

**U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

COOLIDGE REAGAN FOUNDATION	)
1629 K Street, NW, Suite 300	)
Washington, D.C. 20006,	)
	)
	)
<i>Plaintiff,</i>	)
	)
v.	)
	)
FEDERAL ELECTION COMMISSION,	)
1050 First Street, NE	)
Washington, DC 20463,	)
	)
<i>Defendant,</i>	)
_____	)

**VERIFIED COMPLAINT**

Plaintiff COOLIDGE REAGAN FOUNDATION brings this action for injunctive and declaratory relief and alleges as follows:

**INTRODUCTION**

1. The Coolidge Reagan Foundation (“CRF”) asks this Court to compel the Federal Election Commission (“FEC”) to take action on an administrative complaint it filed with the FEC nine months ago providing reason to believe Hillary for America (“HFA”) and the Democratic National Committee (“DNC”) violated campaign finance law by conspiring with foreign nationals, including current and former members of the Russian government, to manipulate the results of the 2016 election.
2. The administrative complaint alleges HFA and the DNC worked with British national Christopher Steele to generate the so-called “Steele Dossier”—a thoroughly debunked collection of lies and spurious allegations intended to discredit then-candidate Donald Trump. HFA and the DNC used their shared law firm agent, Perkins Coie, LLP, as a straw-

man intermediary and conduit to avoid publicly reporting the tens of thousands of dollars they funneled abroad to pay for the fraudulent document.

3. HFA and the DNC's scheme of compensating a third party through a straw-man intermediate and conduit to prevent the public from learning of their role in the transaction was the conduct of which the defendants in *United States v. Benton*, 890 F.3d 697 (8th Cir. 2018), *cert. denied*, No. 18-442, 2019 U.S. LEXIS 1966 (Mar. 18, 2019), were convicted. The U.S. Supreme Court recently upheld those convictions.
4. Many of the allegations in the Steele dossier, funded by HFA and the DNC, originated with current and former Russian officials. Ironically, the dossier played a primary role in triggering Independent Counsel Robert Mueller's investigation into alleged collusion between the Trump campaign and the Russian government—collusion which the Independent Counsel concluded did not occur. It was also the Obama Administration's primary basis for obtaining a warrant under the Foreign Intelligence Surveillance Act ("FISA") to engage in unprecedented surveillance against a presidential candidate and, later, President-elect of the opposing political party.
5. Federal law does not permit the FEC to investigate alleged violations of campaign finance law unless the Commission determines there is "reason to believe" a violation occurred based on an administrative complaint, any response, and publicly available campaign finance reports. 52 U.S.C. § 30109(a)(2). This standard is far lower than either "probable cause," *cf. id.* § 30109(a)(3), or the preponderance standard a district court would apply, *cf. id.* § 30109(a)(6).
6. This Court should ensure the FEC takes appropriate enforcement action in a timely manner pursuant to 52 U.S.C. § 30109(a)(8). FEC Chairwoman Ellen Weintraub has publicly

announced she intends to vote against any effort to defend against lawsuits such as this seeking to compel the FEC to engage in meritorious enforcement efforts. *See* Nihal Krishan, *Elections Commission Chief Uses the “Nuclear Option” to Rescue the Agency from Gridlock*, MOTHER JONES (Feb. 20, 2019), at <https://www.motherjones.com/politics/2019/02/elections-commission-chief-uses-the-nuclear-option-to-rescue-the-agency-from-gridlock/>. She has also announced she might willfully go into contempt of court by deliberately ignoring an order this Court may issue to compel the agency to enforce federal law. *Id.* (“Weintraub says she might pursue a second nuclear option: refuse to comply with the court order.”).

7. The FEC’s apparent failure to find “reason to believe” federal campaign finance law has been violated, despite the evidence set forth in CRF’s administrative complaint, is arbitrary, capricious, and contrary to law.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1331 because it arises under a federal statute.
9. Venue is proper in this Court under 28 U.S.C. § 1391(e) because Defendant is an entity of the U.S. Government.

### **PARTIES**

10. Plaintiff COOLIDGE-REAGAN FOUNDATION (“CRF”) is a § 501(c)(3) non-profit organization organized under the laws of, and headquartered in, Virginia.
11. Defendant FEDERAL ELECTION COMMISSION (“FEC”) is the federal agency charged with enforcing the Federal Election Campaign Act (“FECA”) and is located in Washington, D.C.

