

IN THE FIRST CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

KIMBERLY KLACIK,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
<i>v.</i>	§	Case No. 21C1607
	§	
CANDACE OWENS,	§	JURY DEMANDED
	§	
<i>Defendant.</i>	§	

DEFENDANT CANDACE OWENS’S MEMORANDUM OF LAW IN SUPPORT OF HER MOTION TO DISMISS AND TENN. CODE ANN. § 20-17-104(a) PETITION TO DISMISS THE PLAINTIFF’S COMPLAINT PURSUANT TO THE TENNESSEE PUBLIC PARTICIPATION ACT

I. INTRODUCTION

This is a performative SLAPP-suit¹ filed by Plaintiff Kimberly Klacik—a failed congressional candidate who touts her commitment to “conservative values” and “moral culture”²—against Candace Owens, a prominent political commentator who truthfully exposed the Plaintiff’s incongruent past as a stripper.

In early 2021, Ms. Owens became aware of disturbing allegations regarding aspiring Congresswoman Klacik on a wide variety of topics. Before Ms. Owens reported on those allegations, Ms. Owens repeatedly reached out to the Plaintiff for comment in an effort to confirm whether the allegations were accurate. On each occasion, however, the

¹ See *Nandigam Neurology, PLC v. Beavers*, No. M2020-00553-COA-R3-CV, 2021 WL 2494935, at *3 (Tenn. Ct. App. June 18, 2021) (“The term ‘SLAPP’ stands for ‘strategic lawsuits against public participation,’ meaning lawsuits which might be viewed as ‘discouraging the exercise of constitutional rights, often intended to silence speech in opposition to monied interests rather than to vindicate a plaintiff’s right.’” (citing Todd Hambidge, et al., *Speak Up. Tennessee’s New Anti-SLAPP Statute Provides Extra Protections to Constitutional Rights*, 55 TENN. B.J. 14, 15 (Sept. 2019)), *no app. filed*).

² See **Exhibit A**, *The Founder*, RED RENAISSANCE <https://www.redrenaissance.com/ourfounder> (last visited Dec. 30, 2021).

Plaintiff refused Ms. Owens's invitation to answer questions or to be interviewed regarding the allegations at issue.³ The Plaintiff also stated specifically that "I don't care about you or your questions."⁴ Indeed, in lieu of commenting on the allegations or answering Ms. Owens's questions, the Plaintiff blocked Ms. Owens from corresponding with her further.⁵

Thus, even if the statements over which the Plaintiff has sued Ms. Owens were false (and Ms. Owens has no reliable reason to believe they are), the Plaintiff's claims would *still* be inactionable, because the statements were not made with and could not have been made with actual malice under the circumstances. *See, e.g., Elsten v. Coker*, No. M2019-00034-COA-R3CV, 2019 WL 4899759 (Tenn. Ct. App. Oct. 4, 2019), *app. denied* (Tenn. Feb. 19, 2020) (affirming dismissal of claims by mayoral candidate for lack of actual malice as a matter of law). The additional facts that the Plaintiff has materially mischaracterized what Ms. Owens said and has not even *alleged* that the actual statements that Ms. Owens made are false similarly preclude liability.

Of special note, following Ms. Owens's exposé, the Plaintiff also admitted that the most reputationally harmful allegation that Ms. Owens had reported about her—that the Plaintiff had worked as a stripper before she ran for Congress—was "true."⁶ This extraordinary admission confirmed the credibility of Ms. Owens's primary source of information regarding the Plaintiff, and it confirmed that the Plaintiff had refused to answer Ms. Owens's questions regarding allegations that had been true all along. Additional allegations regarding Ms. Klacik's business dealings and financial

³ See **Exhibit B**, Direct Message Correspondence; **Exhibit C**, Text Message Correspondence.

⁴ **Exhibit B** at 2.

⁵ See **Exhibit D**, Screenshots of Plaintiff blocking the Defendant.

⁶ Ex. 4 to Pl.'s Compl. 6:6–16.

improprieties were also confirmed by others' independent reporting after Ms. Owens first reported them.⁷ The Plaintiff's statements during a post-publication interview similarly confirmed that the Plaintiff was continuing to conceal essential information regarding the allegations that Ms. Owens had reported, making her denials unbelievable.

Perhaps most significantly, though, following Ms. Owens's reporting that the Plaintiff appeared to have committed campaign finance violations, *the Federal Election Commission itself*, upon review of the Plaintiff's campaign finance reports:

(1) Found “reason to believe that Kim Klacik for Congress and Bradley T. Crate, in his official capacity as treasurer,” violated federal campaign finance law reporting requirements;⁸

(2) Determined thereafter that the Kim Klacik for Congress Committee had, in fact, violated federal campaign finance law, and it both assessed and upheld a \$12,081.00 civil penalty against the Plaintiff's campaign committee;⁹ and

(3) Received the Plaintiff's payment for the assessed civil penalty after her campaign submitted to the violations at issue.¹⁰

In other words: It is *true*, and the Plaintiff has agreed that it is true, that her campaign violated federal campaign finance law—the violation of which could be referred

⁷ See, e.g., **Exhibit E**, Orlando Avendano, *Fraud, Money Laundering and Exotic Dancing: Are the Claims Against Kimberly Klacik True?*, EL AMERICAN (Jun. 29, 2021), <https://elamerican.com/fraud-money-laundering-exotic-dancing-kimberly-klacik-true/> (“El American was able to corroborate that Kimberly Klacik's ex-husband manages a strip club; that the Republican candidate's campaign paid \$119 thousand dollars to Pearl Events, a then-inactive company; and that this company is operated by a lawyer whose license was revoked. In addition, it was also able to corroborate the payments to Fox & Lion, that the CEO of the company is a Democrat; and that he helps Democratic candidates get into power.”).

⁸ See **Exhibit F**, Memo. from Chief Compliance Officer Patricia C. Orrock & Assistant Staff Dir. Debbie Chacona to Fed. Election Comm'n, at 2 (July 6, 2021), https://www.fec.gov/files/legal/admin_fines/4220/4220_02.pdf (footnote omitted).

⁹ See **Exhibit G**, Administrative Fine #4220 against KIM KLACIK FOR CONGRESS, ID: CO0726117, FED. ELECTION COMM'N, <https://www.fec.gov/data/legal/administrative-fine/4220/> (last visited Dec. 31, 2021).

¹⁰ See **Exhibit H**, Status of Payments, AF# 4220- KIM KLACIK FOR CONGRESS, FED. ELECTION COMM'N, https://www.fec.gov/files/legal/admin_fines/4220/4220_01.pdf (last visited Dec. 31, 2021).

for criminal prosecution and prosecuted as a criminal offense, *see* 52 U.S.C.A. § 30109(a)(1)(B) (West, Westlaw current through P.L. 117-80); 18 U.S.C.A. § 1001(a) (West, Westlaw current through P.L. 117-80)—and that finding has now been made and conclusively determined in a final proceeding by the Federal Election Commission itself.

For all of these reasons—and for the additional reasons detailed below—this action must be dismissed with prejudice. Thereafter, Ms. Owens is entitled to an award of attorney’s fees and costs incurred pursuant to Tennessee Code Annotated § 20-17-107(a)(1), and this Court should assess severe discretionary sanctions against the Plaintiff under § 20-17-107(a)(2) for filing a knowingly baseless SLAPP-suit in a transparent effort to stifle Ms. Owens’s constitutionally protected speech about a candidate for U.S. Congress.

II. LEGAL STANDARDS

A. MS. OWENS’S MOTION TO DISMISS

“A motion to dismiss a complaint for failure to state a claim pursuant to Rule 12.02(6) of the Tennessee Rules of Civil Procedure asserts that the allegations in the complaint, accepted as true, fail to establish a cause of action for which relief can be granted.” *Conley v. State*, 141 S.W.3d 591, 594 (Tenn. 2004). Generally, a motion to dismiss is resolved by examining the pleadings alone. *Leggett v. Duke Energy Corp.*, 308 S.W.3d 843, 851 (Tenn. 2010) (citing *Cook ex rel. Uithoven v. Spinnaker’s of Rivergate, Inc.*, 878 S.W.2d 934, 938 (Tenn. 1994)). This Court, however, may also consider “**items subject to judicial notice, matters of public record, orders, items appearing in the record of the case, and exhibits attached to the complaint** whose authenticity is unquestioned . . . without converting the motion into one for summary judgment.” *W. Exp., Inc. v. Brentwood Servs., Inc.*, No. M2008-02227-COA-R3-CV,

2009 WL 3448747, at *3 (Tenn. Ct. App. Oct. 26, 2009) (quoting *Ind. State Dist. Council of Laborers v. Brukardt*, No. M2007-02271-COA-R3-CV, 2009 WL 426237, at *8 (Tenn. Ct. App. Feb. 19, 2009), *perm. to app. denied* (Tenn. Aug. 24, 2009) (quoting WRIGHT & MILLER, FED. PRAC. & PROC., CIV. § 1357, at 376 (3d ed. 2004))) (emphases added), *no app. filed*. Thereafter, where—as here—“the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief[,]” a defendant’s motion to dismiss for failure to state a claim must be granted. *See Crews v. Buckman Labs. Int’l, Inc.*, 78 S.W.3d 852, 857 (Tenn. 2002).

B. THE TENNESSEE PUBLIC PARTICIPATION ACT

The Tennessee Public Participation Act (“TPPA”)—which Tennessee enacted in 2019 to deter, expediently resolve, and punish SLAPP-suits like this one—provides that “[i]f a legal action is filed in response to a party’s exercise of the right of free speech, right to petition, or right of association, that party may petition the court to dismiss the legal action” subject to the specialized provisions of Tennessee Code Annotated §§ 20-17-104 and 20-17-105. *See* Tenn. Code Ann. § 20-17-104(a). The TPPA “provide[s] an additional substantive remedy to protect the constitutional rights of parties” that “supplement[s] any remedies which are otherwise available . . . under the Tennessee Rules of Civil Procedure.” Tenn. Code Ann. § 20-17-109. As such, nothing in the Act “[a]ffects, limits, or precludes the right of any party to assert any defense, remedy, immunity, or privilege otherwise authorized by law[.]” Tenn. Code Ann. § 20-17-108(4).

By enacting the TPPA, the Tennessee General Assembly forcefully established that:

The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, to speak freely, to associate freely, and to participate in government to the fullest extent permitted by law and, at the same time, protect the rights of persons to file meritorious lawsuits for demonstrable injury. This chapter is consistent with and necessary to

implement the rights protected by Article I, §§ 19 and 23, of the Constitution of Tennessee, as well as by the First Amendment to the United States Constitution, and shall be construed broadly to effectuate its purposes and intent.

See Tenn. Code Ann. § 20-17-102. Substantively, the TPPA also provides that:

(1) When a party has been sued in response to the party's exercise of the right of free speech or the right to petition, he or she "may petition the court to dismiss the legal action" pursuant to Tenn. Code Ann. § 20-17-104(a);

(2) "All discovery in the legal action is stayed" automatically by statute "until the entry of an order ruling on the petition" pursuant to § 20-17-104(d); and

(3) "The court's order dismissing or refusing to dismiss a legal action pursuant to a petition filed under this chapter is immediately appealable as a matter of right to the court of appeals[,] *see* Tenn. Code Ann. § 20-17-106.

A TPPA petition to dismiss "may be filed within sixty (60) calendar days from the date of service of the legal action or, in the court's discretion, at any later time that the court deems proper." Tenn. Code Ann. § 20-17-104(b). Under the TPPA, "[t]he petitioning party has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party's exercise of the right to free speech, right to petition, or right of association." Tenn. Code Ann. § 20-17-105(a). Thereafter, the Court "shall dismiss the legal action unless the responding party establishes a prima facie case for each essential element of the claim in the legal action." Tenn. Code Ann. § 20-17-105(b). Separately, "[n]otwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action." Tenn. Code Ann. § 20-17-105(c). "If the court dismisses a legal action pursuant to a petition filed under this chapter, the legal action or the

challenged claim is dismissed with prejudice.” Tenn. Code Ann. § 20-17-105(e).

C. THRESHOLD ISSUES OF LAW GOVERNING DEFAMATION CLAIMS

To establish a prima facie case of defamation in Tennessee, a plaintiff must traditionally plead and prove that: “(1) a party published a statement; (2) with knowledge that the statement was false and defaming to the other; or (3) with reckless disregard for the truth of the statement or with negligence in failing to ascertain the truth of the statement.” *Davis v. Tennessean*, 83 S.W.3d 125, 128 (Tenn. Ct. App. 2001). However, where—as here—“the plaintiff is a public figure, [the Plaintiff] must prove by clear and convincing evidence that the defendant made the defamatory statements with knowledge the statements were false or with reckless disregard to their truth, a standard known as ‘actual malice.’” *Elsten*, 2019 WL 4899759, at *3 (citing *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279 (1964)).

Of note, both whether a plaintiff is a public figure and whether a public figure plaintiff can demonstrate by clear and convincing evidence that a defendant acted with actual malice are “question[s] of law.” *Id.* at *2 (citing *Tomlinson v. Kelley*, 969 S.W.2d 402, 405 (Tenn. Ct. App. 1997) (“[T]he determination concerning whether the plaintiff is a public figure is a question of law. . . ., as is the determination concerning whether a public figure has come forward with clear and convincing evidence that the defendant was acting with actual malice.” (citing *Trigg v. Lakeway Publishers, Inc.*, 720 S.W.2d 69, 74 (Tenn. Ct. App. 1986)))). So, too, is the preliminary question of whether an assertedly defamatory statement can convey a defamatory meaning. *See Aegis Scis. Corp. v. Zelenik*, No. M2012-00898-COA-R3CV, 2013 WL 175807, at *6 (Tenn. Ct. App. Jan. 16, 2013) (“[T]he preliminary question of whether a statement ‘is capable of conveying a defamatory meaning’ presents a question of law.” (quoting *Revis v. McClean*, 31 S.W.3d

250, 253 (Tenn. Ct. App. 2000))), *no app. filed*. Thus, where—as here—the record reflects that a plaintiff has mischaracterized a defendant’s statements in an effort to support an otherwise meritless defamation claim, a reviewing court is not bound by the plaintiff’s characterizations, and it must disregard the plaintiff’s unreasonable interpretation of them. *See, e.g., Moman v. M.M. Corp.*, No. 02A01-9608-CV00182, 1997 WL 167210, at *3 (Tenn. Ct. App. Apr. 10, 1997) (“If the [allegedly defamatory] words are not reasonably capable of the meaning the plaintiff ascribes to them, the court must disregard the latter interpretation.” (citing *Stones River Motors, Inc. v. Mid-S. Pub. Co.*, 651 S.W.2d 713, 719 (Tenn. Ct. App. 1983), *abrogated on other grounds by Zius v. Shelton*, No. E1999-01157-COA-R3-CV, 2000 WL 739466, at *3 (Tenn. Ct. App. June 6, 2000), *no app. filed*)), *no app. filed*. *See also Loftis v. Rayburn*, No. M2017-01502-COA-R3-CV, 2018 WL 1895842, at *6 (Tenn. Ct. App. Apr. 20, 2018) (“We find as a matter of law that the statements in Mr. Myers’ article cannot reasonably be construed as implying facts that are not true[.] . . . We are not bound by Mr. Loftis’s interpretation of the statements because we find they do not reasonably have the meaning he ascribes to them.” (citing *Grant v. Com. Appeal*, No. W201500208COAR3CV, 2015 WL 5772524, at *11 (Tenn. Ct. App. Sept. 18, 2015), *no app. filed*, *abrogated on other grounds by Funk v. Scripps Media, Inc.*, 570 S.W.3d 205 (Tenn. 2019))), *no app. filed*.

Critically, “the Supreme Court of the United States has constitutionalized the law of [defamation].” *Press, Inc. v. Verran*, 569 S.W.2d 435, 440 (Tenn. 1978). *See also N.Y. Times*, 376 U.S. at 269. Accordingly, “ensuring that defamation actions proceed only upon statements which may actually defame a plaintiff is an essential gatekeeping function of the court.” *Pendleton v. Newsome*, 772 S.E.2d 759, 763 (Va. 2015) (quotation and citation omitted). With this “essential gatekeeping function” in mind, *id.*, Tennessee

has adopted several categorical bars to liability that prevent claimed defamations from being actionable, several of which are outcome-determinative here.

First, in light of our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open,” *New York Times Co.*, 376 U.S. at 270, the bar for proving actual malice is high, and “[p]ublic figures who desire to pursue defamation actions bear a heavy burden of proof” regarding that essential element. *See Tomlinson*, 969 S.W.2d at 405. In particular:

Reckless disregard to the truth means the defendant had a “high degree of awareness of ... probable falsity.” *Harte-Hanks Commc’ns, Inc. v. Connaughton*, 491 U.S. 657, 688 (1989) (quoting *Garrison v. Louisiana*, 379 U.S. 64, 74 (1964)). In other words, reckless disregard is “the purposeful avoidance of the truth.” *Id.* at 692.

Because negligence is not the standard in a public figure defamation case, a defendant’s failure “to investigate information provided by others before publishing it, even when a reasonably prudent person would have done so, is not sufficient by itself to establish [actual malice].” *Lewis*, 238 S.W.3d at 301 (citing *Harte-Hanks Commc’ns, Inc.*, 491 U.S. at 688). Instead, the question is not whether the defendant should have entertained serious doubts as to the truth of the publication, but whether the defendant, in fact, did entertain serious doubts. *Harte-Hanks Commc’ns, Inc.*, 491 U.S. at 688 (quoting *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968)).

Elsten, 2019 WL 4899759, at *4.

Second, an allegedly defamatory statement “must be factually false in order to be actionable[.]” *Moman*, 1997 WL 167210, at *4. Thus, any statement that is not capable of being proven false as a matter of fact cannot serve as the basis of a defamation claim. *Id.*

Third, truth is an absolute defense to defamation, and Tennessee has adopted the “substantial truth doctrine” in defamation cases. *See Isbell v. Travis Elec. Co.*, No. M1999-00052-COA-R3-CV, 2000 WL 1817252, at *5 (Tenn. Ct. App. Dec. 13, 2000), *no app. filed*. Accordingly, statements that are true or substantially true are not actionable

as defamation as a matter of law, either. *Id.*

Fourth, damages can never be presumed in any defamation case; instead, a plaintiff is “required to prove actual damages in all defamation cases.” *Hibdon v. Grabowski*, 195 S.W.3d 48, 68 (Tenn. Ct. App. 2005) (citing *Handley v. May*, 588 S.W.2d 772, 776 (Tenn. Ct. App. 1979)). Additionally, because defamation claims are contingent upon actual damage to one’s reputation, a libel-proof plaintiff who lacks a good reputation to begin with cannot assert a defamation claim. *See Looper v. News Channel 5 Network*, No. CIV.A.6197C, 2002 WL 32163526, at *1 (Tenn. Cir. Ct. May 7, 2002) (citing *Davis*, 83 S.W.3d 125), *no app. filed*; *Coker v. Sundquist*, No. 01A01-9806-BC-00318, 1998 WL 736655 (Tenn. Ct. App. Oct. 23, 1998), *perm. to app. denied* (Tenn. May 10, 1999).

As detailed below, all of these restrictions preclude liability in this case. The Plaintiff’s Complaint must be dismissed with prejudice as a consequence.

III. FACTS

For purposes of Ms. Owens’s Motion to Dismiss only—but not for purposes of her TPPA Petition—the allegations set forth in the Plaintiff’s Complaint are accepted as true. *See Conley*, 141 S.W.3d 591 at 594.

In early 2021, Ms. Owens came across the following photograph of a scantily-clad aspiring Congresswoman Klacik caressing a large wad of cash inside a strip club:



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Ms. Owens’s investigation into that photo led her to a source who confirmed its authenticity.¹² The same source also reported that she had personally stripped at the same strip club as the Plaintiff.¹³ Based on a vast number of similar, never-refuted allegations made about the Plaintiff by others both before and since,¹⁴ Ms. Owens believed that her source’s allegations were credible.

Following additional correspondence, Ms. Owens’s source further reported that the Plaintiff had misused her campaign funds.¹⁵ She also reported, with specificity, that a portion of the Plaintiff’s campaign funds “went up her nose”¹⁶—an allegation that Ms.

¹¹ See **Exhibit I**, Photograph of Plaintiff holding cash inside strip club.

¹² See **Exhibit J**, Source Correspondence, at 1 (“That photo is not doctored in any way, shape, or form.”).

¹³ *Id.*

¹⁴ See **Collective Exhibit K**, Liz Matory (@LizMatory), TWITTER, <https://twitter.com/lizmatory>; **Collective Exhibit L**, Other Tweets.

¹⁵ **Exhibit J**, at 2-3.

¹⁶ *Id.* at 2.

Owens understood to mean they were spent on cocaine. Ms. Owens was not able to confirm the veracity of this allegation herself, though. As a result, Ms. Owens expressly stated as much when she ultimately reported on the allegation, and Ms. Owens also made clear that the allegation was not her own. *See* Ex. #1 to Pl.’s Compl. 14:5–7 (stating that a source of hers “**said it to me** in writing that they used campaign money to do cocaine in the strip club.”) (emphasis added); *id.* at 14:3–5 (“I’m going to be very strong with that, there’s no way that I can, as someone can confirm this”); *id.* at 14:12–13 (“I can’t possibly verify that information. Like there’s no way to verify that.”).

