hacking: ‘We Need To Take Action. And We Will,’” NPR, Dec. 15, 2016, <https://n.pr/2hLRlgJ>.

14. On December 16, 2016, according to published reports, the Director of the Federal Bureau of Investigation and the Director of National Intelligence concurred with the conclusion of the Central Intelligence Agency that Russia intervened in the 2016 election in part to help Donald Trump win the presidency. See Adam Entous & Ellen Nakashima, “FBI backs CIA view that Russia intervened to help Trump win election,” Wash. Post, Dec. 16, 2016, <http://wpo.st/rcAN2>.

Paid social media operation

15. 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.” The group had become known for “employing hundreds of Russians to post pro-Kremlin propaganda online under fake identities, including on Twitter.” Adrian Chen, “The Agency,” N.Y. Times, June 2, 2015, <http://nyti.ms/1M0bqtC>. The author of the *New York Times* article went on to track the “Russian trolls” his reporting had uncovered; by late 2015, many of them had “turned into conservative accounts” that were “all tweeting about Donald Trump.” 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>.

16. According to published reports, this Russian government-paid team posted substantial amounts of pro-Trump, anti-Clinton material on various third-party web sites, such as Twitter, generally using false or deceptive profiles suggesting that they were American citizens. 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, Clint Watts & J.M. Berger, “Trolling For Trump: How Russia Is Trying To Destroy Our Democracy,” War on the Rocks, Nov. 6, 2016, <http://warontherocks.com/2016/11/trolling-for-trump-how-russia-is-trying-to-destroy-our-democracy/>; 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).

17. Many of these allegedly paid Russian bloggers used profile names that explicitly incorporated the phrase “for Trump,” e.g., “Mom for Trump” and “Veterans for Trump.” See Mensch, *supra* (providing examples). On information and belief, many of these posts use words that in context can have no other reasonable meaning than to urge the election of Donald Trump or the defeat of Hillary Clinton, and/or could only be interpreted by a reasonable person as containing advocacy of the election of Donald Trump or defeat of Hillary Clinton.

18. 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 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.”

Craig Timberg, “Russian propaganda effort helped spread ‘fake news’ during election, experts say,” Wash. Post, Nov. 24, 2016, <http://wpo.st/jQ8N2>. A report by *Bloomberg* 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. Chris Strohm, “Russia Weaponized Social Media in U.S. Election, FireEye Says,” Bloomberg, Dec. 1, 2016, <http://bloom.bg/2g9qtYI>.

Potential coordination with the Trump campaign

19. On June 27, 2016, Donald Trump publicly called upon the Russian government to hack into Hillary Clinton’s email. 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.” 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>.

20. 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. It dawned on the researchers that this wasn’t an attack, but a sustained relationship between a server registered to the Trump Organization and two servers registered to an entity called Alfa Bank” in Moscow. Franklin Foer, “Was a Trump Server Communicating With Russia?,” Slate, Oct. 31, 2016, <http://slate.me/2dWggCd>. While subsequent commentary from additional computer experts and the Federal Bureau of Investigation have 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. *See* Franklin Foer, “Trump’s Server, Revisited,” *Slate*, Nov. 2, 2016, <http://slate.me/2hFBsdU>.

21. At various points during the 2016 election, the Trump campaign employed or contracted or had other significant relationships with Paul Manafort and Carter Page, who, according to published reports, have recently contracted with or engaged in business with the Russian Government. *See* Tom Winter & Ken Dilanian, “Donald Trump Aide Paul Manafort Scrutinized for Russian Business Ties,” *NBC News*, Aug. 18, 2016, <http://nbcnews.to/2bKHf3e>; Ivan Nechepurenko, “Carter Page, Ex-Trump Advisor With Russian Ties, Visits Moscow,” *N. Y. Times*, Dec. 8, 2016, <http://nyti.ms/2hGddMj>. A third advisor to the Trump campaign, Roger Stone, has stated that he has “mutual friends” with WikiLeaks publisher Julian Assange. *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>; 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>. 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.

22. On December 15, 2016, the White House Press Secretary, Joshua Earnest, explained:

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.

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

VIOLATIONS

23. 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).

24. 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).

25. 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).

26. 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.

27. 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

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

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

30. As set forth above, according to published reports, respondent Russian government paid money to computer hackers to gain access to Democratic National Committee emails and to upload those emails to WikiLeaks with the intent of public distribution.

31. 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 CFR § 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.”

32. 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

33. As set forth above, according to published reports, respondent Russian government paid money to social media posters to post material on others’ web sites to promote the candidacy of Donald Trump and/or oppose the candidacy of Hillary Clinton.

34. 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 CFR § 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.”

35. 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

36. On information and belief, some of the paid posts described in Count II were “expressly advocating” for the election of Donald Trump and/or against the election of Hillary Clinton, within the meaning of 11 C.F.R. § 110.22.

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

38. 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.

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

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

Count IV – Coordinated Expenditures

41. 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).

42. 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.”

43. 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).

44. 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 Mr. Trump’s public request for the Russian government to conduct further hacking, and on the unexplained communications between a Trump server and a Moscow-based server, 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, contractor, or business associate:* Based on the past employment, contractor, or business relationships with the Russian government of 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).

45. On information and belief, 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).

46. 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), 11 C.F.R. § 110.120(g), and, by failure to report, 11 C.F.R. §§ 104.3(a)-(b) and 109.21(b)(3) on the part of the Trump campaign.

PRAYER FOR RELIEF

47. 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.

Respectfully submitted,

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