**THE FEC’S FAILURE TO TAKE ACTION  
ON CRF’S ADMINISTRATIVE COMPLAINT**

12. On August 1, 2018, CRF filed an administrative complaint with the FEC against Christopher Steele, a British national; Hillary for America, Hillary Clinton’s principal authorized presidential candidate committee; the DNC, a national political party committee; and Perkins Coie, the law firm for HFA and the DNC.<sup>1</sup>
13. The administrative complaint was written, signed, notarized, and verified under penalty of perjury as required by 52 U.S.C. § 30109(a)(1).
14. A true and complete copy of the administrative complaint is appended to this Complaint as Exhibit 1.
15. On or about August 8, 2018, the FEC’s Office of General Counsel (“OGC”) acknowledged receipt of the administrative complaint and designated it Matter Under Review (“MUR”) number 7449.
16. On information and belief, the FEC notified the respondents of the administrative complaint within five days of its receipt, pursuant to 11 C.F.R. § 111.5(a), and provided them with an opportunity to submit a response within fifteen days, pursuant to 11 C.F.R. § 111.6(a).
17. On information and belief, OGC has not yet prepared a report for the Commission pursuant to 11 C.F.R. § 111.7 containing a preliminary legal and factual analysis of the administrative complaint and any responses received.
18. Although the administrative complaint has been pending for well over nine months and the 2020 presidential campaign cycle is already underway, it appears the Commission has not

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<sup>1</sup> A few counts of the administrative complaint refer to Marc Elias, a partner at Perkins Coie and general counsel of HFA. The administrative complaint did not separately name him as a respondent, however. His actions contribute to the liability of Perkins Coie and/or HFA.

yet voted on whether there exists “reason to believe” any “possible violation[s]” of federal campaign finance law occurred. Such a vote is necessary for Commission staff to begin investigating the administrative complaint’s allegations.

#### **THE ALLEGATIONS IN CRF’S ADMINISTRATIVE COMPLAINT**

19. CRF’s administrative complaint alleges HFA and the DNC paid Christopher Steele, a foreign national, to generate the Steele dossier, based primarily on lies and fabrications from current and former Russian government officials and other foreign nationals. To mask their key role in funding the dossier, HFA and the DNC funneled their payments through their law firm, Perkins Coie, and failed to properly report the purposes of those payments to the FEC as required by federal law. Their scheme closely resembled that for which the defendants in *United States v. Benton*, 890 F.3d 697 (8th Cir. 2018), *cert. denied*, No. 18-442, 2019 U.S. LEXIS 1966 (Mar. 18, 2019), were convicted.
20. The administrative complaint alleges Perkins Coie hired and paid over \$1 million to Fusion GPS, a “strategic intelligence” firm, to perform opposition research on then-candidate Trump for HFA and the DNC. This opposition research was for purely political purposes, and completely unrelated to the provision of legal advice or any ongoing or impending litigation. *See* Ex. 1, ¶¶ 6-13.
21. HFA publicly reported all its payments to Perkins Coie from January 2016 through December 2017 as being for “LEGAL SERVICES.” The DNC specified a variety of different purposes for its payments to the firm. Neither HFA nor the DNC accurately specified any of their payments were for opposition research or investigations into then-candidate Trump. *See* Ex. 1, ¶¶ 14-15.

22. The administrative complaint alleges that, by using Perkins Coie as a straw-man intermediary and conduit, and falsely reporting the purposes of their payments to the firm, HFA and the DNC were able to mask their role in subsidizing the Steele dossier from public view and distance themselves from Fusion GPS—undermining the very transparency campaign finance law was established to promote. *Cf. Benton*, 890 F.3d at 708-10.
23. The administrative complaint alleges Fusion GPS paid at least \$168,000 to Christopher Steele, a foreign national and director of London-based firm Orbis (also known as Orbis Business Intelligence Ltd.) to gather information about alleged connections between Trump and Russia. Steele—acting as a paid sub-agent of HFA and/or the DNC—solicited foreign nationals, including Russian citizens and current and former members of the Russian government and Russian intelligence, to provide valuable information, evidence, files, documents, records, electronic storage media, or other things relating to Trump.
24. Steele compiled the dubious and largely unverifiable information he received from foreign sources of questionable credibility into a “dossier” concerning Trump. Steele provided the dossier, through Orbis, Fusion GPS, and Perkins Coie, to HFA and the DNC.