Based on the information provided by her source, Ms. Owens investigated further, she researched the Plaintiff’s pre-campaign history, and she reviewed the Plaintiff’s campaign finance reports herself. That investigation revealed multiple questionable expenditures and otherwise disturbing concerns about the Plaintiff’s use of campaign funds—concerns that have since been confirmed by independent reporting. *See, e.g., Exhibit E, Orlando Avendano, Fraud, Money Laundering and Exotic Dancing: Are the Claims Against Kimberly Klacik True?*, EL AMERICAN (June 29, 2021), <https://elamerican.com/fraud-money-laundering-exotic-dancing-kimberly-klacik-true/> (“El American was able to corroborate that Kimberly Klacik’s ex-husband manages a strip club; that the Republican candidate’s campaign paid \$119 thousand dollars to Pearl Events, a then-inactive company; and that this company is operated by a lawyer whose license was revoked. In addition, it was also able to corroborate the payments to Fox & Lion, that the CEO of the company is a Democrat; and that he helps Democratic candidates get into power.”). Ms. Owens also discovered that the Plaintiff herself had admitted that she was personally unaware of how *even millions of dollars* in campaign contributions had become obligated to her campaign’s vendors—“some of which was not

disclosed” in the Plaintiff’s initial campaign filings. *See, e.g., Exhibit M*, Meagan Flynn & Michael Scherer, *Donors gave a House candidate more than \$8 million. A single firm took nearly half of it.*, WASH. POST (Mar. 2, 2021), https://www.washingtonpost.com/local/md-politics/klacik-gop-campaign-donations/2021/03/02/76300fde-7077-11eb-85fa-e0ccb3660358_story.html (“The company that produced the video, Arsenal Media Group, would take a cut. And a firm hired to promote the video, Olympic Media, would keep up to 70 percent of the money it generated, **some of which was not disclosed in Klacik’s initial campaign finance filings. Klacik . . . said she did not personally approve or know about the contract with Olympic Media until that conversation.**”) (emphasis added).

Ms. Owens’s investigation also led her to reports of additional financial improprieties and information that conflicted with the Plaintiff’s public claims about her use of contributed funds. For instance, contrary to the Plaintiff’s public assertion that her non-profit “assisted ‘close to 200 women [to] become gainfully employed, thirty percent went on to obtain financial independence”—and contrary to the Plaintiff’s public claim that her non-profit “employed women reentering society” and required the Plaintiff to learn “what it took to manage payroll”—Ms. Owens discovered that the Plaintiff’s non-profit had only filed a single tax return since 2013, that it had reported raising less than \$7,000, and that it spent less than \$3,000 while providing clothing to just 10 people. *See Exhibit N*, Edward Ericson Jr., *A Mail-In Experiment in Baltimore’s 7th Congressional District*, COURTHOUSE NEWS SERV. (Apr. 28, 2020), <https://www.courthousenews.com/a-mail-in-experiment-in-baltimores-7th-congressional-district/>. Ms. Owens also discovered that the Plaintiff and her husband had each declined to address those concerns when asked to do so. *See id.* (“Klacik’s campaign did not respond to a request for an

interview; messages left in Potential Me's voicemail box [were] unanswered; and no one picked up the business phone listed for her husband, Jeff."). Ms. Owens discovered that the Plaintiff had a troubling history of illegality, criminality, and dishonesty before founding her non-profit, too. *See id.* ("Klacik's record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C.").

Based on this information, Ms. Owens developed well-founded concerns about the Plaintiff's honesty and the authenticity of her public-facing image. Accordingly, Ms. Owens reached out to the Plaintiff and invited her to answer several questions about her source's allegations and about what Ms. Owens had come to learn through her own investigation.¹⁷ In response, however, the Plaintiff repeatedly refused to do so. Specifically, in response to Ms. Owens's questioning and invitations to be interviewed, the Plaintiff provided the following responses instead:

- "I don't care about you or your questions. You are trash person [sic]. Get lost"¹⁸
- "You have a kid and husband yet have been googling me all weekend? Trouble at home?"¹⁹
- "Sweetheart, you have people coming together at this moment to oust you about Blexit. You are worried about the wrong person"²⁰
- "You do all the work yourself. So when you say something as fact, that

¹⁷ *See Exhibit B.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

is false, I can take you and the Daily Wire to court. Good luck”²¹

Before taking further action and reporting on the information that she had gathered from her source and her own investigation, Ms. Owens conducted even further investigation and attempted to reach some of the Plaintiff’s vendors directly. Ms. Owens was unable to do so, however, raising heightened concerns about the legitimacy of those vendors. Accordingly, Ms. Owens again reached out to the Plaintiff with specific questions, and Ms. Owens again invited the Plaintiff to address Ms. Owens’s concerns in order to ensure accuracy. Specifically, on June 22, 2021, Ms. Owens texted the Plaintiff:

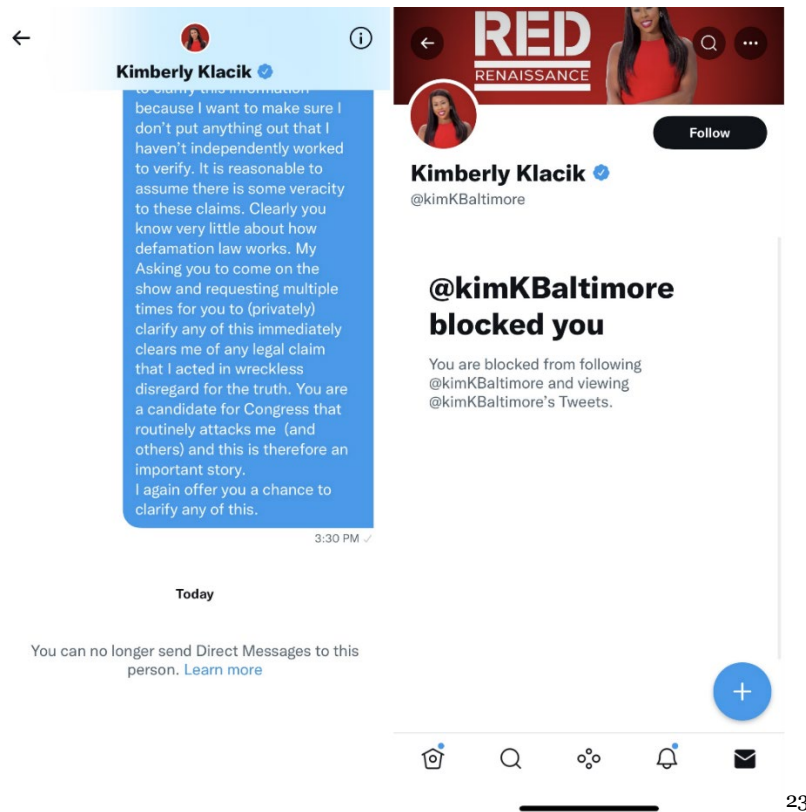
Hi Kim—I’ve been trying to get in touch [with] Fox and Lion LLC which is the company you hired for canvassing. Bizarrely, none of the numbers on the website work. Andy Pierre, the former democrat candidate who owns the business is not reachable. And the business is not in good standing with the state, despite having only opened June of last year.

Also—your FEC filings indicate that you gave \$119,000 for a “meet and greet” to Pearl Events. Very odd. Because Pearl Events had its business license revoked years ago. And the man that owns it—lawyer Dusky Holman, had his law license suspended. Would you like to point me to your treasurer to answer these questions?²²

Yet again, though, the Plaintiff refused to answer Ms. Owens’s questions, and she did not respond to Ms. Owens in any respect. Indeed, by this point, the Plaintiff had blocked Ms. Owens from corresponding with her. Ms. Owens also noticed that—as detailed below—the Plaintiff had blocked her immediately after Ms. Owens offered the Plaintiff “a chance to clarify any of this” and indicated to the Plaintiff that she wanted “to make sure I don’t put anything out that I haven’t independently worked to verify”:

²¹ *Id.*

²² See **Exhibit C**.



Consequently: (1) Having been presented with credible allegations of public concern regarding the Plaintiff—a public figure—that the Plaintiff had repeatedly refused to explain or refute in response to multiple invitations to do so, (2) having confirmed several of those allegations independently, (3) having no reason to disbelieve a source who appeared credible, (4) having abundant reason to believe that the Plaintiff was *not* credible, and (5) having extended the Plaintiff multiple invitations to respond to, clarify, or explain the allegations at issue, all of which the Plaintiff had declined, Ms. Owens reported on the allegations regarding the Plaintiff and her campaign. Of note, as the Plaintiff's own Complaint admits repeatedly, Ms. Owens also expressly disclosed in her report that she could not independently confirm the allegations over which the Plaintiff has now sued her. *See, e.g.*, Pl.'s Compl. ¶ 1 (pleading that "Defendant Candace Owens

²³ *See* **Exhibit D**.

admits that . . . she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ information she presented”); *id.* at ¶ 28 (alleging that “Defendant also admitted that she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ the Criminal Allegations”); Ex. #4 to Pl.’s Compl. 5:14–15 (admitting that Ms. Owens “said in this video that she could not verify any of this information”); Ex. #1 to Pl.’s Compl. 14:3–5 (in which Ms. Owens states that: “I’m going to be very strong with that, there’s no way that I can, as someone can confirm this.”); *id.* at 14:12–13 (in which Ms. Owens states that: “I can’t possibly verify that information. Like there’s no way to verify that.”).

Ms. Owens also made clear that these allegations were only “alleged[.]” and that they came from another person. *Id.* at 11:22–24 (“allegedly they met stripping and like, she was the person who helped bring a lot of strippers into this club”). *See also id.* at 14:5–7 (in which Ms. Owens states that a source of hers “said it to me in writing that they used campaign money to do cocaine in the strip club.”). In several cases, Ms. Owens was also merely recounting what her source had told her—even though the Plaintiff has inaccurately presented the statements as if Ms. Owens asserted them herself. *See id.* at 13:21–14:3 (“the woman came back and she’s a very proud stripper and she still strips. **And she said,** [the photos are] 100 percent not doctored. I know her very well. I partied with her in the strip club, like I - - I worked with her in the strip club. You know, her and her husband had been scamming people for millions”) (emphasis added). Additionally, other statements over which Ms. Owens has been sued were not even allegations at all, but *questions*. *See id.* at 17:24–25 (“\$119,000 at the very end, seems like you’re trying to move money off the books to me; right?”). Finally, the last statement over which Ms. Owens has been sued merely reflects her (correct) commentary regarding what a person is “allowed to” say about a candidate for U.S. Congress. *See id.* at 35:2–8

(“You’re allowed to call out somebody for a questionable history of creating a bunch of businesses. You’re allowed to call out someone’s husband for being the manager of a strip club or that person for allegedly being the madame of that strip club, you know, whatever - - whatever it is, you’re allowed to ask questions.”).

Following Ms. Owens’s exposé, the Plaintiff decided to comment on the allegations after all—though not to Ms. Owens. The Plaintiff also admitted in a friendly interview that it was, indeed, “true” that she had been a stripper as Ms. Owens had reported, and the Plaintiff went out of her way to defend the nobility of that profession, stating:

Ms. Klacik: Uh, that is true. And you know what, I feel bad for all those young women, uh, that are now out there that probably though, you know, why would she attack other women, uh, for doing what they can maybe to make ends meet? You know, who is she to tell anybody what job they could or could not do when it is legal?

Uh, and - - and, you know, it is legal to be a - - an exotic dancer. It’s not an illegal job, um, but I feel bad for all those women that currently have that occupation that probably feel attacked right now.²⁴

Beyond being a remarkable admission from an aspiring Republican Congresswoman who was actively raising money based on her professed commitment to “conservative values” and “moral culture,”²⁵ the Plaintiff’s admission that she had worked as a stripper powerfully confirmed the credibility of Ms. Owens’s source. As importantly, it also confirmed that the Plaintiff had refused to answer Ms. Owens’s questions or be interviewed by Ms. Owens regarding reputationally damaging allegations that had been entirely true.

The Plaintiff’s efforts to “disprove” other allegations about which Ms. Owens had reported were also so transparently incredible that they did nothing to cast doubt on

²⁴ Ex. 4 to Pl.’s Compl. 6:6–16 (emphasis added).

²⁵ See **Exhibit A.**

them—particularly given the Plaintiff’s pre-report refusal to answer Ms. Owens’s questions on the same matters. For example, as “proof” that she had not used drugs, the Plaintiff published a post-exposé drug test.²⁶ Of course, even assuming that the test was genuine, it demonstrated only that the Plaintiff had not used drugs *recently*; it certainly did not prove—or even purport to prove—that the Plaintiff had *never* used drugs.

Nor did the post-publication demands or threats from the Plaintiff’s attorneys carry any particular credibility, for several reasons. *First*, the Plaintiff’s counsel did not claim to have any personal knowledge regarding the allegations at issue. *Second*, the Plaintiff’s denials—carefully filtered through counsel—were unsworn, meaning there would be no consequences to the Plaintiff if the Plaintiff’s denials were false. *Third*, the Plaintiff had similarly threatened Ms. Owens with legal action *before* Ms. Owens published her exposé, only to admit without qualification thereafter that the most damning allegation in the exposé was “true.”²⁷ *Fourth*, given the Plaintiff’s troubling history of illegality, criminality, and dishonesty regarding legal proceedings, *see, e.g.*, **Exhibit E** (“Klacik’s record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C.”), Ms. Owens entertained reasonable skepticism that the Plaintiff’s denials were accurate.

On or about July 7, 2021, the Plaintiff gave another interview about the allegations

²⁶ See **Exhibit O**, Kimberly Klacik (@kimKBaltimore), TWITTER (Jun. 25, 2021 11:54 a.m.), <https://twitter.com/kimKBaltimore/status/1408468697866551301> (Plaintiff’s tweet regarding drug test).

²⁷ Ex. 4 to Pl.’s Compl. 6:6–16.

at issue on a podcast.²⁸ During the interview, the Plaintiff emphasized repeatedly that any allegations about campaign finance impropriety must be false because she was not under investigation by the Federal Election Commission and “the FEC would be contacting my accountant and my treasurer” if she were.²⁹ Indeed, the Plaintiff represented that it was not even “possible” for her to be under investigation, given her recent appearance with the former President of the United States, and as a result, “[p]eople are not thinking clearly.”³⁰

In truth, however, on July 6, 2021 (the day before the Plaintiff’s podcast interview aired), the Federal Election Commission found “reason to believe that Kim Klacik for Congress and Bradley T. Crate, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and [to] make a preliminary determination that a civil money penalty of \$12,081 be assessed.”³¹ The FEC’s letter detailed dozens of campaign finance violations and six independent failures to comply with reporting requirements, resulting in over one hundred thousand dollars in unreported contributions.³² Thereafter, the FEC determined that the Plaintiff’s campaign committee had, in fact, violated federal campaign finance law, and it assessed and upheld a \$12,081.00 civil penalty against the Plaintiff’s campaign committee.³³ On August 17, 2021, the Plaintiff’s campaign committee submitted to the fine and paid it in full.³⁴ On September 17, 2021 the Plaintiff then filed this SLAPP-suit against Ms. Owens seeking “in no event less than \$20,000,000” in damages.³⁵

²⁸ See **Exhibit P**, Tr. of *The Great Divide* (July 7, 2021).

²⁹ See *id.* at 8:9–19

³⁰ *Id.* at 8:20–24.

³¹ See **Exhibit F** at 2.

³² *Id.* at 1–5.

³³ See **Exhibit G**.

³⁴ See **Exhibit H**.

³⁵ See Compl. at 12 ¶ a.

IV. ARGUMENT

A. THE PLAINTIFF’S COMPLAINT FAILS TO STATE A COGNIZABLE CLAIM FOR RELIEF BECAUSE HER OWN ALLEGATIONS PRECLUDE LIABILITY AS A MATTER OF LAW.

Tennessee’s courts have long made clear that “[t]he resolution of a 12.02(6) motion to dismiss is determined by an examination of the pleadings alone.” *Choate v. Choate*, No. E2020-01503-COA-R3-CV, 2021 WL 4944863, at *23 (Tenn. Ct. App. Oct. 25, 2021) (quoting *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011) (internal quotation and citations omitted)), *no app filed*. Thus, when considering a motion to dismiss, this Court takes the Plaintiff “at [her] word.” *Rouse v. Stacy*, 478 F. App’x 945, 959 (6th Cir. 2012) (“In considering a motion to dismiss, we take the plaintiff at his word.”).³⁶

Given this framework, under circumstances where—as here—a plaintiff makes specific allegations that establish a defense to an asserted claim, courts should dismiss a plaintiff’s complaint for failure to state a claim. *Id.* (citing *Hensley Mfg. v. ProPride, Inc.*, 579 F.3d 603, 613 (6th Cir. 2009) (“But there is no reason not to grant a motion to dismiss where the undisputed facts conclusively establish an affirmative defense as a matter of law.”); *U.S. Gypsum Co. v. Ind. Gas Co., Inc.*, 350 F.3d 623, 626 (7th Cir. 2003) (“A litigant may plead itself out of court by alleging (and thus admitting) the ingredients of a defense.”)). As detailed below, that relief is proper in the instant case for several reasons.

1. The admissions in and exhibits appended to the Plaintiff’s Complaint establish that the Plaintiff has failed to state a cognizable claim for defamation.

The allegations in the Plaintiff’s own Complaint preclude defamation liability. To

³⁶ “Federal case law interpreting rules similar to our own are persuasive authority for purposes of construing the Tennessee rule.” *Harris v. Chern*, 33 S.W.3d 741, 745 n.2 (Tenn. 2000) (collecting cases).

begin, the very first paragraph of the Plaintiff's Complaint asserts that the statements over which the Plaintiff has sued Ms. Owens involve allegations that Ms. Owens expressly disclosed that she could not verify. *See* Pl.'s Compl. ¶ 1 (asserting that "Defendant Candace Owens admits that . . . she 'had no proof,' 'cannot possibly verify' and 'could not confirm' information she presented as fact."). Indeed, the Plaintiff's Complaint alleges as much *repeatedly*. *See id.* at ¶ 28 (alleging that "Defendant also admitted that she 'had no proof,' 'cannot possibly verify' and 'could not confirm' the Criminal Allegations."). The Plaintiff's Complaint also specifically asserts that the central allegations over which she has sued Ms. Owens concern information that Ms. Owens received from another person. *See id.* at ¶ 3 ("In making these allegations of criminal activity, Defendant claimed to have received information from someone who 'stripped with [Ms. Klacik]' and who allegedly told Defendant that Ms. Klacik used campaign funds to purchase cocaine and scammed people of millions.").

As a matter of law, though, repeating statements made by others "cannot by itself constitute defamation." *See Higgins v. Ky. Sports Radio, LLC*, 951 F.3d 728, 739 (6th Cir. 2020) ("Merely repeating potentially false reviews generated by other users may be in bad taste. But it cannot by itself constitute defamation. And good thing too. If it could, any news article discussing a tendentious Twitter exchange could land its author in front of a jury. That would make the authors of the First Amendment cringe."). It also cannot sustain a claim of actual malice because "[f]ailing to investigate information provided by others before publishing it, even when a reasonably prudent person would have done so, is not sufficient by itself to establish reckless disregard." *Finney v. Jefferson*, No. M2019-00326-COA-R3-CV, 2020 WL 5666698, at *5 (Sept. 23, 2020) (quoting *Lewis v. NewsChannel 5 Network, L.P.*, 238 S.W.3d 270, 301 (Tenn. Ct. App. 2007)), *no app.*

filed. A speaker's express indication that she has a "lack of a definitive knowledge" provides essential context that precludes liability, too. *See, e.g., Partington v. Bugliosi*, 56 F.3d 1147, 1157 (9th Cir. 1995) ("[T]he rhetorical device used by Bugliosi negates the impression that his statement implied a false assertion of fact. Bugliosi's use of a question mark serves two purpose[s]: it makes clear his lack of definitive knowledge about the issue and invites the reader to consider the possibility of other justifications for the defendants' actions.").

Accordingly, the Plaintiff's lone claim for defamation is inactionable as a matter of law. To determine whether a statement is actionable as defamation, courts look to the actual "words themselves," rather than the Plaintiff's proffered interpretation of them. *Brown v. Mapco Exp., Inc.*, 393 S.W.3d 696, 709 (Tenn. Ct. App. 2012) ("To make this determination, courts 'must look to the words themselves and are not bound by the plaintiff's interpretation of them.'") (cleaned up). Thus, a claimed defamation "should be read as a person of ordinary intelligence would understand it in light of the surrounding circumstances[,] rather than read as the Plaintiff understands it. *Aegis Scis. Corp.*, 2013 WL 175807, at *6 (quoting *Revis*, 31 S.W.3d at 253). Crucially, "whether a communication is capable of conveying a defamatory meaning" is also "a question of law for the court to decide in the first instance[.]" *Id.* *See also McWhorter v. Barre*, 132 S.W.3d 354, 364 (Aug 29, 2003) ("The question of whether [a statement] was understood by its readers as defamatory is a question for the jury, but the preliminary determination of whether [a statement] is 'capable of being so understood is a question of law to be determined by the court.'" (quoting *Memphis Publ'g Co. v. Nichols*, 569 S.W.2d 412, 419 (Tenn. 1978))).

Here, after considering the Plaintiff's allegations "in light of the surrounding circumstances," *Aegis Scis. Corp.*, 2013 WL 175807, at *6—*circumstances that the*

Plaintiff herself has emphasized and pleaded—the Plaintiff’s Complaint itself makes clear that Ms. Owens did not present the statements over which the Plaintiff has sued her as statements of verifiable fact arising from her own personal knowledge. *See* Pl.’s Compl. ¶ 1 (pleading that “Defendant Candace Owens admits that . . . she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ information she presented as fact.”); *id.* at ¶ 28 (alleging that “Defendant also admitted that she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ the Criminal Allegations.”); *id.* at ¶ 3 (“In making these allegations of criminal activity, Defendant claimed to have received information from someone who ‘stripped with [Ms. Klacik]’ and who allegedly told Defendant that Ms. Klacik used campaign funds to purchase cocaine and scammed people of millions.”). Such admissions preclude liability. *See, e.g., Moses v. Roland*, No. W2019-00902-COA-R3-CV, 2021 WL 1140273, at *11 (Tenn. Ct. App. Mar. 25, 2021) (“[I]n determining whether a statement is capable of being defamatory in this context we should look to ‘the degree to which the statements are verifiable, whether the statement is objectively capable of proof or disproof[.]’” (quoting *Patton Wallcoverings, Inc. v. Kseri*, No. 15-10407, 2015 WL 3915916, at *5 (E.D. Mich. June 25, 2015) (citing *Jolliff v. N.L.R.B.*, 513 F.3d 600, 611–12 (6th Cir. 2008))))), *no app. filed*. Put another way: The qualified nature of Ms. Owens’s statements—that they originated with another source and could not be verified independently—necessarily prevents them from being actionable. *Cf. Daniels v. Loop Interactive Grp., LLC*, No. B254005, 2015 WL 134308, at *6 (Cal. Ct. App. Jan. 9, 2015) (“The article qualified the statement that he was a gang member by using the term ‘reportedly’ and indicated that he faces a court hearing in the near future. All of these references conveyed the meaning that Daniels has been charged with a crime, not that he is a criminal. Daniels’s myopic view of the single sentence out of context does not support

his defamation claim because it fails to consider the entire article.”); *Levesque v. Doocy*, 557 F. Supp. 2d 157, 171 (D. Me. 2008), *aff’d*, 560 F.3d 82 (1st Cir. 2009) (“At most, Kilmeade’s comments show a fleeting concern, in light of the outrageousness of the story, that the defendants might later learn that what they believed to be true was not entirely accurate. A reasonable jury could not find with convincing clarity, *see New York Times Co.*, 376 U.S. at 285–86, 84 S. Ct. 710, that Kilmeade entertained ‘serious doubts’ as to the truth.”). *See also Partington v. Bugliosi*, 56 F.3d 1147, 1157 (9th Cir. 1995).

Of note, if there were any lingering doubt about the qualifications involved, one of the exhibits that the Plaintiff has appended to her own Complaint also settles the matter. In support of her claims, Ms. Klacik has appended the transcript of an interview in which Ms. Klacik herself admits and emphasizes that Ms. Owens “said in this video that she could not verify any of this information.”³⁷ Because “[a]ll parts” of a publication must be considered when evaluating a defamation claim, though, the statements over which the Plaintiff has sued Ms. Owens must be viewed “in the context of” this admitted qualification. *Evans v. Nashville Banner Pub. Co.*, No. 87-164-II, 1988 WL 105718, at *5 (Tenn. Ct. App. Oct. 12, 1988) (“All parts of a published article should be construed as a whole. . . . Thus, we must view the photograph and its cutline in the context of the entire article.” (citing *Black v. Nashville Banner Publishing Co.*, 141 S.W.2d 908, 912 (Tenn. 1939))), *no app. filed*. Further, as detailed above, presenting important and newsworthy allegations of public concern regarding an aspiring Congresswoman within the expressly stated context that they are unverified cannot be defamatory as a matter of law. Dismissal of the Plaintiff’s Complaint for failure to state a claim is warranted accordingly. *See Aegis*

³⁷ Ex. 4 to Pl.’s Compl. 5:14–15.

Scis. Corp., 2013 WL 175807, at *6.

2. **The exhibits appended to the Plaintiff's Complaint confirm that the Plaintiff has materially misrepresented Ms. Owens's actual statements, and the Plaintiff has not even alleged that Ms. Owens's actual statements were false.**

The Plaintiff's Complaint focuses on a narrow set of expressly qualified allegations—isolated portions of a much lengthier publication, the remaining portions of which the Plaintiff does not claim were false—that the Plaintiff styles as the “Criminal Allegations.”³⁸ As detailed below, however, the exhibits appended to the Plaintiff's Complaint reveal that the Plaintiff has materially mischaracterized what Ms. Owens actually said in an effort to manufacture a defamation claim that can withstand a motion to dismiss. Review of the Plaintiff's Complaint additionally confirms that the Plaintiff has not even *alleged* that what Ms. Owens actually said was false—a fatal defect that necessarily precludes liability. *Cf. Clark v. Viacom Int'l Inc.*, 617 F. App'x 495, 509 (6th Cir. 2015) (“Regardless of which party must ultimately prove falsity, any defamation plaintiff must allege it. In this unusual case, plaintiffs have failed to do so.”) (internal citations omitted). Because falsity is an essential element of any defamation claim, though, *see Davis*, 83 S.W.3d at 128, the Plaintiff's claim necessarily fails.

First, the Plaintiff alleges that she is suing Ms. Owens because “Defendant made bald untrue allegations that include Ms. Klacik ‘used campaign money to do cocaine[.]’”³⁹ However, review of the transcript appended to the Plaintiff's Complaint reveals that Ms. Owens made a markedly different statement. In truth, Ms. Owens stated that *a source of hers* “**said it to me** in writing that they used campaign money to do cocaine in the strip

³⁸ See Pl.'s Compl. ¶ 25.

³⁹ *Id.*

club.”⁴⁰ Ms. Owens’s statement was also immediately preceded by the qualification that “I’m going to be very strong with that, there’s no way that I can, as someone can confirm this[,]”⁴¹ and it was immediately followed by the additional qualification that “I can’t possibly verify that information. Like there’s no way to verify that.”⁴² Accordingly, Ms. Owens’s actual statement does not even resemble what the Plaintiff’s Complaint alleges that Ms. Owens said, either literally or in its proper context. The Plaintiff also has not alleged that what Ms. Owens *actually* said was false, notwithstanding that falsity is an essential element of the Plaintiff’s cause of action. *See Davis*, 83 S.W.3d at 128. Thus, having failed even to allege falsity regarding Ms. Owens’s actual statement on the matter, any defamation claim premised upon this materially mischaracterized statement necessarily fails as a matter of law.

Second, the Plaintiff alleges that she is suing Ms. Owens because “Defendant made bald untrue allegations that include” Ms. Klacik engaging in various financial crimes “in order to ‘move money off the books[.]’”⁴³ Once again, though, the transcript appended to the Plaintiff’s Complaint reveals that Ms. Owens made a markedly different statement than the one that the Plaintiff has sued her for making. Verbatim, the actual statement at issue—presented in context and bolded for clarity below—was as follows:

I can’t fathom in my head why a meet and greet with a congressional candidate would cost \$119,000. But I tried in my head, I fathomed in my head. I said, okay, maybe – maybe this is for the whole season. And this is the only firm she used Pearl Events. And somehow they are saying it’s \$119,000, which sounds like a scam to me, like Pearl Events.

But then I look further down in her receipt and she’s got tons of meet and greets and they all cost \$1,000, \$2,000. Like that sounds about right.
\$119,000 at the very end, seems like you’re trying to move money

⁴⁰ Ex. 1 to Pl.’s Compl. 14:5–7 (emphasis added).

⁴¹ *Id.* at 14:3–5.

⁴² *Id.* at 14:12–13.

⁴³ Pl.’s Compl. ¶ 25.

off the books to me; right? So I'm like, all right, well, let me look into Pearl Events. That seems like the next logical thing to do. Like obviously, like it's a business.⁴⁴

Thus, with respect to the second statement over which the Plaintiff has sued Ms. Owens, the supposed “bald untrue allegation[]” that the Plaintiff alleges Ms. Owens made about her⁴⁵ was not even an allegation at all. Instead, it was a *question*.⁴⁶ But questions, no matter how unflattering, cannot be defamatory. *See, e.g., Abbas v. Foreign Pol’y Grp., LLC*, 783 F.3d 1328, 1338 (D.C. Cir. 2015) (“[I]t is generally settled as a matter of defamation law in other jurisdictions that a question, ‘however embarrassing or unpleasant to its subject, is not accusation.’ *Chapin v. Knight–Ridder, Inc.*, 993 F.2d 1087, 1094 (4th Cir. 1993). Questions indicate a defendant’s ‘lack of definitive knowledge about the issue.’” (quoting *Partington*, 56 F.3d at 1157)). Instead, “questions are questions.” *See id.* (“[W]e here follow the widely adopted defamation principle that questions are questions.”). Accordingly, the Plaintiff is forbidden—as a matter of law—from premising any defamation claim upon a question posed by Ms. Owens. *See id.*

Third, the Plaintiff alleges that she is suing Ms. Owens because “Defendant made bald untrue allegations that include” Ms. Klacik being “the person who helped bring a lot of strippers’ into a strip club that Defendant alleges was owned by Ms. Klacik’s estranged husband, was a ‘madame of that strip club,’ and ‘has been scamming people for millions.’”⁴⁷ Yet again, though, the transcript of the actual statement that Ms. Owens made tells a different story. Presented in its actual context verbatim, and bolded for emphasis, Ms. Owens instead stated as follows:

So I do a little digging and I find out that Kimberly Klacik was a stripper

⁴⁴ Ex. 1 to Pl.’s Compl. 17:14–18:3 (emphasis added).

⁴⁵ Pl.’s Compl. ¶ 25.

⁴⁶ *See* Ex. 1 to Pl.’s Compl. 17:14–18:3.

⁴⁷ Pl.’s Compl. ¶ 25.

named September. And that her husband was the manager of the strip club. It's a strip club in like the Baltimore region in Maryland and **allegedly they met stripping and like, she was the person who helped bring a lot of strippers into this club.**

And so I thought, wow, this is really interesting because this person attacked me and said that I am a bad look for the black community. I'm not good for the black communities. I don't want to celebrate Juneteenth. And yet the debauchery that happens at a strip club, the vulnerable women that are at strip clubs, and the idea that you married someone who was the manager of the club, kind of seems like maybe something [relevant] that Republicans should know.

None of them know this, and you've raised \$8.2 million talking about family values. And I researched to confirm that her husband was the manager of the club. It was an old listing in the Maryland page – Maryland white pages that had him listed as a manager of the club. So all of that checked out.

And there were pictures of her in the strip club, a lot of pictures of her in the strip club, about five pictures, plus a stripper holding a bunch of singles, which I will maybe post later. And she's just holding a bunch of like ones and she's in like a very suggestive outfit and she's in front of the strip club in front of the strip pole.

So just seems a little off-brand for someone who has just said that, you know, she supports family values and like, she really cares about Baltimore. If you really care about Baltimore, why - - why are you in the inner cities doing this? Because we know what strip clubs are about. And that's not to say that you can't be a stripper and reform yourself, but this isn't that story; right?

She's not like she's not like she's come out and talked about being a stripper. And she's upset that I'm not celebrating Juneteenth and is saying that I'm bad for the black community. So I'm like, that's a little like ironic; right? It's just a little bit ironic, like, okay. So the person – because I wanted to confirm that she was a stripper before I put that, you know, even put that out there and I wasn't even sure if I was going to put it out there.

I wanted to source like where these pictures were coming from. And I came across another stripper who works at the club, who works at the club currently. And I just asked her outright, you know, does Kimberly Klacik work at this club? Like, are these images doctored in any way? And the woman came back and she's a very proud stripper and she still strips. **And she said, they're 100 percent not doctored.**

I know her very well. I partied with her in the strip club, like I - - I worked with her in the strip club. You know, her and her

husband had been scamming people for millions and she said, and I'm going to be very strong with that, there's no way that I can, as someone can confirm this.⁴⁸

* * * *

You're allowed to call out somebody for a questionable history of creating a bunch of businesses. **You're allowed to call out someone's husband for being the manager of a strip club or that person for allegedly being the madame of that strip club**, you know, whatever - - whatever it is, you're allowed to ask questions.⁴⁹

Thus, without the benefit of editing that materially modifies what Ms. Owens actually said, the exhibits to the Plaintiff's Complaint confirm once again that the Plaintiff is not asserting a cognizable defamation claim. Ms. Owens's actual statements recount—and they expressly purport to recount—*allegations* from a source who “alleged” them.⁵⁰ They also reflect Ms. Owens's (correct) opinion about what “you're allowed to” say about a person who hopes to serve as a member of the United States Congress.⁵¹

To be clear: Accurately recounting allegations—even criminal allegations—that a source made about another person is not and cannot be defamatory. *See, e.g., Wilson v. Sparrow Health Sys.*, 799 N.W.2d 224, 228 (Mich. App. 2010) (“Because Wilson was, in fact, a suspect in the indecent-exposure incidents when the memorandum was created and circulated and the memorandum specifically stated that he was a suspect, not the person who had committed the acts, defendants' statement was not defamatory. Therefore, the trial court did not err when it held that plaintiffs were not entitled to relief on their defamation claim.”) (internal citation omitted); *Wilson v. Freitas*, 214 P.3d 1110, 1121–22 (Haw. Ct. App. 2009), *as amended* (Aug. 4, 2009) (“Accurately identifying

⁴⁸ *See* Ex. 1 to Pl.'s Compl. 11:18–14:5 (emphases added).

⁴⁹ *Id.* at 35:2–8 (emphasis added).

⁵⁰ *See id.* at 11:18–14:5.

⁵¹ *Id.* at 35:2–8.

someone as a suspect in a criminal investigation does not constitute an accusation of guilt and cannot support a claim for defamation, even if the plaintiff proves he is not guilty.” (citing *Basilus v. Honolulu Publ’g Co.*, 711 F. Supp. 548, 551–52 (D. Haw. 1989) (rejecting argument that a publication’s materially accurate report of murder allegations implied that plaintiff had actually committed the murder); *Foley v. Lowell Sun Publ’g Co.*, 533 N.E.2d 196, 197 (Mass. 1989) (holding that a newspaper article’s report that the plaintiff had been arrested and charged with assaulting a police officer could not reasonably be construed as accusing the plaintiff of actually committing the assault))).

The Plaintiff has not alleged that any of the materially different statements that Ms. Owens *actually* made is false, either. Nor could the Plaintiff deny the existence of those allegations in good faith, given that such allegations have been widely reported and made by any number of people, including one of the Plaintiff’s primary opponents. *See, e.g., Exhibit E* (“El American contacted Elizabeth Matory, a former GOP candidate who lost to Kimberly Klacik for the Congressional election nomination in Maryland’s 7th Congressional District. Matory, who at the time denounced Klacik’s ties to the adult entertainment industry in Maryland, told El American: ‘The issue was never that she was a stripper. The problem still is that they a), deny it; b), try to hide the business connections.’ **Matory also has heavy accusations against Klacik. She told El American: ‘The sex industry is huge in Baltimore, as well as human trafficking. Kim would ‘lure’ young women through her social media (especially Instagram) to get involved in this life.’**”) (emphasis added). *See also Collective Exhibit K*, Liz Matory (@LizMatory), TWITTER, <https://twitter.com/lizmatory>; **Collective Exhibit L**, Other Tweets.

Because falsity is an essential element of a defamation claim, though, *see Davis*,

83 S.W.3d at 128, the Plaintiff's failure to allege falsity regarding the statements that Ms. Owens actually made is fatal to the Plaintiff's asserted cause of action. The Plaintiff's defamation claim must be dismissed with prejudice as a matter of law as a result.

3. The Plaintiff's remaining allegations do not support a defamation claim.

The Plaintiff's Complaint does not make clear whether she is alleging that Ms. Owens's act of "liking" social media posts by others gives rise to an independent defamation claim. *See* Pl.'s Compl. ¶ 36 (alleging that: "When Defendant's countless supporters harass Ms. Klacik or repeat the false and defamatory statements on social media, Ms. Owens validates and acknowledges the false and defamatory statements by 'liking' the derogatory behavior."). Neither does the Plaintiff's Complaint make clear whether she is alleging that Ms. Owens's decision to decline the Plaintiff's post-publication, post-denial censorship demands by removing her exposé from the internet rendered her initial, pre-denial publication defamatory. *See id.* at ¶ 31 (alleging that: "On June 24, 2021, Counsel for Ms. Klacik sent a Cease and Desist Letter to Defendant, notifying Defendant that the Criminal Allegations were false and defamatory, and requesting that Defendant immediately remove the Video from her social media platforms[.]"). To the extent that the Plaintiff asserts that these allegations support defamation liability in any respect, however, the law is unmistakably clear on the matter: They do not.

As for whether "liking" the post of another is defamatory: It is not and cannot be, because "liking" a post is not a "publication" for purposes of a defamation claim. *See, e.g., Slozer v. Slattery*, No. 2566 EDA 2014, 2015 WL 7282971, at *7 (Pa. Super. Ct. Nov. 18, 2015) ("Holzhafer, by providing a link to the challenged posting, without reiterating the

content of that posting did not initiate a republication. Her motivations and her designation of the link with a ‘like’ as alleged by Appellants, is not equivalent to a reiteration of the defamatory content as to constitute republication.”). *See also Quality Auto Parts Co., Inc. v. Bluff City Buick Co., Inc.*, 876 S.W.2d 818, 821 (Tenn. 1994) (“Publication is a term of art meaning the communication of defamatory matter to a third person.”).

Similarly, as for whether Ms. Owens’s refusal to bend to Plaintiff’s counsel’s post-publication, post-denial censorship demands rendered Ms. Owens’s initial publication defamatory: It did not. “By its very nature, defamation is an inherently contextual tort.” *Sindi v. El-Moslimany*, 896 F.3d 1, 33 (1st Cir. 2018) (citing *Greenbelt Coop. Publ’g Ass’n v. Bresler*, 398 U.S. 6, 13–14 (1970); *Piccone v. Bartels*, 785 F.3d 766, 772 (1st Cir. 2015); *cf. United States v. Alvarez*, 567 U.S. 709, 719 (2012) (plurality opinion) (noting that defamation entails not merely a “false statement,” but a “legally cognizable harm associated with a false statement”)). Accordingly, “[w]ords that were false and spoken with actual malice on one occasion might be true on a different occasion or might be spoken without actual malice.” *Id.*

Given this context, the Plaintiff’s post-publication denials (through counsel or otherwise) have no bearing—none—on whether Ms. Owens’s publication was made with actual malice in the first instance. *See id.* Nor does the continuing availability of Ms. Owens’s publication following the Plaintiff’s denials provide an independent basis for a defamation claim, because there is no such thing as a “continuing defamation” in Tennessee. *Rose v. Cookeville Reg’l Med. Ctr.*, No. M2007-02368-COA-R3-CV, 2008 WL 2078056, at *5 (Tenn. Ct. App. May 14, 2008) (“Tennessee courts have never recognized a ‘continuing defamation.’ In fact, this Court has previously commented on the

dubiousness of the very concept of a ‘continuing defamation.’” (quoting *Edmondson v. Church of God*, No. 85-151-II, 1988 WL 123955, at *4 (Tenn. Ct. App. Nov. 23, 1988))), *no app. filed*. Instead, Tennessee follows the single publication rule. *See Applewhite v. Memphis State Univ.*, 495 S.W.2d 190, 194 (Tenn. 1973) (adopting the single publication rule); *Clark*, 617 F. App’x at 502–03 (Tenn. Ct. App. 2015) (“Under the single publication rule, any mass communication that is made at approximately one time . . . is construed as a single publication of the statements it contains, thereby giving rise to only one cause of action as of the moment of initial publication, no matter how many copies are later distributed.” (citing *Applewhite.*, 495 S.W.2d at 194; RESTATEMENT (SECOND) OF TORTS § 577A cmt. c (1977))).

Thus, simply stated: If the Plaintiff, a public figure and aspiring Congresswoman, wanted her explanations and denials regarding the allegations at issue to be considered, then the time to provide them was *before* publication (when Ms. Owens repeatedly invited the Plaintiff to comment and be interviewed regarding them), not afterward. Any claim of liability premised upon the Plaintiff’s post-publication demands fails accordingly.

4. This Court should recognize additional defamation doctrines that preclude liability.

In the event that the Plaintiff’s defamation claim against Ms. Owens is not dismissed outright and in its entirety for the reasons already set forth above, Ms. Owens additionally raises and preserves the following arguments for dismissal for failure to state a claim:

(1) Tennessee should adopt—and the Plaintiff’s claims should be dismissed on the basis of—the incremental harm doctrine; and

(2) Tennessee should adopt—and the Plaintiff’s claims should be dismissed on

the basis of—the subsidiary meaning doctrine.

For the reasons detailed below, both doctrines preclude liability under the circumstances of this case. Accordingly, this Court should adopt both doctrines and dismiss the Plaintiff's Complaint for failure to state a claim based upon them.

“The incremental harm doctrine . . . reasons that when unchallenged or non-actionable parts of a publication are damaging, an additional statement, even if maliciously false, might be non-actionable because it causes no appreciable additional harm.” *See Church of Scientology Int'l v. Behar*, 238 F.3d 168, 176 (2d Cir. 2001) (citing *Herbert v. Lando*, 781 F.2d 298, 310 (2d Cir. 1986), *Simmons Ford, Inc. v. Consumers Union*, 516 F. Supp. 742, 750 (S.D.N.Y. 1981) (holding that, in the context of an article evaluating plaintiffs' new electrical car and rating it “Not Acceptable” for a range of unchallenged reasons, a portion of the article wrongly implying that the car did not meet federal safety standards “could not harm [plaintiffs'] reputations in any way beyond the harm already caused by the remainder of the article.”)). Separately, and “[b]y contrast with the incremental harm doctrine”:

the subsidiary meaning doctrine does “bear upon” whether a defendant has acted with actual malice. In *Herbert*, for example, this court held that nine of eleven allegedly libelous statements were not actionable because they were not maliciously published; the published statements were backed by evidence that was not known to be false, and as to the reliability of which the defendants had not shown reckless disregard. *See Herbert*, 781 F.2d at 305–07. Because the defendants' overall “view” of the plaintiff rested on such evidence, we held that they “could not be said to have had actual malice in publishing [it].” *Id.* at 311. In light of this conclusion, it would have been illogical to hold, based on other statements, that the plaintiffs in fact had such actual malice. *See id.* (holding that recovery was barred as to an “incorrect” statement in part because “given the amount of other evidence supporting this view, the [defendants] did not publish this view with actual malice”); *id.* at 312 (holding that recovery was barred as to another statement because “[w]e have already held ... that the [defendants] did not have actual malice in publishing their view”). To avoid that contradiction, we enunciated the subsidiary meaning doctrine. It follows that the doctrine,

as articulated in Herbert and as relevant here, “bear[s] ... upon” whether a “view” was published with actual malice. It is thus a question of federal constitutional law, not state law, and it remains good law after *Masson*.

Id.

Here, the Plaintiff’s own Complaint confirms that the single most damaging allegation that Ms. Owens reported—that the Plaintiff worked as a stripper before running for Congress as a Republican touting family values and morality—was true. Verbatim, the Plaintiff’s Complaint reflects that the Plaintiff responded to this allegation as follows:

Ms. Klacik: Uh, that is true. And you know what, I feel bad for all those young women, uh, that are now out there that probably though, you know, why would she attack other women, uh, for doing what they can maybe to make ends meet? You know, who is she to tell anybody what job they could or could not do when it is legal?