#### **THE COUNTS IN CRF’S ADMINISTRATIVE COMPLAINT**

25. The administrative complaint alleges the respondents violated campaign finance law in several ways.
26. Count I alleges HFA and the DNC filed false campaign finance reports in violation of 52 U.S.C. § 30104(b) by improperly reporting the purposes of some of their payments to Perkins Coie. Neither HFA nor the DNC reported any of nearly \$13 million they collectively paid Perkins Coie was for opposition research; investigations into Donald

Trump; the Steele Dossier; payments to Fusion GPS, Orbis, or Christopher Steele; or any other purpose that would accurately reveal the true nature of the payments.

27. Count II alleges HFA and the DNC filed false campaign finance reports in violation of 52 U.S.C. § 30104(b) by using Perkins Coie as a straw-man intermediary and conduit to mask their payments to Fusion GPS, Orbis, and Christopher Steele for the Steele Dossier. HFA and the DNC retained Fusion GPS to perform a background investigation of, and opposition research into, Donald Trump solely for political purposes. That investigation was unrelated to any legal work or advice Perkins Coie was providing and was not performed in connection with any pending or potential litigation. HFA and the DNC retained and paid Fusion GPS through Perkins Coie, rather than doing so directly, solely for the purpose of obscuring their payments to Fusion GPS and avoiding publicly reporting them.

28. Count III alleges Perkins Coie aided and abetted HFA's and the DNC's false campaign finance reports alleged in Count II, by allowing itself to be used as a straw-man intermediary and conduit. Perkins Coie retained Fusion GPS to perform a background investigation of, and opposition research into, Donald Trump solely for political purposes. As noted above, that investigation was unrelated to any legal work or advice Perkins Coie was providing and was not performed in connection with any pending or potential litigation. Perkins Coie funneled funds from HFA and the DNC to Fusion GPS solely for the purpose of allowing HFA and the DNC to obscure their payments to Fusion GPS and avoiding publicly reporting them.

29. Count IV alleges Christopher Steele violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) by soliciting other foreign nationals, including but not limited to Russian

citizens and current and former members of the Russian government and Russian intelligence services, for things of value—including but not limited to files, records, information, recordings, videos, and other evidence concerning Donald Trump—in connection with the 2016 presidential election. At the time, he was acting as a sub-agent of HFA and/or the DNC.

30. Count V alleges HFA violated 11 C.F.R. § 110.20(b)(1) by substantially assisting Steele in his solicitation of foreign nationals. Marc Elias, HFA's general counsel, directed the payment to Fusion GPS to hire Orbis and/or Steele to solicit foreign nationals for things of value in connection with the 2016 presidential election.
31. Count VI alleges Steele, a foreign national, violated 52 U.S.C. § 30121(a)(1) by providing the Steele Dossier, funded by HFA and the DNC, to David Korn of the Washington Bureau of *Mother Jones* with the intent of influencing the 2016 election by securing Trump's defeat. By releasing the dossier to *Mother Jones*, he ensured its baseless claims would be widely distributed before the campaign, alleviating the need for HFA or the DNC to pay for advertising to disseminate its contents themselves and preserving the secrecy shrouding its funders.
32. Count VII alleges the DNC, HFA, and Steele violated 11 C.F.R. § 110.20(i) by allowing a foreign national, Steele, to participate in the election-related activities and decision-making of the DNC and HFA. By providing the false, derogatory, and defamatory allegations in the Steele Dossier to the DNC and HFA (through Fusion GPS and Perkins Coie), Steele indirectly participated in their decision-making processes concerning their expenditures relating to the 2016 presidential election.



### THE ADMINISTRATIVE COMPLAINT PROCEDURE

33. 52 U.S.C. § 30109(a)(1) authorizes any person to file a written, signed, sworn, and notarized complaint with the FEC alleging a violation of federal campaign finance law.
34. Within five days of receiving the administrative complaint, the FEC must notify “any person alleged in the complaint to have committed such a violation.” 52 U.S.C. § 30109(a)(1). Any such person “shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken” pursuant to the Complaint. *Id.*
35. After the respondents have been given an opportunity to submit a responsive filing, the Commission must vote on whether “it has reason to believe” a person violated federal campaign finance law. It takes the votes of four Commissioners to approve such a “reason to believe” (“RTB”) finding. The RTB vote is based solely on the administrative complaint, any responsive filings, and potentially public FEC records; the Commission is not permitted to undertake any investigation of the complaint or its allegations prior to an RTB finding. *Id.* § 30109(a)(2).
36. Upon making an RTB finding, the Commission must notify the person alleged to have violated the law and “make an investigation of such alleged violation, which may include a field investigation or audit.” *Id.*
37. At the conclusion of the Commission’s investigation, OGC must prepare a report setting forth “the legal and factual issues of the case.” A copy of the report is provided to each respondent, and they have an opportunity to submit a responsive filing. *Id.* § 30109(a)(3).
38. In most cases, upon receiving OGC’s report of the investigation, the Commission must vote whether “probable cause” exists to believe federal campaign finance law was violated.