Uh, and - - and, you know, it is legal to be a - - an exotic dancer. It’s not an illegal job, um, but I feel bad for all those women that currently have that occupation that probably feel attacked right now.⁵²

Considering Ms. Klacik’s public-facing image as a defender of “conservative values” and “moral culture,”⁵³ *that* allegation is what damaged the Plaintiff’s assertedly good reputation. The Plaintiff also makes no effort to disentangle the damage resulting from this admittedly true, reputationally damaging allegation from the alleged damage arising from any allegation over which the Plaintiff has filed suit. In fact, the body of the Plaintiff’s Complaint conspicuously avoids mentioning this admittedly true, reputationally damaging revelation at all. The additional fact that the Federal Election Commission has determined that the Plaintiff *did* commit several serious campaign finance violations⁵⁴—a matter of public record about which this Court may take judicial notice, *see W. Exp., Inc.*, 2009 WL 3448747, at *3—settles the matter. Under these

⁵² Ex. 4 to Pl.’s Compl. 6:6–16 (emphasis added).

⁵³ **Exhibit A.**

⁵⁴ *See Exhibits F–H.*

circumstances, the incremental harm doctrine precludes defamation liability.

Similarly, the Plaintiff's admission that it is "true" that she worked as a stripper before running for Congress⁵⁵ confirmed the reliability of Ms. Owens's primary source of information regarding the allegations over which Ms. Owens has been sued. Accordingly, Ms. Owens's source having proven to be truthful when it came to the most salacious allegation involving the Plaintiff—and the Plaintiff having additionally declined to answer Ms. Owens's questions or be interviewed by Ms. Owens regarding them prior to publication—Ms. Owens could not have spoken with actual malice regarding the related allegations at issue. Accordingly, the subsidiary meaning doctrine precludes defamation liability under the circumstances of this action as well.

B. THE PLAINTIFF'S COMPLAINT SHOULD BE DISMISSED PURSUANT TO THE TENNESSEE PUBLIC PARTICIPATION ACT.

1. Applicability of the Tennessee Public Participation Act

The TPPA provides that "[i]f a legal action is filed in response to a party's exercise of the right of free speech, right to petition, or right of association, that party may petition the court to dismiss the legal action" subject to the TPPA's specialized provisions. Tenn. Code Ann. § 20-17-104(a).⁵⁶ Under Tennessee Code Annotated § 20-17-103(3), "[e]xercise of the right of free speech' means a communication made in connection with a matter of public concern or religious expression that falls within the protection of the United States Constitution or the Tennessee Constitution[.]" In turn, Tennessee Code

⁵⁵ Ex. 4 to Pl.'s Compl. 6:6–16.

⁵⁶ The petition "may be filed within sixty (60) calendar days from the date of service of the legal action or, in the court's discretion, at any later time that the court deems proper." Tenn. Code Ann. § 20-17-104(b). Here, the Parties and the Court have agreed, by order, that "[f]or good cause," Ms. Owens's response is timely if filed by January 3, 2022. *See* Agreed Order (Dec. 7, 2021) ("For good cause, the time within which the Defendant shall be required to answer, move, or otherwise respond to the Plaintiff's Complaint shall be extended until January 3, 2022."). Accordingly, Ms. Owens's Petition is timely filed. *See id.*

Annotated § 20-17-103(6) provides that:

“Matter of public concern” includes an issue related to:

(A) Health or safety;

(B) Environmental, economic, or community well-being;

(C) The government;

(D) A public official or public figure;

(E) A good, product, or service in the marketplace;

(F) A literary, musical, artistic, political, theatrical, or audiovisual work;
or

(G) Any other matter deemed by a court to involve a matter of public concern[.]

Id. (emphases added).

Additionally, pursuant to Tennessee Code Annotated § 20-17-103(4):

“Exercise of the right to petition” means a communication that falls within the protection of the United States Constitution or the Tennessee Constitution and:

(A) **Is intended to encourage consideration or review of an issue by a federal, state, or local legislative, executive, judicial, or other governmental body;** or

(B) Is intended to enlist public participation in an effort to effect consideration of an issue by a federal, state, or local legislative, executive, judicial, or other governmental body[.]

Id. (emphases added).

2. Grounds for Granting Ms. Owens’s TPPA Petition

“The petitioning party has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party’s exercise of the right to free speech, right to petition, or right of association.” Tenn. Code Ann. § 20-17-105(a). Here, even as the Plaintiff herself (inaccurately) presents Ms.

Owens's statements, the statements over which Ms. Owens has been sued involve a quintessential public figure. *See, e.g., Kauffman v. Forsythe*, No. E2019-02196-COA-R3-CV, 2021 WL 2102910, at *2 (Tenn. Ct. App. May 25, 2021) ("Candidates for elected public office are public figures.") (citations omitted), *no app. filed*; *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271 (1971) ("[P]ublications concerning candidates must be accorded at least as much protection under the First and Fourteenth Amendments as those concerning occupants of public office."). The statements were also intended to encourage consideration or review by a federal governmental body. *See* Ex. 1 to Pl.'s Compl. 40:15–16 ("At the very least it warrants an investigation."). Accordingly, this action qualifies as one filed in response to Ms. Owens's "exercise of the right of free speech" and her "exercise of the right to petition" under the TPPA in multiple respects. *See* Tenn. Code Ann. §§ 20-17-104(a); 20-17-103(3); 20-17-103(4)(A); 20-17-103(6)(D) & (G). *Cf. Gleason v. Smolinski*, 125 A.3d 920, 938 (Conn. 2015) ("Indeed, '[p]ublic allegations that someone is involved in crime generally are speech on a matter of public concern.'" (quoting *Obsidian Fin. Group, LLC v. Cox*, 740 F.3d 1284, 1292 (9th Cir. 2014))). Thus, Ms. Owens having met her initial burden of production under Tennessee Code Annotated § 20-17-105(a), this Court "shall dismiss the legal action unless the responding party establishes a prima facie case for each essential element of the claim in the legal action." *See* Tenn. Code Ann. § 20-17-105(b).

Separately, "[n]otwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action." Tenn. Code Ann. § 20-17-105(c). Accordingly, Ms. Owens incorporates into this Petition each defense set forth above in support of her Motion to Dismiss. Tenn. Code Ann. § 20-17-109 ("This chapter is intended to provide an additional substantive remedy to

protect the constitutional rights of parties and to supplement any remedies which are otherwise available to those parties under common law, statutory law, or constitutional law or under the Tennessee Rules of Civil Procedure.”). In support of her TPPA Petition, Ms. Owens raises the following additional defenses to liability as well:

a. The Plaintiff’s defamation claims fail for lack of actual malice.

The Plaintiff’s defamation claim fails for lack of actual malice—or anything even resembling it. Admissible evidence⁵⁷ that proves overwhelmingly that Ms. Owens’s statements were not made with actual malice is presented chronologically below.

i. Facts Precluding Actual Malice

In early 2021, Ms. Owens came across a photograph of what appeared to be the Plaintiff working as a stripper in a strip club.⁵⁸ The Plaintiff had long denied connections to the adult entertainment industry, though the Plaintiff had been denounced for them during her primary campaign. *See, e.g., Exhibit E* (“El American contacted Elizabeth Matory, a former GOP candidate who lost to Kimberly Klacik for the Congressional election nomination in Maryland’s 7th Congressional District. Matory, who at the time denounced Klacik’s ties to the adult entertainment industry in Maryland, told El American: “The issue was never that she was a stripper. The problem still is that they a), deny it; b), try to hide the business connections.””). Accordingly, Ms. Owens began investigating the photo’s authenticity.

Ms. Owens’s investigation led her to a source who confirmed that the photo was genuine and reported personal knowledge of the Plaintiff’s work in the adult

⁵⁷ *See Exhibit Q*, Aff. of Candace Owens.

⁵⁸ *See Exhibit I*.

entertainment industry.⁵⁹ Upon further investigation, Ms. Owens also discovered that the source's claims were corroborated by a vast number of similar, never-refuted allegations made about the Plaintiff by others both before and since.⁶⁰ Accordingly, Ms. Owens reasonably believed that her source's allegations were credible.

Following additional correspondence, Ms. Owens's source recounted that the Plaintiff had misused her campaign funds, including reporting that a portion of the Plaintiff's campaign funds "went up her nose."⁶¹ Ms. Owens was not able to confirm the veracity of that allegation herself, though, and she truthfully and repeatedly stated as much. *See* Ex. 1 to Pl.'s Compl. 14:5–7 (stating that a source of hers "**said it to me** in writing that they used campaign money to do cocaine in the strip club.") (emphasis added). *See also id.* at 14:3–5 (stating that: "I'm going to be very strong with that, there's no way that I can, as someone can confirm this."); *id.* at 14:12–13 ("I can't possibly verify that information. Like there's no way to verify that.")).

Before reporting anything, Ms. Owens also conducted her own independent investigation of the Plaintiff, including researching pre-campaign history and reviewing the Plaintiff's campaign finance reports. That investigation revealed multiple questionable expenditures and otherwise disturbing concerns about the Plaintiff's use of campaign funds that have since been confirmed independently by others. *See, e.g., Exhibit E* ("El American was able to corroborate that Kimberly Klacik's ex-husband manages a strip club; that the Republican candidate's campaign paid \$119 thousand dollars to Pearl Events, a then-inactive company; and that this company is operated by a lawyer whose license was revoked. In addition, it was also able to corroborate the

⁵⁹ **Exhibit J.**

⁶⁰ *See Collective Exhibits K & L.*

⁶¹ **Exhibit J.**

payments to Fox & Lion, that the CEO of the company is a Democrat; and that he helps Democratic candidates get into power.”). Ms. Owens also discovered that the Plaintiff had admitted that she was personally unaware of how millions of dollars had become obligated to her campaign’s vendors—some of which was not disclosed in the Plaintiff’s initial campaign filings. *See, e.g., Exhibit M* (“The company that produced the video, Arsenal Media Group, would take a cut. And a firm hired to promote the video, Olympic Media, would keep up to 70 percent of the money it generated, **some of which was not disclosed in Klacik’s initial campaign finance filings. Klacik . . . said she did not personally approve or know about the contract with Olympic Media until that conversation.**”) (emphasis added).

Ms. Owens’s investigation led her to reports of other financial improprieties and other information that reasonably caused her to doubt the Plaintiff’s credibility, too. For example, contrary to the Plaintiff’s public claims about the vast impact of her non-profit and the large payroll that the Plaintiff had managed, *see Exhibit N*, Ms. Owens learned that the Plaintiff’s non-profit had only filed a single tax return since 2013, that it reported raising less than \$7,000, and that it spent less than \$3,000 while providing clothing to just 10 people. *See id.* (“Chartered in 2013 from the Middle River home she shares with her accountant husband, Potential Me has filed only one tax return since its founding. It reportedly raised less than \$7,000 and spent less than \$3,000 on its good works, providing clothing to 10 people.”). Ms. Owens also discovered that the Plaintiff and her husband had declined to address a variety of troubling concerns when asked for comment regarding them. *See id.* (“Klacik’s campaign did not respond to a request for an interview; messages left in Potential Me’s voicemail box [were] unanswered; and no one picked up the business phone listed for her husband, Jeff.”). Ms. Owens additionally discovered

that the Plaintiff had a lengthy and troubling history of illegality, criminality, and dishonesty. *See id.* (“Klacik’s record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C.”).

Based on this information, Ms. Owens developed reasonable concerns about the Plaintiff’s integrity, credibility, and the authenticity of the Plaintiff’s public-facing image. Accordingly, Ms. Owens reached out to the Plaintiff and invited her to answer several questions about what she had come to learn about the Plaintiff through her investigation.⁶² In response, however, the Plaintiff repeatedly refused comment, opting to ignore Ms. Owens’s questions and deflect rather than answer them. Specifically, in response to Ms. Owens’s questioning and invitation to be interviewed, the Plaintiff provided the following responses, respectively:

- “I don’t care about you or your questions. You are trash person [sic]. Get lost”⁶³
- “You have a kid and husband yet have been googling me all weekend? Trouble at home?”⁶⁴
- “Sweetheart, you have people coming together at this moment to oust you about Blexit. You are worried about the wrong person”⁶⁵
- “You do all the work yourself. So when you say something as fact, that is false, I can take you and the Daily Wire to court. Good luck”⁶⁶

⁶² *See Exhibit B.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

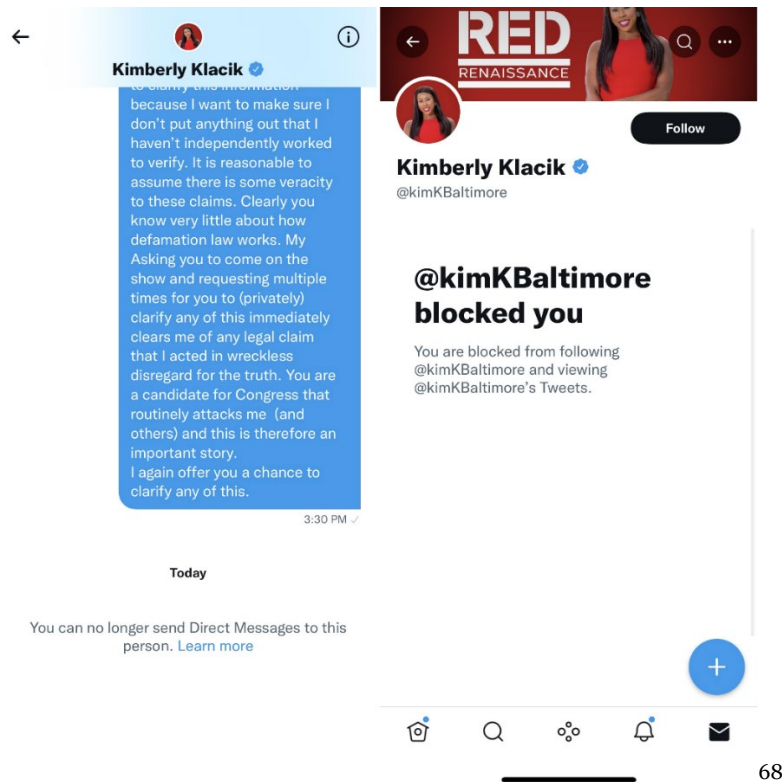
Before publishing, though, Ms. Owens conducted even further investigation and attempted to reach some of the Plaintiff's vendors directly. Ms. Owens was unable to do so, however, raising additional red flags about whether they were legitimate. Thus, having been unable to reach the Plaintiff's vendors herself, Ms. Owens contacted the Plaintiff with specific questions, and Ms. Owens again invited the Plaintiff to comment. Specifically, on June 22, 2021, Ms. Owens texted the Plaintiff:

Hi Kim—I've been trying to get in touch [with] Fox and Lion LLC which is the company you hired for canvassing. Bizarrely, none of the numbers on the website work. Andy Pierre, the former democrat candidate who owns the business is not reachable. And the business is not in good standing with the state, despite having only opened June of last year.

Also—your FEC filings indicate that you gave \$119,000 for a “meet and greet” to Pearl Events. Very odd. Because Pearl Events had its business license revoked years ago. And the man that owns it—lawyer Dusky Holman, had his law license suspended. Would you like to point me to your treasurer to answer these questions?⁶⁷

Once more, the Plaintiff did not respond to Ms. Owens's questions or provide comment. The Plaintiff has also blocked Ms. Owens from messaging her further on social media after Ms. Owens offered the Plaintiff “a chance to clarify any of this” and indicated to the Plaintiff that she did not want to report anything that was false:

⁶⁷ See **Exhibit C**.



The Plaintiff having refused comment, and having no reason to disbelieve her source, Ms. Owens then lawfully reported on the allegations at issue. In her report, Ms. Owens also disclosed repeatedly—and the Plaintiff admits that Ms. Owens disclosed—that she could not independently confirm several allegations over which she has now been sued. *See, e.g.*, Pl.’s Compl. ¶ 1 (pleading that “Defendant Candace Owens admits that . . . she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ information she presented”); *id.* at ¶ 28 (alleging that “Defendant also admitted that she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ the Criminal Allegations.”); Ex. 4 to Pl.’s Compl. 5:14–15 (admitting that Ms. Owens “said in this video that she could not verify any of this information.”). Instead, Ms. Owens’s report made clear that Ms. Owens had not been able to confirm several such allegations, and that they were allegations made by

⁶⁸ *See* Exhibit D.

others. *See, e.g.*, Ex. 1 to Pl.’s Compl. 14:5–7 (stating that a source of hers “said it to me in writing that they used campaign money to do cocaine in the strip club.”); *id.* at 14:3–5 (stating that: “I’m going to be very strong with that, there’s no way that I can, as someone can confirm this”); *id.* at 14:12–13 (“I can’t possibly verify that information. Like there’s no way to verify that.”); *id.* at 11:22–24 (“allegedly they met stripping and like, she was the person who helped bring a lot of strippers into this club”); *id.* at 13:21–14:3 (“the woman came back and she’s a very proud stripper and she still strips. **And she said**, they’re 100 percent not doctored. I know her very well. I partied with her in the strip club, like I - - I worked with her in the strip club. You know, her and her husband had been scamming people for millions”) (emphasis added).

Following Ms. Owens’s exposé, the Plaintiff admitted that it was, indeed, “true” that she had worked as a stripper, stating:

Ms. Klacik: Uh, that is true. And you know what, I feel bad for all those young women, uh, that are now out there that probably though, you know, why would she attack other women, uh, for doing what they can maybe to make ends meet? You know, who is she to tell anybody what job they could or could not do when it is legal?

Uh, and - - and, you know, it is legal to be a - - an exotic dancer. It’s not an illegal job, um, but I feel bad for all those women that currently have that occupation that probably feel attacked right now.⁶⁹

That admission powerfully confirmed the credibility of Ms. Owens’s source. As importantly, it also confirmed that the Plaintiff had refused to answer Ms. Owens’s questions or be interviewed by Ms. Owens regarding reputationally damaging allegations that were true.

Following Ms. Owens’s exposé, the Plaintiff also continued to make provably false

⁶⁹ Ex. 4 to Pl.’s Compl. 6:6–16 (emphasis added).

and evasive claims regarding the allegations that Ms. Owens had reported while generally denying them. For instance, when asked about allegations that concerned her husband, the Plaintiff responded that “obviously this is a private matter” because her husband was merely “a certified public accountant” who, as “a private citizen[,]” “does not like the spotlight whatsoever.”⁷⁰ As independent reporting by others confirmed thereafter, however, this claim was quite a bit less than the whole truth. *See, e.g., Exhibit E* (“El American was able to corroborate that Kimberly Klacik’s ex-husband manages a strip club”).

Given this context, it was apparent to Ms. Owens that the Plaintiff was engaged in ongoing efforts to mislead the public regarding matters of public concern—including regarding allegations that were plainly true. Accordingly, Ms. Owens had no reason to believe the Plaintiff’s denials or to question the confirmed veracity of her source. The Plaintiff’s efforts to “disprove” other allegations—like posting a current drug test⁷¹—also did not have any bearing on the truth of whether the Plaintiff had used cocaine in the past, which only further evidenced the Plaintiff’s intent to mislead. In light of the Plaintiff’s pre-publication refusal to answer any of Ms. Owens’s questions on the same matters, the Plaintiff’s post-publication denials also carried little weight regardless.

Nor did the demands or threats from the Plaintiff’s attorneys carry any special reliability, for several reasons. *First*, the Plaintiff’s counsel plainly did not have any personal knowledge of the allegations that they were insisting were untrue—one of many reasons why “statements of counsel . . . are not evidence.” *See In re Est. of Dunlap*, No. W2009-00794-COA-R3-CV, 2010 WL 681352, at *3 (Tenn. Ct. App. Feb. 26, 2010) (citing

⁷⁰ *See* Ex. 4 to Pl.’s Compl. 5:3–6.

⁷¹ *See Exhibit O.*

Oakes v. Oakes, 235 S.W.3d 152, 158 (Tenn. Ct. App. 2007) (holding that statements of counsel are not evidence); *Outpatient Diagnostic Center v. Christian*, No. 01A01-9510-CV-00467, 1997 WL 210842, at *2 (Tenn. Ct. App. Apr.30, 1997) (noting that factual assertions in unverified pleadings, briefs, and arguments of counsel are not evidence), *no app. filed*), *no app. filed*. Second, the Plaintiff's denials through counsel were unsworn, meaning a false denial carried no consequences. Third, the Plaintiff had similarly threatened Ms. Owens with legal consequences *before* Ms. Owens published her exposé, only to admit without qualification thereafter that the most damning allegation in it was "true."⁷² Fourth, given the Plaintiff's troubling history of illegality, criminality, and dishonesty regarding legal proceedings, *see, e.g.*, **Exhibit E** ("Klacik's record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C."), Ms. Owens had reason to doubt that whatever the Plaintiff had told her attorneys was accurate.

On or about July 7, 2021, the Plaintiff gave another interview about the allegations at issue.⁷³ During the interview, the Plaintiff emphasized repeatedly that any allegations about campaign finance impropriety were false because she was not under investigation by the Federal Election Commission, and she maintained that "the FEC would be contacting my accountant and my treasurer" if she were.⁷⁴ Indeed, the Plaintiff

⁷² Ex. 4 to Pl.'s Compl. 6:6–16.

⁷³ See **Exhibit P**.

⁷⁴ See *id.* at 8:9–19

represented that it was not even “possible” for her to be under investigation.⁷⁵

In truth, however, on July 6, 2021 (the day before the Plaintiff’s podcast interview aired), the Federal Election Commission determined that it had “reason to believe that Kim Klacik for Congress and Bradley T. Crate, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and [to] make a preliminary determination that a civil money penalty of \$12,081 be assessed.” See **Exhibit F**, Memo. from Chief Compliance Officer Patricia C. Orrock & Assistant Staff Dir. Debbie Chacona to Fed. Election Comm’n, at 2 (July 6, 2021), https://www.fec.gov/files/legal/admin_fines/4220/4220_02.pdf (footnote omitted). The FEC’s letter detailed dozens of campaign finance violations and multiple independent failures to comply with reporting requirements, resulting in \$111,750.00 in unreported contributions by the Plaintiff’s campaign. *Id.* at 1–5. Thereafter, the FEC determined that the Plaintiff’s campaign committee had, in fact, violated federal campaign finance law, and it assessed and upheld a \$12,081.00 civil penalty against the Plaintiff’s campaign committee.⁷⁶ On August 17, 2021, the Plaintiff’s campaign committee submitted to the fine and paid it in full.⁷⁷ The Plaintiff and her attorneys also concealed mention of the FEC’s determination of campaign finance misconduct and the breadth of the Plaintiff’s campaign finance misconduct both while threatening Ms. Owens for suggesting that the Plaintiff had committed campaign finance violations and through the filing of this lawsuit.

ii. Law Precluding Actual Malice

As the United States Supreme Court explained in *Harte-Hanks*,

[The First Amendment] must be protected with special

⁷⁵ *Id.* at 8:20–24.

⁷⁶ See **Exhibit G**.

⁷⁷ See **Exhibit H**.

vigilance. When a candidate enters the political arena, he or she “must expect that the debate will sometimes be rough and personal,” and cannot “cry Foul!” when an opponent or an industrious reporter attempts to demonstrate that he or she lacks the “sterling integrity” trumpeted in campaign literature and speeches[.] Vigorous reportage of political campaigns is necessary for the optimal functioning of democratic institutions and central to our history of individual liberty.

Elsten, 2019 WL 4899759, at *7 (citing *Harte-Hanks Commc’ns, Inc.*, 491 U.S. at 687) (cleaned up).

With these essential concerns in mind, “[w]hen applying the reckless disregard standard in the context of criticizing an elected official,” Tennessee’s appellate courts “have held that speakers ‘are not required to have documentary proof’ to support their statements.” *Moses*, 2021 WL 1140273, at *9 (quoting *Tomlinson*, 969 S.W.2d at 406). Nor do speakers have to consult primary sources or ask the targets of a publication for comment regarding them. *See, e.g., Elsten*, 2019 WL 4899759, at *7 (“Coker’s failure to consult the police report or to ask Elsten directly about the rumor does not suggest Coker purposefully avoided the truth.”). Instead, as long as a defendant does not subjectively entertain doubts about the truth of another’s allegation, a defendant’s mere “belie[f]” in the credibility of a statement conveyed by another—even if erroneous—precludes a finding of actual malice and prevents a claimed defamation from being actionable as a matter of law. *See, e.g., Finney*, 2020 WL 5666698, at *6 (“The statements by school staff members to the Jeffersons about Ms. Finney’s conduct are relevant even if they are not true. What matters for purposes of actual malice—a subjective standard that ‘focuses on the defendant’s state of mind’—is what the Jeffersons thought was true, even if it was not actually true.”) (citation omitted); *id.* (“Not only are those statements not hearsay, but they establish, as a matter of law, that the Jeffersons did not act with actual malice. The

Jeffersons stated in their affidavits that, based on their experience, they found the school staff members who told them about Ms. Finney's alleged conduct to be honest people. They had no reason to disbelieve them.”).

Here, the Plaintiff cannot hope to bear her “heavy burden of proof” regarding actual malice, for several reasons. *See Tomlinson*, 969 S.W.2d at 405. To begin, even though speakers are not required to have documentary proof to support statements about public figures, *see Moses*, 2021 WL 1140273, at *9, Ms. Owens *did* have documentary proof to support the statements she made.⁷⁸

Further, even though speakers are not required to consult primary sources to support statements about public figures, *see Elsten*, 2019 WL 4899759, at *7, Ms. Owens *did* consult primary sources before publishing.⁷⁹

Further still, even though speakers are not required to ask a public figure for comment regarding an allegation—even a “rumor”—before making it, *see id.*, Ms. Owens *did* invite the Plaintiff to comment and be interviewed regarding the allegations before publishing.⁸⁰ Indeed, Ms. Owens invited the Plaintiff to comment *repeatedly* before publishing.⁸¹ Rather than answer Ms. Owens’s questions or agree to be interviewed regarding the allegations, though, the Plaintiff responded that “I don’t care about you or your questions” and told Ms. Owens (among other things) to “[g]et lost”⁸² before blocking Ms. Owens from corresponding with her any further.⁸³

Notably, under similar circumstances, defamation plaintiffs generally complain

⁷⁸ *See, e.g.*, **Exhibit J**.

⁷⁹ *See, e.g.*, **Exhibit C**.

⁸⁰ *See Exhibits B & C*.

⁸¹ *Id.*

⁸² *See Exhibit B*.

⁸³ *See Exhibit D*.

that they were never given an opportunity to comment—even though providing a public figure an opportunity for comment is not required. *See, e.g., id.* (“Coker’s failure to consult the police report or to ask Elsten directly about the rumor does not suggest Coker purposefully avoided the truth.”); *Tennant v. Georgetown Cty.*, No. CIV.A. 2:04-CV-0093-, 2006 WL 895004, at *3 (D.S.C. Mar. 30, 2006) (“The plaintiffs merely assert that Southeastern Publishing, Inc. should have investigated more and given the plaintiff Tennant an opportunity to comment prior to publication.”); *Wanless v. Rothballer*, 503 N.E.2d 316, 321 (Ill. 1986) (“[T]he plaintiff was not informed of the allegations in advance of their publication and given an opportunity to comment.”). By contrast, in this case, the Plaintiff was *repeatedly* afforded an opportunity to comment, but the Plaintiff specifically declined it.⁸⁴

Despite all of the above, though, in her publication, Ms. Owens nonetheless expressly qualified several of the allegations at issue as unverified when she reported on them—critical context that the Plaintiff herself admits Ms. Owens provided. *See* Ex. 4 to Pl.’s Compl. 5:14–15 (admitting that Ms. Owens “said in this video that she could not verify any of this information”); *see also supra*, at 24–25. Thereafter, the credibility of Ms. Owens’s source was bolstered by the Plaintiff’s post-publication admission that it was “true” that she had worked as a stripper before running for Congress⁸⁵—an allegation about which the Plaintiff had previously refused to comment.

At the same time, Ms. Owens reasonably doubted the Plaintiff’s credibility after Ms. Owens discovered the Plaintiff’s troubling history of illegality, criminality, and dishonesty. *See Exhibit N* (“Klacic’s record before Potential Me is somewhat troubled,

⁸⁴ *See Exhibits B & C.*

⁸⁵ Ex. 4 to Pl.’s Compl. 6:6–16.

with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C.”). Ms. Owens also reasonably discounted the Plaintiff’s credibility even further when the Plaintiff belatedly admitted the truth of scandalous allegations about which the Plaintiff had previously refused comment and had even threatened to sue Ms. Owens. *See Exhibit B*, Direct Message Correspondence (“I don’t care about you or your questions. You are trash person [sic]. Get lost”); *id.* (“You do all the work yourself. So when you say something as fact, that is false, I can take you and the Daily Wire to court. Good luck”).

Accordingly, by this point in time, Ms. Owens had been presented with credible allegations regarding the Plaintiff, who was a quintessential public figure. Ms. Owens had confirmed several of those allegations independently, and she had no reason to disbelieve her source regarding other allegations that she could not confirm. Ms. Owens also *did* have reason to doubt the credibility of the Plaintiff, who had a lengthy history of impropriety and had also repeatedly refused to answer Ms. Owens’s questions after Ms. Owens invited her to do so.

In light of the foregoing evidence, Ms. Owens did not act and could not have acted with actual malice under the circumstances. Ms. Owens reasonably believed her source, whose credibility has only increased over time. Ms. Owens also gave the Plaintiff multiple opportunities for comment before publication, all of which the Plaintiff refused. *See, e.g., Exhibit B* (“I don’t care about you or your questions. You are trash person [sic]. Get lost”). Further, Ms. Owens disbelieved the Plaintiff’s denials, both because the Plaintiff

ultimately admitted that the most damning allegation regarding which the Plaintiff refused pre-publication comment was true and additionally because Ms. Owens had reasonably determined—based on the Plaintiff’s history before and after publication—that the Plaintiff is not a credible person. *See, e.g.*, **Exhibit E** (“Klacik’s record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C.”); **Exhibit N** (reporting, contrary to the Plaintiff’s public claims regarding her non-profit, that: “Chartered in 2013 from the Middle River home she shares with her accountant husband, Potential Me has filed only one tax return since its founding. It reportedly raised less than \$7,000 and spent less than \$3,000 on its good works, providing clothing to 10 people.”). *Also compare* Ex. 4 to Pl.’s Compl. 5:4–6 (representing that her husband was merely “a certified public accountant”) *with* **Exhibit E** (“El American was able to corroborate that Kimberly Klacik’s ex-husband manages a strip club”); *compare* **Exhibit P**, Tr. of *The Great Divide* (July 7, 2021) 8:9–24 (emphasizing, *inter alia*, that any allegations about campaign finance impropriety must be false because the Plaintiff was not under investigation by the Federal Election Commission, that “the FEC would be contacting my accountant and my treasurer” if she were, and that it was not “possible” for her to be under investigation) *with* **Exhibits F–G** (in which, during the same time period, the FEC determined, as a result of an investigation, that the Plaintiff had violated campaign finance law regarding dozens of contributions totaling over one hundred thousand dollars and assessed a civil fine that

the Plaintiff's campaign paid shortly before the Plaintiff filed this lawsuit).

Under these circumstances, admissible evidence demonstrates overwhelmingly that Ms. Owens did not have a high degree of awareness of probable falsity regarding the publications over which she has been sued, and that she did not purposefully avoid the truth regarding them. *Elsten*, 2019 WL 4899759, at *3 (“Reckless disregard to the truth means the defendant had a “high degree of awareness of ... probable falsity.” *Harte-Hanks Commc’ns, Inc.* 491 U.S. at 688 (quoting *Garrison*, 379 U.S. at 74). In other words, reckless disregard is “the purposeful avoidance of the truth.” *Id.* at 692.). *See also Kauffman*, 2021 WL 2102910, at *3 (“Actual malice is a term of art. . . . In other words, the defendant must have acted with purposeful avoidance of the truth.”) (cleaned up). To the contrary, rather than purposefully avoiding the truth, Ms. Owens actively sought to determine the truth from the Plaintiff, who uniformly refused to comment and kept the (alleged) truth from Ms. Owens when asked, *see Exhibits B, C, & D*, and who has misrepresented the truth repeatedly ever since.

Contrary to the Plaintiff's theory that Ms. Owens “made-up” the fact that a source had recounted the allegations over which she has been sued, admissible evidence also confirms that Ms. Owens did *not* make up either her source or her source's allegations.⁸⁶ Further, where appropriate, Ms. Owens truthfully indicated that she was unable to confirm her source's allegations independently. *See, e.g.*, Ex. 1 to Pl.'s Compl. 14:3–5 (“I'm going to be very strong with that, there's no way that I can, as someone can confirm this”); *id.* at 14:12–13 (“I can't possibly verify that information. Like there's no way to verify that.”). The Plaintiff has also admitted that Ms. Owens did qualify her statements

⁸⁶ *See Exhibit J.*

in this manner. *See, e.g.*, Pl.’s Compl. ¶ 1 (pleading that “Defendant Candace Owens admits that . . . she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ information she presented”); *id.* at ¶ 28 (alleging that “Defendant also admitted that she ‘had no proof,’ ‘cannot possibly verify’ and ‘could not confirm’ the Criminal Allegations.”); Ex. 4 to Pl.’s Compl. 5:14–15 (admitting that Ms. Owens “said in this video that she could not verify any of this information.”). Neither did Ms. Owens make up allegations regarding the Plaintiff recruiting women to get involved in the sex industry—an allegation that one of the Plaintiff’s own primary opponents has made repeatedly. *See, e.g.*, **Exhibit E** (“El American contacted Elizabeth Matory, a former GOP candidate who lost to Kimberly Klacik for the Congressional election nomination in Maryland’s 7th Congressional District. Matory, who at the time denounced Klacik’s ties to the adult entertainment industry in Maryland, told El American: ‘The issue was never that she was a stripper. The problem still is that they a), deny it; b), try to hide the business connections.’ **Matory also has heavy accusations against Klacik. She told El American: ‘The sex industry is huge in Baltimore, as well as human trafficking. Kim would ‘lure’ young women through her social media (especially Instagram) to get involved in this life.’**”) (emphasis added).

Thus, taken together, the Plaintiff’s defamation claim fails for want of actual malice. Further, *this lawsuit itself* only serves to bolster Ms. Owens’s reasonable and FEC-validated concerns about the Plaintiff’s financial improprieties. For instance, in her Complaint, the Plaintiff alleges that Ms. Owens’s statements “have caused Ms. Klacik and the organization for which she serves as President, Red Renaissance, Inc., to sustain

damages of hundreds of thousands of dollars.”⁸⁷ But Red Renaissance is not a party to this action. And according to the Plaintiff, Red Renaissance is “a PAC.”⁸⁸ Thus, even if the Plaintiff’s (fanciful) allegations of harm to Red Renaissance were believable, there is no world in which *the Plaintiff* would be entitled to receive compensation *due to Red Renaissance* or would be permitted to convert such compensation for her own use.

Even so, the Plaintiff is illicitly seeking an order that such compensation be awarded to her directly. Further, in its entire history, Red Renaissance has raised substantially less than what the Plaintiff has represented are her damages.⁸⁹ Accordingly, rather than doing anything to diminish Ms. Owens’s concerns, this lawsuit—and the Plaintiff’s statements and claims in it—only confirm Ms. Owens’s reasonably reported concerns about the Plaintiff’s dishonest use of campaign funds.

For all of these reasons, admissible evidence proves that Ms. Owens did not act with actual malice regarding the statements over which she has been sued. The Plaintiff’s Complaint must be dismissed with prejudice as a result.

b. The Plaintiff’s defamation claims are not cognizable because the Plaintiff is libel-proof and she was not damaged.

Tennessee recognizes the libel-proof plaintiff doctrine, which provides that a plaintiff with a severely tarnished reputation may not maintain a defamation action. *See Rogers v. Jackson Sun Newspaper*, No. CIV. A. C-94-301, 1995 WL 383000, at *1 (Tenn. Cir. Ct. Jan. 30, 1995) (“This Court finds and holds, as a matter of law, Plaintiff’s reputation in the community at the time of the article’s publication was so severely

⁸⁷ See Pl.’s Compl. ¶ 47.

⁸⁸ Kim Klacik, *Let Me Tell You More About Red Renaissance*, at 0:24–26 (Apr. 24, 2021), <https://www.facebook.com/watch/?v=218736586716393> (“basically, it’s a PAC”).

⁸⁹ PAC Profile: Red Renaissance PAC, OPENSECRETS, <https://www.opensecrets.org/political-action-committees-pacs/red-renaissance-pac/CO0763797/summary/2022> (last visited Dec. 30, 2021).

tarnished, he is ‘libel-proof’ and may not maintain this defamation action for an allegedly erroneous report of his criminal record.”), *no app. filed*. The doctrine “essentially holds that ‘a notorious person is without a “good name” and therefore may not recover for injury to it.’” *Davis*, 83 S.W.3d at 128 (quoting ROBERT D. SACK, SACK ON DEFAMATION: LIBEL, SLANDER AND RELATED PROBLEMS 35 (Cum. Supp. 1998)). The libel-proof plaintiff doctrine is premised upon the notion that “[t]o suffer injury to one’s standing in the community, or damage to one’s public reputation, one must possess good standing and reputation for good character to begin with.” *Id.* at 130. A plaintiff is also “required to prove actual damages in all defamation cases.” *Hibdon*, 195 S.W.3d at 68 (citing *Handley*, 588 S.W.2d at 776).

Here, the Plaintiff is libel-proof, and in any event, she has not suffered actual damages. As a threshold matter, the Plaintiff’s contention that her reputation as a politician has been tarnished—despite the fact that her own community voted overwhelmingly to keep her out of office—is especially far-fetched. Beyond her political aspirations, though, abundant evidence demonstrates that the Plaintiff lacked a good reputation in the first place. *See, e.g.*, **Exhibit E** (“Matory also has heavy accusations against Klacik. She told El American: ‘The sex industry is huge in Baltimore, as well as human trafficking. Kim would ‘lure’ young women through her social media (especially Instagram) to get involved in this life.’”); **Exhibit N** (“Klacik’s record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited. In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the Lexus Gold Club, an adult entertainment venue in Washington, D.C.”);

id. (“Chartered in 2013 from the Middle River home she shares with her accountant husband, Potential Me has filed only one tax return since its founding. It reportedly raised less than \$7,000 and spent less than \$3,000 on its good works, providing clothing to 10 people.”); **Collective Exhibits K & L.**

For her part, the Plaintiff knows full well that she cannot prove that her reputation has been damaged. Instead, despite seeking an outrageous \$20 million in compensatory damages, the Plaintiff can only “guess” about whether her reputation was harmed. *See Exhibit P 6:1* (“you know, I *guess* it damaged my reputation”) (emphasis added). The Plaintiff has also admitted that “I understand that a lot of [the allegations] were framed as questions,” *id.* at 4:3–4, which differs markedly from the allegations she has made in her Complaint. The Plaintiff has further asserted that it is not her obligation to “prove [her] innocence” and that it is *others’* burden “to prove [her] guilt[,]” though this does not even resemble how defamation actions by public figures function. *See id.* at 9:1–4. Further still, despite claiming that Ms. Owens is responsible for assertedly dwindling donations to her fledgling PAC for which the Plaintiff insists she should be compensated, the Plaintiff has neglected to disclose the fact that *she herself has asked* “for people to just donate directly to the candidates” instead, *id.* at 15:1–2—rendering such claims of damages not only farcical, but dishonest. The Plaintiff also maintains her public platform and remains free to undertake the appropriate response to allegations with which she takes issue—counter-speech—a remedy that Ms. Owens herself repeatedly invited the Plaintiff to exercise in the first place.

For all of these reasons, and because the Plaintiff lacked any good reputation to begin with, the Plaintiff could not have been damaged, and in any event, she was not damaged by Ms. Owens’s actual statements. The Plaintiff’s defamation claim against Ms.

Owens should be dismissed accordingly.

c. Ms. Owens's statements were true or substantially true.

“Truth is an absolute defense to a claim for defamation when the otherwise defamatory meaning of the words used turns out to be true.” *Sullivan v. Wilson Cty.*, No. M2011-00217-COA-R3CV, 2012 WL 1868292, at *12 (Tenn. Ct. App. May 22, 2012), *perm. to app. denied* (Tenn. Sept. 18, 2012) (citing *Memphis Pub. Co.*, 569 S.W.2d at 420). Tennessee also recognizes “the substantial truth doctrine” in defamation cases. *See Isbell*, 2000 WL 1817252, at *5. As such, defamation claims that are premised upon inaccurate but insignificant distinctions are categorically inactionable, *see id.*; *see also Spicer v. Thompson*, No. M2002-03110-COA-R3-CV, 2004 WL 1531431, at *7 (July 7, 2004), *perm. to app. denied* (Tenn. Dec. 20, 2004)—a result that the United States Supreme Court has compelled as a matter of constitutional law.

Specifically, in *Masson v. New Yorker Magazine*, the U.S. Supreme Court noted that “[t]he common law of libel takes but one approach to the question of falsity, regardless of the form of the communication.” *Masson v. New Yorker Magazine*, 501 U.S. 501 U.S. 496, 516 (1991) (citing Restatement (Second) of Torts § 563 cmt. c (1977); WILLIAM LLOYD PROSSER ET AL., PROSSER & KEETON ON LAW OF TORTS 776 (5th ed. 1984)). **“It overlooks minor inaccuracies and concentrates upon substantial truth.”** *Id.* (emphasis added). As a result, the *Masson* Court held that a statement “is not considered false unless it ‘would have a different effect on the mind of the reader from that which the pleaded truth would have produced.’” *Id.* at 517 (quoting ROBERT D. SACK, LIBEL, SLANDER, AND RELATED PROBLEMS 138 (1980)). Further, the *Masson* Court explained, “[o]ur definition of actual malice relies upon this historical understanding.” *Id.*

Here, the substantial truth doctrine precludes the Plaintiff's defamation claim. The Plaintiff has unqualifiedly admitted that the most damaging allegation made by Ms. Owens—that she worked as a stripper before running for Congress—is “true.”⁹⁰ As for the Plaintiff's campaign finance improprieties, the Federal Election Commission has made a final determination that it is true that the Plaintiff's congressional campaign committed extensive violations of federal campaign law, **Exhibits F–G**, each of which could be referred for criminal prosecution and prosecuted as criminal offenses. *See* 52 U.S.C.A. § 30109(a)(1)(B); 18 U.S.C.A. § 1001(a). Accordingly, as both a personal and professional matter, the two most reputationally damaging allegations that Ms. Owens made have been proven true or substantially true. The Plaintiff's defamation claim must additionally be dismissed based on the substantial truth doctrine as a result. *See Isbell*, 2000 WL 1817252, at *5.

V. COSTS, ATTORNEY'S FEES, & SANCTIONS

Under Tennessee Code Annotated § 20-17-107(a):

If the court dismisses a legal action pursuant to a petition filed under this chapter, the court shall award to the petitioning party:

- (1) Court costs, reasonable attorney's fees, discretionary costs, and other expenses incurred in filing and prevailing upon the petition; and
- (2) Any additional relief, including sanctions, that the court determines necessary to deter repetition of the conduct by the party who brought the legal action or by others similarly situated.

The Plaintiff's prosecution of this knowingly baseless SLAPP-suit merits costs, attorney's fees, and severe sanctions. The transparent purpose of this lawsuit was to silence, censor, intimidate, and retaliate against Ms. Owens because she had the temerity

⁹⁰ Ex. 4 to Pl.'s Compl. 6:6–16.

to raise legitimate concerns regarding the Plaintiff—a *public figure and candidate for U.S. Congress*—that the Plaintiff declined multiple invitations to address before Ms. Owens published them, several of which have proven to be true. Under these circumstances—where the Plaintiff was extended multiple opportunities to comment before publication, all of which she declined—no litigant acting in good faith could reasonably believe that the Plaintiff’s claims had merit. Tellingly, the Plaintiff has also stated that a purpose of this action is to harass Ms. Owens with legally irrelevant⁹¹ discovery in order to determine Ms. Owens’s subjective motivations for exercising her constitutional right to criticize a candidate for U.S. Congress, stating:



⁹¹ Express malice has no bearing on defamation liability. “In *Garrison v. State of Louisiana*, 379 U.S. 64, 73, 85 S.Ct. 209, 13 L.Ed.2d 125 (1964), the United States Supreme Court explained why it chose to condition defamation liability on a showing of actual malice rather than express malice[.]” *Funk v. Scripps Media, Inc.*, 570 S.W.3d 205, 213 (Tenn. 2019).

⁹² See **Exhibit R**, Kimberly Klacik (@kimKBaltimore), TWITTER (Nov. 16, 2021 8:11 a.m.), <https://twitter.com/kimKBaltimore/status/1460611459789082628> (tweet regarding discovery).