It takes the votes of four Commissioners to make such a probable cause determination. *Id.* § 30109(a)(3), (a)(4)(A)(i).

39. After the Commission makes a probable cause determination, it must attempt to enter into a conciliation agreement with the respondents for a period of 30-90 days. It takes the votes of four Commissioners to approve any such conciliation agreement. *Id.* § 30109(a)(4)(A)(i).

40. If the Commission is unable to reach a conciliation agreement with the respondent, then upon a vote of four Commissioners it may seek monetary or injunctive relief in U.S. District Court. *Id.* § 30109(a)(6)(A).

41. In cases involving violations of certain disclosure requirements, including 52 U.S.C. § 30104(a), (c), (e)-(g), (i); *id.* § 30105, in contrast, the Commission does not make “probable cause” determinations, but instead simply determines the disclosure requirement was violated and imposes a civil monetary penalty. *Id.* §§ 30109(a)(4)(C)(i)(I)-(II), (a)(4)(C)(iv)(I)-(II). Such penalties are subject to judicial review. *Id.* § 30109(a)(4)(C)(iii).

#### **COUNT I – FAILURE TO ACT UNDER 52 U.S.C. § 30109(8)(A)**

42. CRF hereby realleges and incorporates by reference the allegations set forth in Paragraphs 1 to 41 as if fully set forth herein.

43. CRF filed its administrative complaint alleging violations of federal campaign finance law with the FEC on August 1, 2018.

44. Over 120 days—specifically, 294 days—have elapsed since CRF filed its administrative complaint, and the FEC has failed to act. In particular, on information and belief, the FEC has not even made a “Reason to Believe” finding pursuant to 52 U.S.C. § 30108(a)(2) based on the administrative complaint and any responses received thereto.

45. Without a Reason to Believe finding, the FEC cannot even initiate an investigation into the administrative complaint's allegations. *See* 52 U.S.C. § 30108(a)(2).
46. CRF is aggrieved by the Commission's failure to act on its administrative complaint. 52 U.S.C. § 30109(a)(8)(A) provides, "Any party aggrieved . . . by a failure of the Commission to act" on an administrative complaint "during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia." The Court may rule the Commission's "failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days." *Id.* § 30109(a)(8)(C).
47. The Commission's failure to act on CRF's administrative complaint is arbitrary, capricious, contrary to law, and an abuse of discretion.

WHEREFORE, Plaintiff CRF is entitled to relief under 52 U.S.C. § 30109(a)(8).

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff CRF prays for the following relief:

1. A declaratory judgment CRF is entitled to relief under 52 U.S.C. § 30109(a)(8)(A), (C) and the FEC's failure to act on the administrative complaint is arbitrary, capricious, contrary to law, or an abuse of discretion.
2. An injunction compelling the Commission, pursuant to 52 U.S.C. § 30109(a)(8)(C):
  - a. to vote pursuant to 52 U.S.C. § 30109(a)(2), no more than thirty (30) days from the date of this Court's order, on whether there exists reason to believe each of the Respondents in the administrative complaint has violated the cited provisions of federal campaign finance law based on the administrative complaint's allegations and any responsive filings; and

- b. in the event the Commission makes one or more “reason to believe” findings in connection with the administrative complaint, to conduct its investigation, vote on whether probable cause exists to believe campaign finance laws have been violated pursuant to 52 U.S.C. § 30109(a)(3), and take any other subsequent steps necessary to enforce the legal provisions at issue, without unreasonable delay.
3. Costs and attorneys’ fees pursuant to any applicable statute or authority, including but not limited to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
4. Such other relief as this Court deems just and appropriate.

Dated this 22<sup>nd</sup> day of May, 2019.

Respectfully submitted,

/s/ Dan Backer  
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*Counsel for Coolidge  
Reagan Foundation*

#### **VERIFICATION**

I, Dan Backer, declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed on May 22, 2019.

/s/ Dan Backer  
*Counsel for Coolidge  
Reagan Foundation*