Under these circumstances, this Court should award Ms. Owens mandatory costs and attorney's fees and assess severe discretionary sanctions in an amount sufficient to deter further misconduct by the Plaintiff and others similarly situated. Specifically, Ms. Owens should be awarded her attorney's fees, costs, and expenses incurred through the ultimate conclusion of this litigation, and the Plaintiff should be sanctioned not less than \$600,000.00—equivalent to a mere 3% of the minimum amount that the Plaintiff has placed in controversy—"to deter repetition of the conduct by the party who brought the legal action or by others similarly situated." *See* Tenn. Code Ann. § 20-17-107(a)(2). *Cf. Adamson v. Grove*, No. M2020-01651-COA-R3-CV, 2021 WL 5919118, at *5 (Tenn. Ct. App. Dec. 15, 2021) (affirming sanctions award amounting to 3% of the amount placed in controversy against congressional candidate who filed a baseless SLAPP-suit against members of the public who had criticized him), *no app. filed*.

VI. CONCLUSION

For the foregoing reasons, the Defendant's Motion to Dismiss and Tennessee Code Annotated § 20-17-104(a) Petition to Dismiss the Plaintiff's Complaint should be **GRANTED**, and the claims set forth in the Plaintiff's Complaint should be **DISMISSED WITH PREJUDICE** pursuant to Tennessee Rule of Civil Procedure 12.02(6) and Tennessee Code Annotated §§ 20-17-105(b) and (c). An order dismissing the Plaintiff's Complaint should issue as a result; the Defendant should be awarded her reasonable costs and attorney's fees associated with defending this action pursuant to § 20-12-119(c); the Plaintiff should be ordered to pay the Defendant's court costs, reasonable attorney's fees, and discretionary costs pursuant to § 20-17-107(a)(1); and this Court should assess severe discretionary sanctions against the Plaintiff as necessary to deter repetition of her conduct pursuant to § 20-17-107(a)(2).

Respectfully submitted,

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CERTIFICATE OF SERVICE

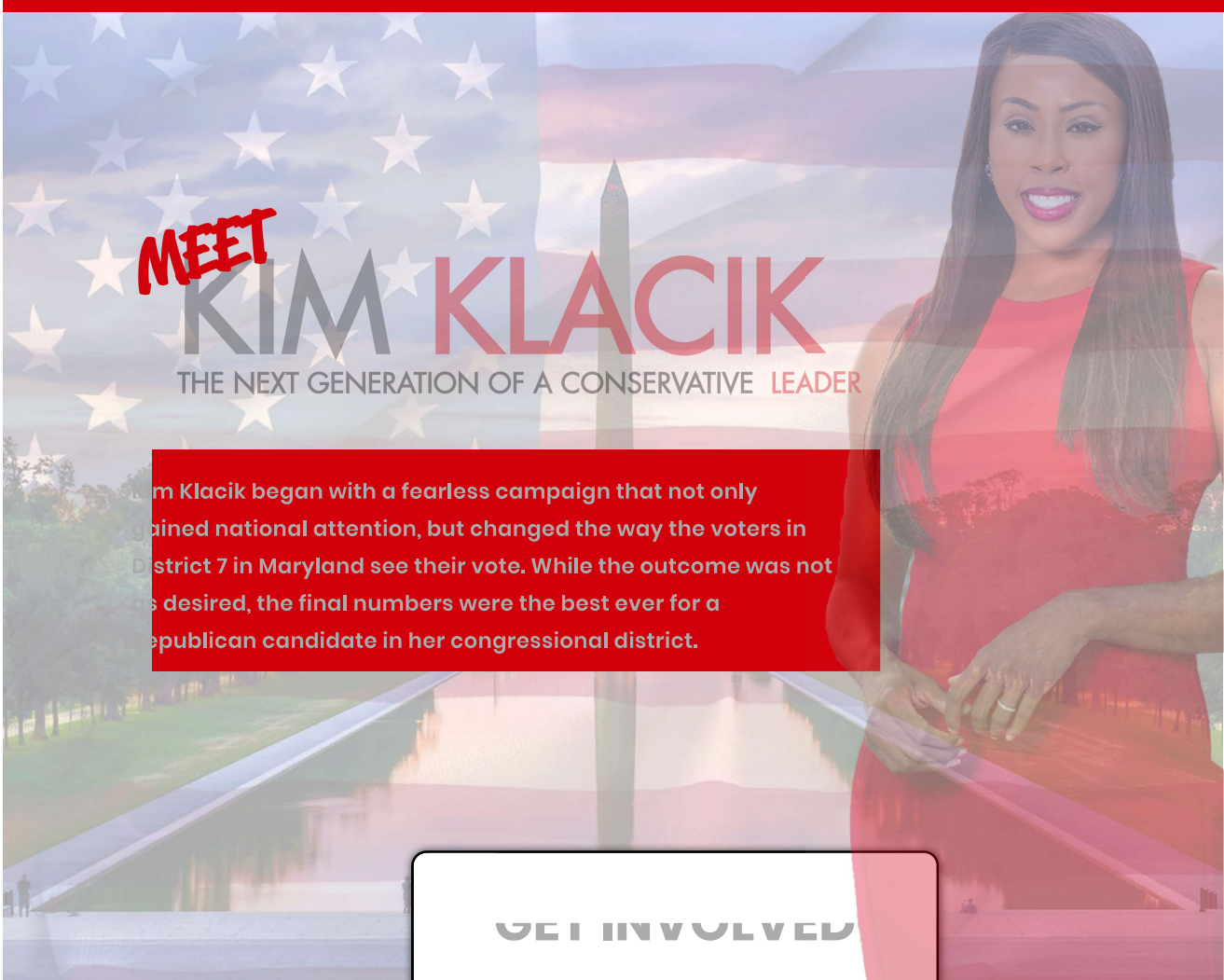
I hereby certify that on this 3rd day of January, 2022, a copy of the foregoing was served via the Court's e-filing system upon:

Daniel D. Choe
424 Church St., Suite 800
Nashville, TN 37219
dchoe@dicksonsonwright.com

Attorney for Plaintiff

By: /s/ Daniel A. Horwitz
Daniel A. Horwitz, Esq.

Exhibit A



MEET

KIM KLACIK

THE NEXT GENERATION OF A CONSERVATIVE LEADER

Kim Klacik began with a fearless campaign that not only gained national attention, but changed the way the voters in District 7 in Maryland see their vote. While the outcome was not as desired, the final numbers were the best ever for a republican candidate in her congressional district.



Follow @kimKBaltimore 438K followers

545k
INSTAGRAM

444.7K
TWITTER



Hey There

Have You ever wondered what goes

the Republican National Convention | 2020 RNC Night 1



behind the scenes? Not everything that is important happens in front of the camera. Kim has dedicated her self on and of the the stage making sure every voice is heard.



... THE SCENES...



We took a different approach that showed the true reality of what was going on in Maryland's District 7, it opened the door to a conversation of turning things around and returning in the right direction and it ultimately gave birth to the idea we present today, Red Renaissance.

It is past time for this important movement which will educate young conservative leaders in metropolitan areas and help implement conservative solutions to the problems we face. It is time for the Democrat Machine's power to be challenged across our nation's cities and states, and even at the national level.

Solid moral culture is the fight of our lifetime. With the lack of parenting at home the culture is raising children and determining values, the culture is not on our side. We are fighting for the issues that we see changing every day from Freedom of Speech, Economic Empowerment & Funding Our Police. These are just a few of the topics we are advocating for.

The institutions in Hollywood and the music industry align have aligned themselves with the democratic party to coordinate their megaphone to drown out our message.

With a little support these topics will stand out and the American people will be cultivated and developed to change from Blue to Purple and Purple to Red. How will we do this? **Integrity, innovation, community,** and hard work drive everything we do! Red Renaissance and Kim Klacik are looking for those willing to walk through the fire in order to preserve and promote the conservative values that will save our country.

Will you walk through that fire with us?

FILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

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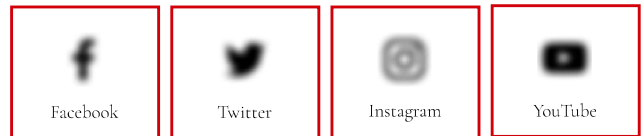
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Exhibit B



Good luck on your computer show. I hope it's a success. I've got bigger things to concern myself with.

Jun 20, 2021, 1:28 PM

As I said...I did not discuss your FEC report.

Also really brilliant idea to insult the Dailywire. LOL. We are not a "computer show".

Jun 20, 2021, 1:33 PM ✓

Ben Shapiro, Michael Knowles, Matt Walsh, and I produce digital podcasts and shows. If you are denigrating all podcasters and youtubers, then you must not understand the reach digital platforms have.

...

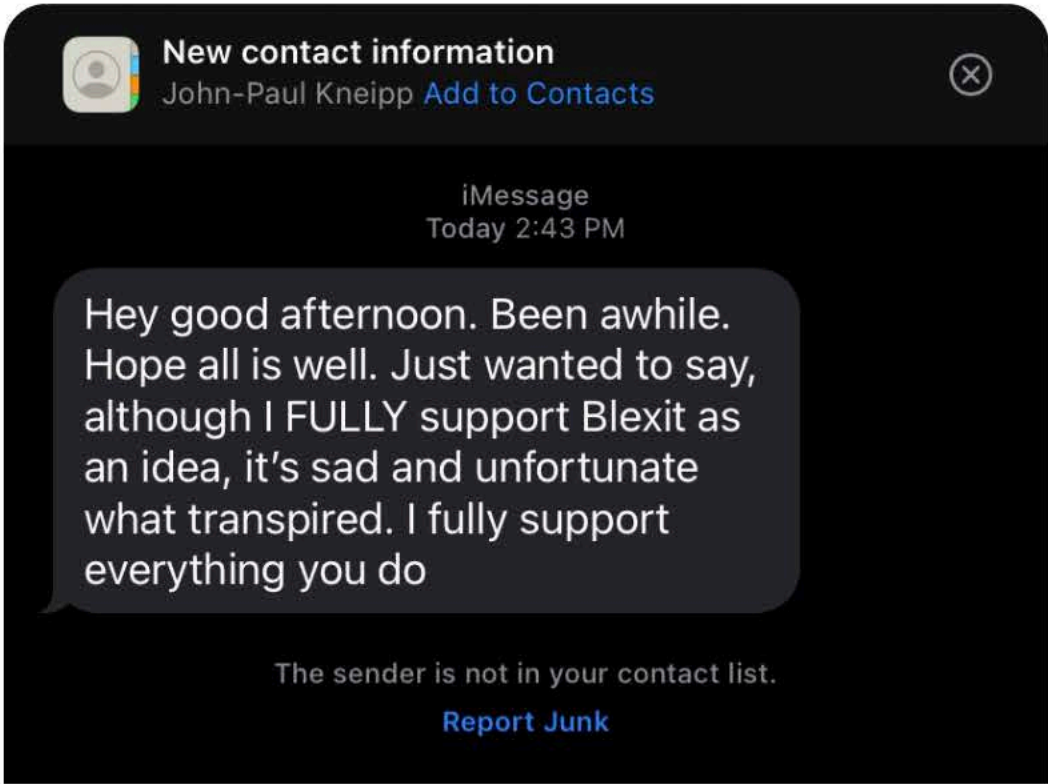
Jun 20, 2021, 1:35 PM ✓

Insult?? You said it's on the computer? How the fuck is that an insult?

Go take care of your baby, Candace. You have lost your mind at this point.



Jun 20, 2021, 1:37 PM



Also you might want to check on your Blexit chapters. There are a lot of unhappy people, but unlike you, I don't feel the need to put your business out there like that.



Jun 20, 2021, 1:45 PM

You are playing dumb and making a lot of enemies. Your intention was to denigrate the Daily wire and they are not stupid. Just so you know, their "computer shows" have more reach than the cable shows you (and me) are on. Everyone saw what you did yesterday so you playing victim right now isn't flying. Regardless, I have a lot of questions about your past, your husbands arrest record, and the rumors about his past management of a strip club and why Sunny Hostin of the View made an obvious claim against you.

When you discussed a years long legal battle, was she included in it for calling you September?

Jun 20, 2021, 1:46 PM ✓



I don't care about you or your questions. You are trash person. Get lost

Jun 20, 2021, 1:46 PM

How does a charity that reports 6,000\$ in earnings place 200 women into jobs even though the charity's IRS mission doesn't state that that is what the charity even does?

Jun 20, 2021, 1:47 PM ✓



You have a kid and husband yet have been googling me all weekend? Trouble at home?

Jun 20, 2021, 1:48 PM

You seem upset. But I want you to consider responding to the questions. I actually run a charity that raises money for black businesses and if asked, I would gladly supply the name of those businesses to any journalist. They can actually go to the website and reach out to our inner city chapters. You claim this can't be done to "protect" the vulnerable people you help but your IRS filing says half the money went to helping girls get their make up done for prom

Jun 20, 2021, 1:49 PM ✓

Can you supply us with some of the corporations that you have placed the women at? We don't need the women's names. We would just like to speak with some of the 200 companies about their partnership and relationship with Potential-Me.

Jun 20, 2021, 1:50 PM



Sweetheart, you have people coming together at this moment to oust you about Blexit. You are worried about the wrong person 🤔

Jun 20, 2021, 1:50 PM

BLEXIT is 1000% legit so I'm not worried, at all. I would instead like you stop messing around and to answer the questions asked of you.

FILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

BLEXIT is 1000% legit so I'm not worried, at all. I would instead like you stop messing around and to answer the questions asked of you.

If anyone has any questions about BLEXIT they are free to contact me. Our organization is in order and has plenty of filings that can researched and employees that are happy to respond.

This is about potential-me

A black owned charity which is something that you think my "computer show" needs to do a better job of covering.

Jun 20, 2021, 1:53 PM ✓

You do all the work yourself. So when you say something as fact, that is false, I can take you & the Daily Wire to court. Good luck 😊

Jun 20, 2021, 2:18 PM

... I am giving you a chance to clarify. Why make a legal threat as opposed to just clarifying what's real and what's not?

Seems weird.

There is a photo of you both at a gentleman's club on Pulaski highway. And a woman who claims to have stripped with you. I'm simply asking you to clarify whether that is true or false. Seems weird to prefer a legal battle

Jun 20, 2021, 2:33 PM ✓

I obviously don't want to say anything that isn't true which is why I'm asking you directly. Wouldn't it be better to clarify ?

Jun 20, 2021, 2:34 PM ✓

Just like you weren't playing with Cardi B's lie about you, I won't play with lies about me or my family either. I will literally put you and Daily Wire out of business.

Jun 20, 2021, 3:05 PM

We will run that as a statement from you since you are refusing to simply answer the questions when we are giving you every opportunity to clarify any of these rumors. You have neither confirmed or denied.

Jun 20, 2021, 3:23 PM ✓

We will run that as a statement from you since you are refusing to simply answer the questions when we are giving you every opportunity to clarify any of these rumors. You have neither confirmed or denied.

Jun 20, 2021, 3:23 PM ✓

I have multiple pictures of you in the club as well as an online phone listing of your husband listed as the general manager of that strip club. I have not yet aired any of this and am, once again, giving you an opportunity to clarify this information because I want to make sure I don't put anything out that I haven't independently worked to verify. It is reasonable to assume there is some veracity to these claims. Clearly you know very little about how defamation law works. My Asking you to come on the show and requesting multiple times for you to (privately) clarify any of this immediately clears me of any legal claim that I acted in reckless disregard for the truth. You are a candidate for Congress that routinely attacks me (and others) and this is therefore an important story.

I again offer you a chance to clarify any of this.

Jun 20, 2021, 3:30 PM ✓

FILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

Exhibit C

8:06



Phone

199



Potential me >

iMessage

Tue, Jun 22, 10:55 AM

Hi Kim— I've been trying to get in touch Fox and Lion LLC which is the company you hired for canvassing. Bizarrely, none of the numbers on the website work. Andy Pierre, the former democrat candidate who owns the business is not reachable. And the business is not in good standing with the state, despite having only opened June of last year.

Also— your FEC filings indicate that you gave \$119,000 for a "meet and greet" to Pearl Events. Very odd. Because Pearl Events had its business license revoked years ago. And the man that owns it— lawyer Dusky Holman, had his law license suspended. Would you like to point me to your treasurer to answer these questions?



iMessage



Exhibit D



Kimberly Klacik

to clarify this information because I want to make sure I don't put anything out that I haven't independently worked to verify. It is reasonable to assume there is some veracity to these claims. Clearly you know very little about how defamation law works. My Asking you to come on the show and requesting multiple times for you to (privately) clarify any of this immediately clears me of any legal claim that I acted in reckless disregard for the truth. You are a candidate for Congress that routinely attacks me (and others) and this is therefore an important story. I again offer you a chance to clarify any of this.

3:30 PM ✓

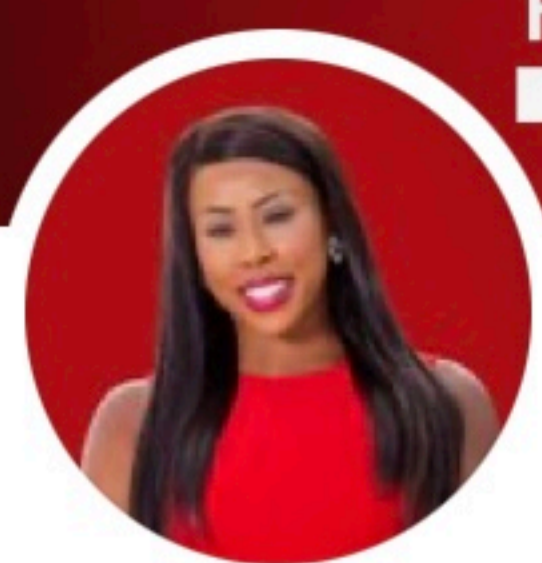
Today

You can no longer send Direct Messages to this person. [Learn more](#)



RED

RENAISSANCE



Follow

Kimberly Klacik

@kimKBaltimore

@kimKBaltimore blocked you

You are blocked from following @kimKBaltimore and viewing @kimKBaltimore's Tweets.



Exhibit E



Fraud, Money Laundering and Exotic Dancing: Are the Claims Against Kimberly Klacik True?

El American could corroborate that Klacik's ex-husband manages a strip club and that her campaign paid thousands to a then-inactive company operated by a lawyer whose license was revoked. It also found evidence that her campaign paid to a firm whose CEO has supported Democratic Party candidates

ORLANDO AVENDANO · 06.29.21 · 9 MINUTE READ

Anthony Cabassa contributed to this story

A small Twitter feud turned into multiple, heavy accusations. Former Republican Party candidate for Congress for Maryland's 7th Congressional District, Kimberly Klacik, is facing strong accusations

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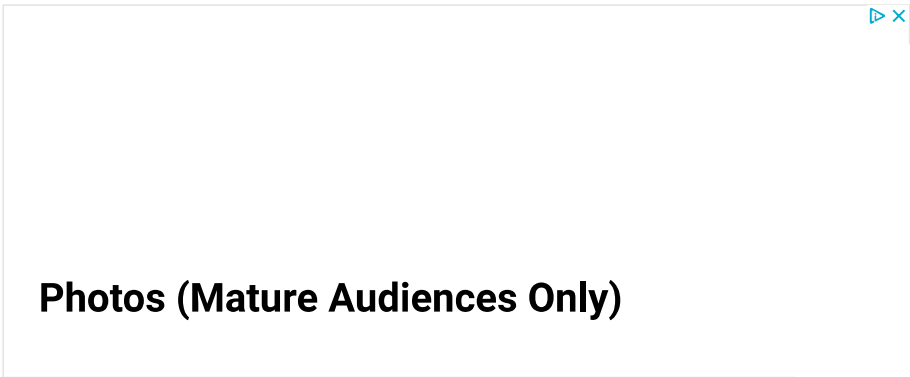
FILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

being leveled by none other than influential conservative personality and Daily Wire’s host, Candace Owens.

The struggle over the representativeness of black community support generated tensions between conservative commentator Candace Owens and Kimberly Klacik, who consolidated herself as a conservative influencer in social media despite her unsuccessful congressional bid. Finally, the tension manifested itself in a disagreement over President Biden’s recognition of Juneteenth as a national holiday.

Because of the disagreement, which escalated, Candace Owens claimed she had found out “incredible” information about Kimberly Klacik and would soon reveal it. This Tuesday, June 22, Candace Owens took the plunge: she revealed, after investigating, that Klacik allegedly has a foundation that functions as a front, was a stripper, used campaign money for personal expenses, and committed donation fraud.

Klacik, meanwhile, denied Owens’ allegations. Her lawyers, she explained, will act against Owens and The Daily Wire. The former candidate blocked Owens from her social media. She also disabled comments on her Instagram and Twitter posts.



The Gentlemen’s Gold Club and cocaine

Owens said that publicly available information about Klacik’s pro-women foundation Potential Me is inconsistent. On some websites, the foundation states that its purpose is to support women in their professional

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foundation does not have a strong social media presence, nor does it have a website. There is also no information about the foundation’s staff and it did not file taxes when it should have. There is also not much information on Guidestar, one of the first central sources of information on U.S. nonprofits.

While researching Potential Me, Candace discovers that Kimberly Klacik allegedly worked as a stripper at a nightclub in Baltimore, Maryland; that her nickname was “September”; and that her ex-husband (they separated in October of last year) “was the manager of the strip club.” Upon digging, El American found that Klacik’s ex-husband, Jeff Klacik, is the manager of The Gentlemen’s Gold Club, an adult bar located on Pulaski Highway, 13 minutes from downtown Baltimore. In the online business directory of the Chamber of Commerce, Mr. Klacik is listed as the company’s contact person. Same on Finduslocal.com, where “Jeffrey” Klacik is listed as the owner.

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On Twitter, an exchange between an anonymous user and the official account of The Gentlemen’s Gold Club draws attention. On May 29, 2020, the user [@TruthBTold911](#) accuses the then-candidate’s husband of owning the club. From the bar’s official account, they respond, “Hi, this is not true. You’re welcome.” The anonymous account insists and the bar responds: “If we see false information we will try to correct it. We are not affiliated with any political party and would appreciate you keeping us out of false rumors. We have never met the person you reference.” At that, the anonymous account responds with a screenshot of the Chamber of Commerce page profiling Jeff

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the heads up. Looks like it was last updated almost ten years ago.” Even today the Chamber of Commerce page lists Mr. Klacik as the man in charge of the club.

In checking Kimberly Klacik’s personal Facebook account, one photograph stands out. In the image, posted on October 11, 2019, Mrs. Klacik is seen with her husband. The caption reads, “We’ve been together so long, neither of us knows how old we are.” In the background of both, some neon lights, a screen and a disco ball. It is, precisely, The Gentlemen’s Gold Club.

A quick internet search reveals other images of the couple at what is evidently the club managed by Jeff Klacik.

Klacik's Facebook Photo.

The Gentlemen's Gold Club

El American contacted the club but, upon inquiring about Kimberly and Jeff

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Kimberly Klacik had worked at the location. “She told me in writing that she knew her, that she had partied with her, that she had worked as a stripper with her.”

“Supposedly Kimberly and her husband met at the strip club and then got married,” Owens said. “The stripper assured me that they had both scammed people out of millions and, she said, and I should say this I have not confirmed, that they used campaign money to do cocaine.” Candace Owens said the stripper assured her that she has all the invoices and proof of the allegation.

In addition, El American searched for Kimberly Klacik under her birth name, Kimberly Nicole Bray, in the Maryland Judicial Case Research. The result yielded seven cases. Most of the cases found are traffic reprimands; but one catches the eye: Kimberly Klacik appears linked to the Nexus Gold Club, a now-closed but once popular and controversial Washington DC strip bar.

El American contacted Elizabeth Matory, a former GOP candidate who lost to Kimberly Klacik for the Congressional election nomination in Maryland’s 7th Congressional District. Matory, who at the time denounced Klacik’s ties to the adult entertainment industry in Maryland, told El American: “The issue was never that she was a stripper. The problem still is that they a), deny it; b), try to hide the business connections.”

Matory also has heavy accusations against Klacik. She told El American: “The sex industry is huge in Baltimore, as well as human trafficking. Kim would ‘lure’ young women through her social media (especially Instagram) to get involved in this life.”

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“Kim’s back story was not only known by the Maryland Republican Party, she was backed by some of the top elected officials. As a conservative, I was (and still am) angry that some key men in the party supported Kim ‘because of her husband,’” Matory said.

El American tried multiple times to contact Klacik but there was no response.

“And this is when things start to get really crazy.”

Candace Owens was already aware of Kimberly Klacik’s alleged past as a stripper, suspicions about her foundation, and now added the stripper’s accusation that the candidate was misusing her campaign money. This prompted Owens to investigate Klacik’s campaign finances, income and expenditures. The record is public at the Federal Election Commission and her discovery was stunning.

As can be seen in candidate Kimberly Klacik’s financial statement, her campaign raised \$8,299,807.84. In contrast, the campaign spent \$7,502,416.95. What caught Owens’ attention was an invoice for a disbursement of \$119,651.67. First, because the invoice is dated November 5, 2020, after the election was over; second, the description: a meet and greet. The hired company was Pearl Events.

When searching for Pearl Events in the registry of business entities on the Maryland governor’s website, the company appears as inactive because “the business entity does not comply with one or more Maryland laws that apply to businesses and their responsibilities in this State,” as the governor’s page reads. Complicating the case further is the fact that Dusky Holman, the attorney listed as the head of Pearl Events LLC, was suspended and cannot practice law.

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The Maryland Court of Appeals, in March 2016, ordered the suspension of a list of attorneys for failure to pay an annual fee in the state. Among the 363 reprimanded was Dusky Donald Holman.

Owens continued digging and three other invoices caught her eye: one from Oct. 1 of last year, one from Oct. 2; and one from Nov. 2. All three, for 75 thousand, were for Fox and Lion Communications LLC. The description is CANVASSING.

The conservative influencer continued digging and came across a website that, according to her, looks like a clear facade. When entering the Fox and Lion’s site, generic, free “stock photo bank” images appear. Owens was struck by, “How is it that if this company makes so much money they have a website like this?” Owens checked the site and found that the company was serving Democratic candidates. Upon investigating, she found that the owner of the company is Andy Pierre, a Democratic Party activist and former executive director of the Legislative Black Caucus in Maryland, as corroborated by El American, who explicitly identifies himself with the purpose of “helping” Democrats win elections.

For Candace Owens, the latter is the most serious aspect of the information she found about Klacik. She says she is struck by how Republican donor money is being used to pay a firm owned by a Democrat who is also in the business of helping Democrats win elections.

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Are the accusations true?

El American was able to corroborate that Kimberly Klacik’s ex-husband manages a strip club; that the Republican candidate’s campaign paid \$119 thousand dollars to Pearl Events, a then-inactive company; and that this company is operated by a lawyer whose license was revoked. In addition, it was also able to corroborate the payments to Fox & Lion, that the CEO of the company is a Democrat; and that he helps Democratic candidates get into power.

To get Klacik’s side of the story, El American, as mentioned, tried to contact her. However, after multiple attempts, there was no response. The former candidate, instead, decided to address the allegations on her social media, after blocking Candace Owens and disabling comments on her posts.

The accusations are heavy. It’s not just about Kimberly Klacik’s alleged dancing past. Instead, Owens insists the Republican may have committed federal crimes. She’s talking about fraud and money laundering. The first thing Klacik did, following Owens’ video, was to release a statement, “The allegations are offensive, false and defamatory (...) our attorneys are reviewing legal options against Ms. Owens and The Daily Wire.”

A day later, Klacik posted an image in which she acknowledged that she had hired Democrats for her campaign. “This was a strategy for flipping votes,” reads part of the text she shared on her Instagram account.

Finally, Kimberly Klacik addressed some of the concerns in a video she posted on her YouTube channel. In the video, which begins with a short interview in which she only mentions a few points, she elaborates on the fact that she hired Fox and Lion. She insists that she did not commit any crime.

“You hire a Democrat who helps you approach voters. You had to sway Democrats. We hire Republicans and Democrats so we have all the information. That’s how this works,” Klacik says in the video.

“When you’re campaigning in a Democratic district, you need Democrats to help you. You have to strategize. If you don’t do that, you’re not going to win. And we’re running to win.”

Kimberly Klacik says there is no evidence she laundered money and claims no one is investigating her. “Candace Owens in 4 days did more due diligence than the Federal Election Commission did in several years,” she quips.

“I did not have access to campaign money. We precisely had a treasurer to prevent this from happening,” she insists. She also addresses the accusation that she used cocaine at the bar during her campaign.

“It’s crazy. If she [Candace] had done her job right, she would know that the clubs in Baltimore were shut down during the pandemic.”

However, there are three points Kimberly Klacik doesn’t mention: neither

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attorney; nor about allegations that her ex-husband owns a strip bar and that she herself was an exotic dancer. Klacik says only that she is sorry to see the work of an exotic dancer denigrated. "It is not illegal."

To get some response to Klacik's statements and to get her side of the story, El American tried to contact Candace Owens. There was also no response.

**

"Democrats think black people are stupid. They think they can control us forever. That we won't demand, and we'll keep voting for them. Are they right?" asks Kimberly Klacik. It's her campaign video, from August 17, 2020. The 2-minute-and-fifty-second clip launched her to stardom within the Conservative Party.

Today, Klacik faces her most sensitive moment since taking on political life. Candace Owens is, without a doubt, the most important black voice of the Republican Party and conservatism in the United States. Her denunciations, whether or not they transpired, were a lethal missile against Klacik, who still has neither the influence nor the traction of The Daily Wire commentator. Nevertheless, Kimberly Klacik is optimistic.

"I'm going back to work. I want to flip Congress in 2022. And this is not about me. This is about the Republican Party flipping Congress," Klacik said in her response to Owens.

- Anthony Cabassa
- Candace Owens
- Kimberly Klacik
- Orlando Avendaño



Author

Orlando Avendano

Orlando Avendaño is the co-editor-in-chief of El American. He is a Venezuelan journalist and has studies in the History of Venezuela. He is the author of the book Days of submission // Orlando Avendaño es el co-editor en jefe de El American. Es periodista venezolano y cuenta con estudios en Historia de Venezuela. Es autor del libro Días de sumisión.

View Comments (22)

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Exhibit F

RECEIVED

By Office of the Commission Secretary at 3:18 pm, Jul 06, 2021

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463**SENSITIVE**

July 6, 2021

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *JDP* for AP
Staff Director

FROM: Patricia C. Orrock *DC* for PCO
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *KDR*
Kristin D. Roser
Compliance Branch

SUBJECT: Reason to Believe Recommendation -
Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the Maryland 12-Day Pre-General Report up to 48 hours before the November 3, 2020 General Election in accordance with 52 U.S.C. § 30104(a) and 11 CFR. § 104.5(f). The committee, Kim Klacik for Congress, represents a candidate who lost the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$111,750.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

Recommendation

1. Find reason to believe that Kim Klacik for Congress and Bradley T. Crate¹, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$12,081 be assessed.
2. Send the appropriate letter.

Attachment

¹ Bradley T. Crate was designated as Treasurer on May 7, 2021. Gregory Stewart was the Treasurer from November 6, 2019 through May 6, 2021.

Contributions for Which a 48-Hour Notice Was Not Received**AF 4220****Committee ID: C00726117****Committee Name: Kim Klacik for Congress****Report Type: 2020 30 Day Post General Report (10/15/2020 – 11/23/2020)****48-Hour Reporting Period: 10/15/2020 – 10/31/2020**

CONTRIBUTOR	DATE	AMOUNT
ROBERT ANDERSON	10/15/2020	\$2,800.00
DANIEL G DEVOS	10/15/2020	\$1,000.00
DOUG DEVOS	10/15/2020	\$1,000.00
DOUG DEVOS	10/15/2020	\$1,000.00
PAMELLA DEVOS	10/15/2020	\$1,000.00
SUZANNE CHERYL DEVOS	10/15/2020	\$1,000.00
SUZANNE CHERYL DEVOS	10/15/2020	\$1,000.00
RICHARD LARSEN	10/15/2020	\$1,000.00
EDWARD J ROTHE	10/15/2020	\$1,000.00
MUNEER A SATTER	10/15/2020	\$2,800.00
ROD SCHNEIDMILLER	10/15/2020	\$2,800.00
LISA SMARICK	10/15/2020	\$2,800.00
DONNA DRECKSEL	10/16/2020	\$1,000.00
DAVID ELLIOTT	10/16/2020	\$2,500.00
CLAYTON FOULGER	10/16/2020	\$1,000.00
DAVID M MUNSON	10/16/2020	\$5,600.00
TRACY DADEO	10/17/2020	\$1,000.00
RANDALL SIMPSON	10/17/2020	\$1,000.00
		
NASSIM BAYAT	10/18/2020	\$1,000.00
SEAN CAO	10/18/2020	\$1,000.00
BRAD WOMMACK	10/18/2020	\$1,000.00
WILLIAM BAHLBURG	10/19/2020	\$1,000.00
BRADY EXBER	10/19/2020	\$1,000.00
MURRAY H GOODMAN	10/19/2020	\$1,000.00
THE JULIA J FANCELLI LIVING TRUST	10/19/2020	\$2,800.00
THE GREGORY J FANCELLI TRUST	10/19/2020	\$2,800.00
REPUBLICAN PARTY OF ONEIDA COUNTY	10/19/2020	\$1,000.00
JAMES ANTONOWITSCH	10/20/2020	\$1,000.00
KIMBERLY COLONNETTA	10/20/2020	\$2,800.00
MICHAEL ECHOLDS	10/20/2020	\$1,000.00
EDWARD EDWARDS	10/20/2020	\$1,000.00

W F	10/20/2020	\$1,000.00
		
BRIGID GALLAER	10/21/2020	\$1,750.00
ALEXANDER GOOR	10/21/2020	\$2,800.00
MARK HAMISTER	10/21/2020	\$1,000.00
MARY MACRAE	10/21/2020	\$1,000.00
LOUISE MCALPIN	10/21/2020	\$2,800.00
SCOTT SELIGMAN	10/21/2020	\$2,000.00
FRANK ALLOCCA	10/22/2020	\$1,000.00
TODD BOURELL	10/22/2020	\$1,000.00
JAMES F KNOTT	10/22/2020	\$2,800.00
PATRICK MCGINNIS	10/22/2020	\$1,000.00
JEFF NEWELL	10/22/2020	\$1,000.00
KEVIN DUNBAR	10/23/2020	\$1,000.00
RANDALL HERTEL	10/23/2020	\$1,000.00
JEFFREY MARTCHEK	10/23/2020	\$1,000.00
JAMES PARKS	10/23/2020	\$1,000.00
		
MICHAEL ECHOLDS	10/24/2020	\$1,000.00
DAVID NEELEMAN	10/24/2020	\$1,000.00
NELSON RODRIGUEZ	10/24/2020	\$2,000.00
FRANKIE DELANO	10/25/2020	\$1,000.00
PAUL HOFER	10/25/2020	\$1,000.00
MERRILL SMITH	10/25/2020	\$1,000.00
PAUL BROWN	10/26/2020	\$1,000.00
JESSE METCALF	10/26/2020	\$2,800.00
JAMES PATTERSON	10/26/2020	\$2,000.00
		
DONNA L. BOSCIA	10/27/2020	\$1,000.00
JON A. BOSCIA	10/27/2020	\$1,000.00
ANDREW CUPPS	10/27/2020	\$2,000.00
MICHAEL DAVIS	10/27/2020	\$1,000.00
G4S SECURE SOLUTIONS (USA) PAC	10/27/2020	\$5,000.00
MARGARET HODGE	10/27/2020	\$2,500.00
THOMAS LEHRMAN	10/27/2020	\$1,000.00
WILLIAM PETTY	10/27/2020	\$2,800.00
JAMES R REAM, JR.	10/27/2020	\$1,000.00
DAVID BAIER	10/28/2020	\$2,800.00
LELIA FARR	10/28/2020	\$1,000.00

BETH ANNE SCOTT	10/29/2020	\$1,000.00
		
GAETANO SALVATORE DI VITTORIO	10/30/2020	\$1,000.00
PAUL HOANG	10/30/2020	\$1,000.00
LISA MARFLAK	10/30/2020	\$1,000.00
ETHEL HURST	10/31/2020	\$1,000.00
	TOTAL	\$111,750.00

Proposed Civil Money Penalty: \$12,081 ((6 Notices Not Filed at \$151 each) + (10% of the Overall Contributions Not Reported))

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4220
 Reason to Believe Recommendation –)
 Failure to File 48-Hour Notices under the)
 Administrative Fine Program: Kim)
 Klacik for Congress and Bradley T.)
 Crate, in his official capacity as treasurer)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on July 08, 2021, the Commission decided by a vote of 4-0 to take the following actions in AF 4220:

1. Find reason to believe that Kim Klacik for Congress and Bradley T. Crate, in his official capacity as treasurer, violated 52 U.S.C. § 30104(a) and make a preliminary determination that a civil money penalty of \$12,081 be assessed.
2. Send the appropriate letter.

Commissioners Cooksey, Dickerson, Walther, and Weintraub voted affirmatively for the decision. Commissioners Broussard and Trainor did not vote.



July 13, 2021

 Date

Attest:

Laura Sinram

 Laura E. Sinram
 Acting Secretary and Clerk of the
 Commission

Digitally signed by
 Laura Sinram
 Date: 2021.07.13
 09:57:16 -04'00'



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

July 14, 2021

Mr. Bradley T. Crate, in official capacity as Treasurer
Kim Klacik for Congress
9618 Maxwell Road
Middle River, MD 21220

C00726117

AF#: 4220

Dear Mr. Crate,

The Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101, et seq. ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing the Federal Election Commission ("FEC") and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 52 U.S.C. § 30104(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 52 U.S.C. § 30104(a). Our records indicate that Kim Klacik for Congress did not submit 48-Hour Notices for contributions of \$1,000 or more, received between October 15, 2020 and October 31, 2020, totaling \$111,750, as required by 52 U.S.C. § 30104(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 52 U.S.C. § 30104(a). 52 U.S.C. § 30109(a)(4). On July 8, 2021, the FEC found that there is Reason to Believe ("RTB") that Kim Klacik for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$12,081. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$151 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$12,081 within forty (40) days of the finding, or by August 17, 2021.

KIM KLACIK FOR CONGRESS

Page 2 of 5

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response to the FEC's Office of Administrative Review. Your response must include the AF# (found at the top of page 1 under your committee's identification number) and be received within forty (40) days of the Commission's RTB finding, or August 17, 2021. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

Please note, the Federal Election Commission's office remains closed to visitors and most of its employees are continuing to telework in an effort to limit the spread of coronavirus (COVID-19). The Commission is processing some documents submitted by mail, though processing will not occur daily until the agency resumes normal mail operations. Nevertheless, a challenge to an RTB finding and/or calculated civil money penalty must be received on time. Thus, all written responses and supporting documentation should be converted to PDF (Portable Document Format) and must be emailed to administrativefines@fec.gov. The Commission encourages the use of electronic signatures on electronically submitted documents, but scanned copies of ink signatures will be accepted. Electronically submitted challenges will be deemed received on the date it is electronically received by staff.

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). For a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee

KIM KLACIK FOR CONGRESS

Page 3 of 5

computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. District Court under 52 U.S.C. § 30109. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Kim Klacik for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 et seq. The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, follow the payment instructions on page 4 of this letter. Upon receipt of your payment, the FEC will send you a final determination letter.

NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS

4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

5. Settlement Offers

Any offer to settle or compromise a debt owed to the Commission, including a payment in an amount less than the calculated civil money penalty assessed or any restrictive endorsements contained on your check or money order or proposed in

KIM KLACIK FOR CONGRESS

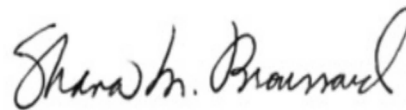
Page 4 of 5

correspondence transmitted with your check or money order, will be rejected. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 52 U.S.C. § 30109(a)(2). Unless you notify the FEC in writing that you wish the matter to be made public, it will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) until it is placed on the public record at the conclusion of this matter in accordance with 11 CFR § 111.42.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Jacqueline Gausepohl in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1158) or (202) 694-1158.

On behalf of the Commission,



Shana M. Broussard
Chair

ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$12,081 for the 2020 General Election 48-Hour Notification Report.

You may remit payment by ACH withdrawal from your bank account, or by debit or credit card through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/af/pay.shtml to be directed to Pay.gov's Administrative

KIM KLACIK FOR CONGRESS

Page 5 of 5

Fine Program Payment form. Please use the details below to complete the required fields. For additional payment options, please contact Jacqueline Gausepohl in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

COMMITTEE NAME: Kim Klacik for Congress

FEC ID#: C00726117

AF#: 4220

PAYMENT DUE DATE: August 17, 2021

PAYMENT AMOUNT DUE: \$12,081

Contributions for Which a 48-Hour Notice Was Not Received**AF 4220****Committee ID: C00726117****Committee Name: Kim Klacik for Congress****Report Type: 2020 30 Day Post General Report (10/15/2020 – 11/23/2020)****48-Hour Reporting Period: 10/15/2020 – 10/31/2020**

CONTRIBUTOR	DATE	AMOUNT
ROBERT ANDERSON	10/15/2020	\$2,800.00
DANIEL G DEVOS	10/15/2020	\$1,000.00
DOUG DEVOS	10/15/2020	\$1,000.00
DOUG DEVOS	10/15/2020	\$1,000.00
PAMELLA DEVOS	10/15/2020	\$1,000.00
SUZANNE CHERYL DEVOS	10/15/2020	\$1,000.00
SUZANNE CHERYL DEVOS	10/15/2020	\$1,000.00
RICHARD LARSEN	10/15/2020	\$1,000.00
EDWARD J ROTHE	10/15/2020	\$1,000.00
MUNEER A SATTER	10/15/2020	\$2,800.00
ROD SCHNEIDMILLER	10/15/2020	\$2,800.00
LISA SMARICK	10/15/2020	\$2,800.00
DONNA DRECKSEL	10/16/2020	\$1,000.00
DAVID ELLIOTT	10/16/2020	\$2,500.00
CLAYTON FOULGER	10/16/2020	\$1,000.00
DAVID M MUNSON	10/16/2020	\$5,600.00
TRACY DADEO	10/17/2020	\$1,000.00
RANDALL SIMPSON	10/17/2020	\$1,000.00
NASSIM BAYAT	10/18/2020	\$1,000.00
SEAN CAO	10/18/2020	\$1,000.00
BRAD WOMMACK	10/18/2020	\$1,000.00
WILLIAM BAHLBURG	10/19/2020	\$1,000.00
BRADY EXBER	10/19/2020	\$1,000.00
MURRAY H GOODMAN	10/19/2020	\$1,000.00
THE JULIA J FANCELLI LIVING TRUST	10/19/2020	\$2,800.00
THE GREGORY J FANCELLI TRUST	10/19/2020	\$2,800.00
REPUBLICAN PARTY OF ONEIDA COUNTY	10/19/2020	\$1,000.00
JAMES ANTONOWITSCH	10/20/2020	\$1,000.00
KIMBERLY COLONNETTA	10/20/2020	\$2,800.00
MICHAEL ECHOLDS	10/20/2020	\$1,000.00
EDWARD EDWARDS	10/20/2020	\$1,000.00

W F	10/20/2020	\$1,000.00
BRIGID GALLAER		
BRIGID GALLAER	10/21/2020	\$1,750.00
ALEXANDER GOOR	10/21/2020	\$2,800.00
MARK HAMISTER	10/21/2020	\$1,000.00
MARY MACRAE	10/21/2020	\$1,000.00
LOUISE MCALPIN	10/21/2020	\$2,800.00
SCOTT SELIGMAN	10/21/2020	\$2,000.00
FRANK ALLOCCA	10/22/2020	\$1,000.00
TODD BOURELL	10/22/2020	\$1,000.00
JAMES F KNOTT	10/22/2020	\$2,800.00
PATRICK MCGINNIS	10/22/2020	\$1,000.00
JEFF NEWELL	10/22/2020	\$1,000.00
KEVIN DUNBAR	10/23/2020	\$1,000.00
RANDALL HERTEL	10/23/2020	\$1,000.00
JEFFREY MARTCHEK	10/23/2020	\$1,000.00
JAMES PARKS	10/23/2020	\$1,000.00
MICHAEL ECHOLDS		
MICHAEL ECHOLDS	10/24/2020	\$1,000.00
DAVID NEELEMAN	10/24/2020	\$1,000.00
NELSON RODRIGUEZ	10/24/2020	\$2,000.00
FRANKIE DELANO	10/25/2020	\$1,000.00
PAUL HOFER	10/25/2020	\$1,000.00
MERRILL SMITH	10/25/2020	\$1,000.00
PAUL BROWN	10/26/2020	\$1,000.00
JESSE METCALF	10/26/2020	\$2,800.00
JAMES PATTERSON	10/26/2020	\$2,000.00
DONNA L. BOSCIA		
DONNA L. BOSCIA	10/27/2020	\$1,000.00
JON A. BOSCIA	10/27/2020	\$1,000.00
ANDREW CUPPS	10/27/2020	\$2,000.00
MICHAEL DAVIS	10/27/2020	\$1,000.00
G4S SECURE SOLUTIONS (USA) PAC	10/27/2020	\$5,000.00
MARGARET HODGE	10/27/2020	\$2,500.00
THOMAS LEHRMAN	10/27/2020	\$1,000.00
WILLIAM PETTY	10/27/2020	\$2,800.00
JAMES R REAM, JR.	10/27/2020	\$1,000.00
DAVID BAIER	10/28/2020	\$2,800.00
LELIA FARR	10/28/2020	\$1,000.00

BETH ANNE SCOTT	10/29/2020	\$1,000.00
GAETANO SALVATORE DI VITTORIO	10/30/2020	\$1,000.00
PAUL HOANG	10/30/2020	\$1,000.00
LISA MARFLAK	10/30/2020	\$1,000.00
ETHEL HURST	10/31/2020	\$1,000.00
	TOTAL	\$111,750.00

Proposed Civil Money Penalty: \$12,081 ((6 Notices Not Filed at \$151 each) + (10% of the Overall Contributions Not Reported))

RECEIVED

By Office of the Commission Secretary at 3:17 pm, Sep 07, 2021

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463**SENSITIVE**

September 7, 2021

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: Kristin D. Roser *KDR*
Reports Analysis Division
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for Failure to File 48-Hour Notices

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file the appropriate 48-Hour Notices for the 2020 General Election. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

RAD Recommendation

- (1) Make a final determination that the political committee and its treasurer, in their official capacity, listed on the attached report violated 52 U.S.C. § 30104(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

Federal Election Commission
Final Determination Circulation Report
48-Hour Notification Report

9/7/2021 10:01 AM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	RTB Date	RTB Penalty	FD Penalty	Date Paid	Amount Paid
4220	C00726117	KIM KLACIK FOR CONGRESS	MD	2020	KIMBERLY KLACIK	BRADLEY T. CRATE	0	6	\$0.00	07/08/2021	\$12,081	\$12,081	08/17/2021	\$12,081

FILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) AF 4220
 Administrative Fine Program - Final)
 Determination Recommendation for)
 Failure to File 48-Hour Notices: Kim)
 Klacik for Congress and Bradley T.)
 Crate, in their official capacity as)
 treasurer)

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election Commission, do hereby certify that on September 09, 2021, the Commission decided by a vote of 6-0 to take the following actions in AF 4220:

1. Make a final determination that Kim Klacik for Congress and Bradley T. Crate, in their official capacity as treasurer, violated 52 U.S.C. § 30104(a) and assess the final civil money penalty in the amount of \$12,081.
2. Send the appropriate letter.

Commissioners Broussard, Cooksey, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision.


 September 9, 2021

 Date

Attest:

**Laura e
Sinram**

Digitally signed by
 Laura e Sinram
 Date: 2021.09.09
 21:02:24 -04'00'

 Laura E. Sinram
 Acting Secretary and Clerk of the
 Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AF

September 10, 2021

Bradley T. Crate, in official capacity as Treasurer
Kim Klacik for Congress
9618 Maxwell Road
Middle River, MD 21220

C00726117
AF#: 4220

Dear Mr. Crate,

On July 8, 2021, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Kim Klacik for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between October 15, 2020 and October 31, 2020, totaling \$111,750. By letter dated July 14, 2021, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$12,081 in accordance with the schedule of penalties at 11 CFR § 111.44.

On August 17, 2021, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on September 9, 2021 that Kim Klacik for Congress and you, in your official capacity as treasurer, violated 52 U.S.C. § 30104(a), assessed a civil money penalty in the amount of \$12,081 in accordance with 11 CFR § 111.44 and voted to close the file.

The confidentiality provisions at 52 U.S.C. § 30109(a)(12) no longer apply and this matter is now public. Pursuant to 11 CFR §§ 111.42(b) and 111.20(c), the file will be placed on the public record within thirty (30) days from the date of this notification.

If you have any questions regarding this matter, please contact Jamie Sikorsky on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Shana M. Broussard".

Shana M. Broussard
Chair

Exhibit G

 An official website of the United States government
[Here's how you know](#)

Home > Legal resources > Administrative fines search > AF #4220

Administrative Fine #4220

KIM KLACIK FOR CONGRESS

ID: C00726117

Summary

Report: 2020 48-Hour Notification
Committee name: KIM KLACIK FOR CONGRESS
Closing date: 09/09/2021
Assessed civil penalty: \$12,081.00
Civil penalty due date: 10/11/2021, Paid in full

Disposition

Disposition	Amount	Date
Initial finding and penalty assessed	\$12,081.00	07/08/2021
Initial finding and penalty upheld	\$12,081.00	09/09/2021

Documents

Date	Title
09/29/2021	AF 4220 9 MB

FILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

Date	Title
08/31/2021	Status of Payment 5 KB

EFILED 01/03/22 04:47 PM CASE NO. 21C1607 Richard R. Rooker, Clerk

Exhibit H

Status of Payments

AF# 4220- KIM KLACIK FOR CONGRESS

Final Fine Amount : \$12,081.00
Total Paid : \$12,081.00
Balance Outstanding : \$0.00

Payments To FEC			
Payment Date	Payment Type	Account Holder	Payment Amount
08/17/2021	ACH	Kim Klacik for Congress	\$12,081.00
Total Payments To FEC:			\$12,081.00

Treasury Collections
No Records

Exhibit I



Exhibit J



Hey there! I would like to state on the record. That photo is not doctored in any way, shape, or form. The pictures are real. I work at the club she used to work at. I have hung out with her inside of the club when she used to come in with her husband. She has been misleading millions with lies since the start of her campaign. I have more proof than just that picture. Kimberly knows that I have a lot of evidence on her, which is why she's trying to get it silenced as quickly as she can. I won't allow that. She needs to own up to her truth and past. If there's anything else you need please feel free to reach out.



4:53 PM

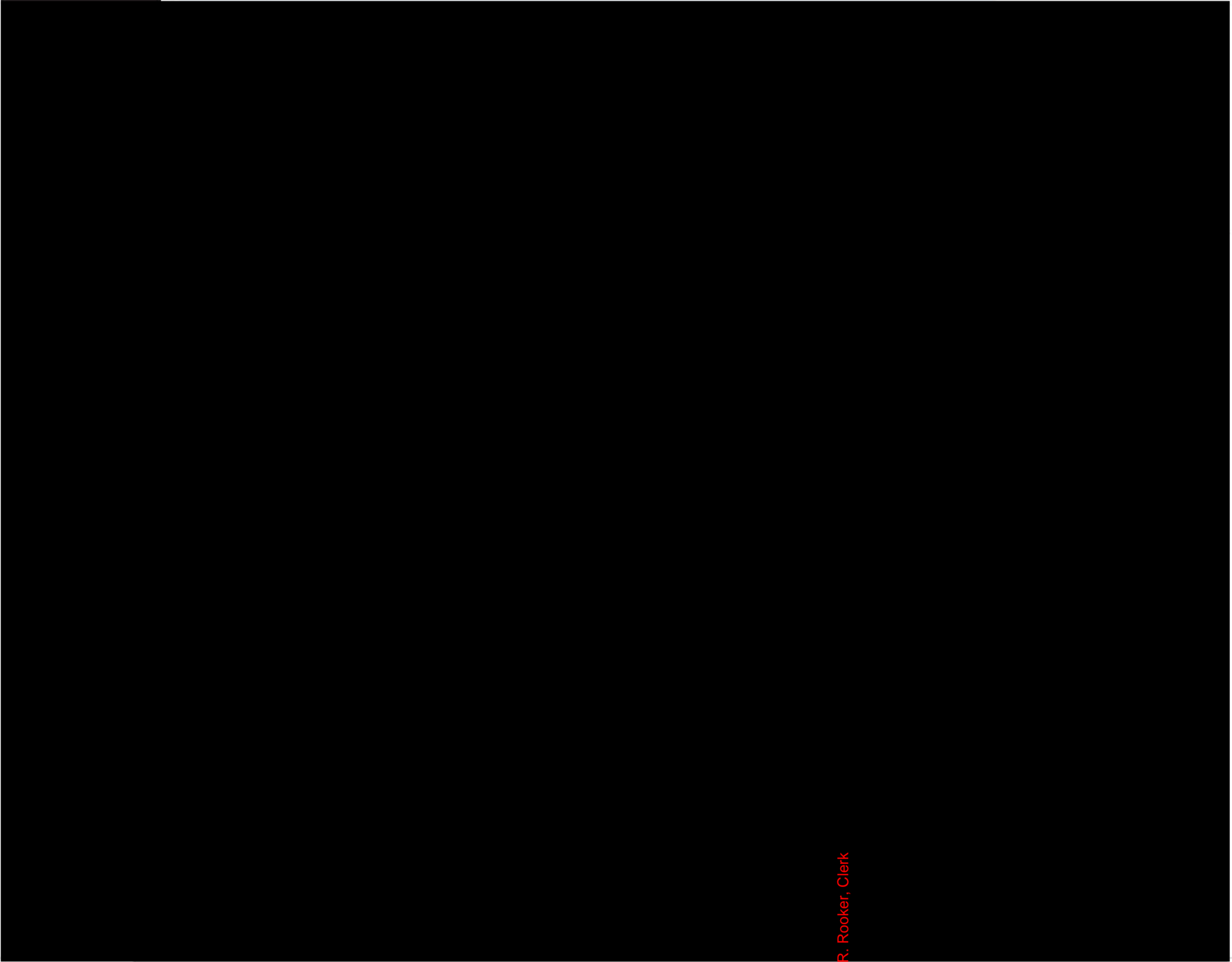


Start a message





Maybe start by asking her what she used her campaign funds on...most of it went up her nose. Yes she was actually a stripper, and it was over 5 years ago but she still frequented the club on weekends with her soon to be ex husband. If you asked around the streets of Baltimore, she's not well liked by anyone. Kim knows exactly who I am but I'd prefer you kept my name out of it. Like I said I



Start a message





10:07 PM ✓

I can provide you with proof that she has spent her campaign money on “other things” as well as proof that she danced, and worked in the gold club for a while, as well as continued to visit frequently before her campaign started. I have all the receipts on her. I



Start a message



Exhibit K



Hey there! I would like to state on the record. That photo is not doctored in any way, shape, or form. The pictures are real. I work at the club she used to work at. I have hung out with her inside of the club when she used to come in with her husband. She has been misleading millions with lies since the start of her campaign. I have more proof than just that picture. Kimberly knows that I have a lot of evidence on her, which is why she's trying to get it silenced as quickly as she can. I won't allow that. She needs to own up to her truth and past. If there's anything else you need please feel free to reach out.



4:53 PM

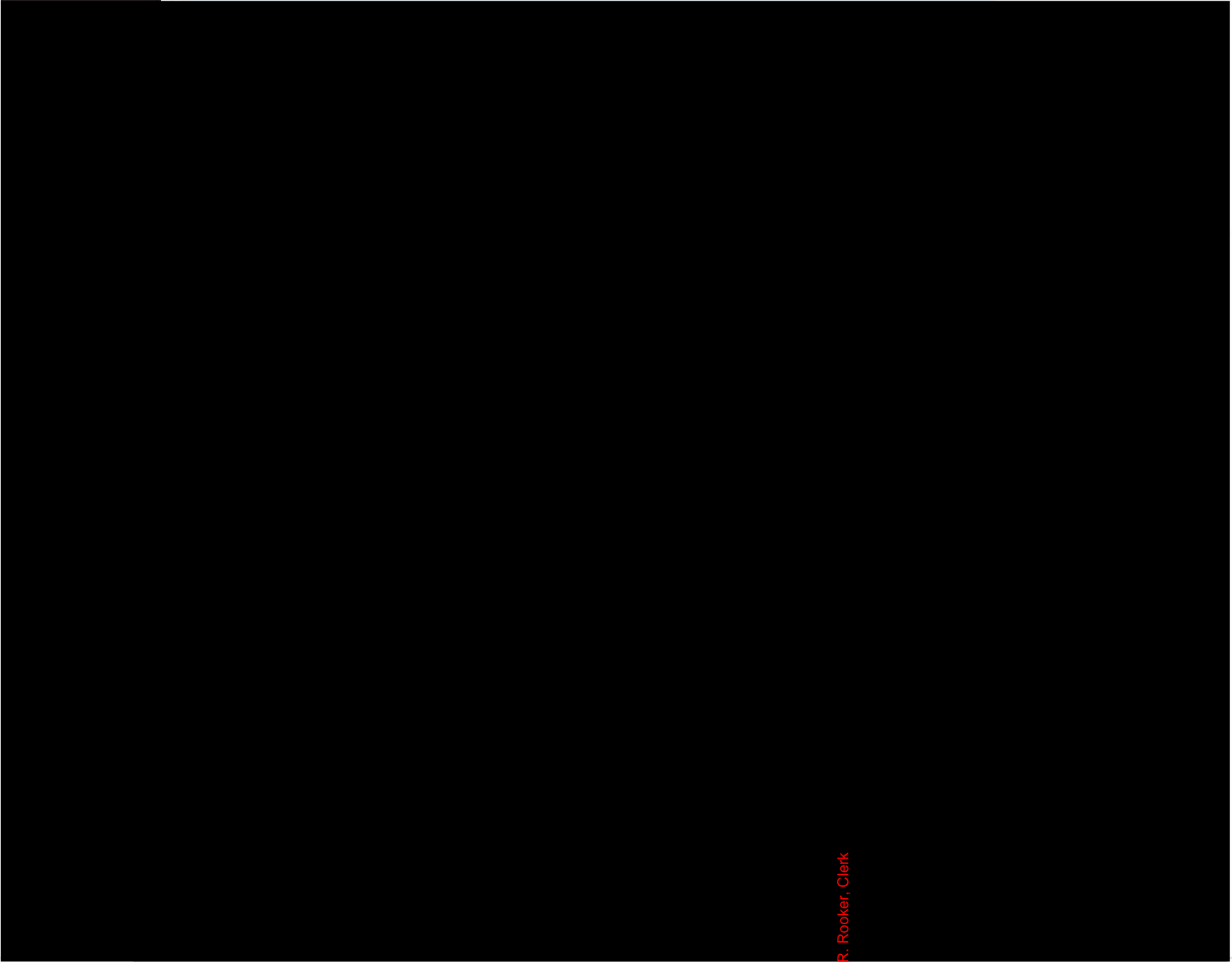


Start a message





Maybe start by asking her what she used her campaign funds on...most of it went up her nose. Yes she was actually a stripper, and it was over 5 years ago but she still frequented the club on weekends with her soon to be ex husband. If you asked around the streets of Baltimore, she's not well liked by anyone. Kim knows exactly who I am but I'd prefer you kept my name out of it. Like I said I



Start a message





10:07 PM ✓

I can provide you with proof that she has spent her campaign money on “other things” as well as proof that she danced, and worked in the gold club for a while, as well as continued to visit frequently before her campaign started. I have all the receipts on her. I



Start a message



Exhibit L

COPY



Serious “W👊KE” Black 🙄 @NicsuPR · Sep 18, 2020

Kim Klacik is a **stripper** named **September** who married the Manager of the **Strip Club** where she worked. The Manager/Husband is baby-daddy to several kids.

Klacik has NEVER lived in the 7th District.

As long as it has a Black face MAGAs will elevate it for their cause.



1



4



10



FILED 01/03/22 04:47 PM CASE NO. 21

COPY



Rosco @Rosco34 · Aug 27, 2020

Replying to [@HanukkahHat](#)

Hey I don't know if anyone has told you but Melania has nudes online, **Kim Klacik** was a **stripper**, she and her husband manage a **strip club**, and he's got 6 kids by different black women and assault charges? Her **stripper** name is **September** btw.



EFILED 01/03/22 04:47



BlackPressRadio @BlackPressRadio · Aug 25, 2020



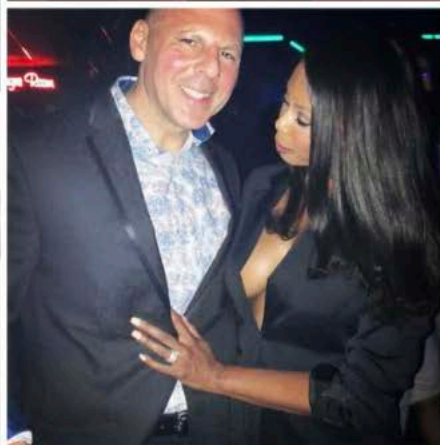
KIM KLACIK is the GOP's **#CardiB** complete with a "questionable" past, a husband who OWNED a **STRIP CLUB** that PIMPED **#BlackWomen** and EXPLOITED the **#BlackCommunity** so **#STAYwoke** **#BlackTwitter** **#BlackVoters** **#Baltimore** **#KwesiMfume** HONEST? Nope! **#KimKlaciK** = LIAR **#BlackTwitter** **#KwesiMfume**



Susan LaDuke @Sjladuke75Susan · Aug 18, 2020

Replying to @kimKBaltimore

Please tell everyone just what you can do for Baltimore.



COPY



Bass Reeves @PVandenburg7 · Aug 24, 2020

Kim Klacik is whack. Do they know she married a white man who has multiple baby moms, manager of **strip club** where she allegedly stripped (stage name **September**), a criminal record for assault? Isn't this what republicans complain about?? [#RNCConvention2020](#)



2



2



#BlackAF @Black_1 · Aug 25, 2020

Kim Klacik... this you? her husband is the owner of a **strip club**? Has 6 kids by 6 different ladies? Yet she rails on here about specifically Black single parent households?

Oh, those six women her husband has kids with? All of them, every single one... Black.

COPY

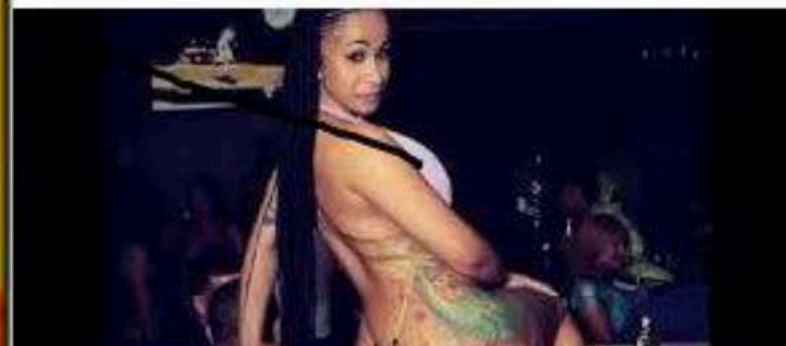
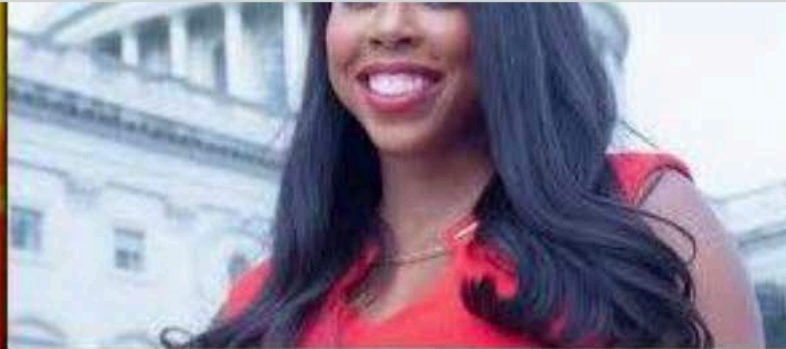
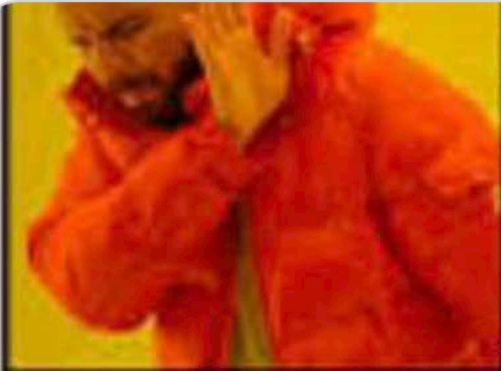


Rosco @Rosco34 · Aug 27, 2020



Replying to [@HanukkahHat](#)

Hey I don't know if anyone has told you but Melania has nudes online, **Kim Klacik** was a **stripper**, she and her husband manage a **strip club**, and he's got 6 kids by different black women and assault charges? Her **stripper** name is **September** btw.



↻ 2

♡ 2



EFILED 01/03/22 04:47 PM CASE NO: 21-01607 Richard R. Rooker, Clerk

COPY



Beth @BAM827 · Sep 1, 2020

Stop getting sucked in by a flashy ad! **Kim Klacik** is a college dropout, former **stripper**, married to the owner of a **strip club**, who has fathered 6 biracial children, only one of which is hers! What do you think she's going to do for you? [@kimKBaltimore](#) [#PartyofFamilyValues](#)



EFILED 01/03/22 04:47 PM C

COPY



Wayne's the Name @EngineerMinded · Sep 22, 2020

Replying to [@TheRightMelissa](#) [@Mfume4Congress](#) and 2 others

Melissa, MFume serves this community valiantly. **Kim Klacik** got to her position through nepotism. Her husband is a **strip club** owner and was a pimp. He's got half black children out here in a growing up fatherless so, he actually contributed to some bad things.



2



EFILED 01/03/22 04:47 PM CAS

Exhibit M

Donors gave a House candidate more than \$8 million. A single firm took nearly half of it.

By [Meagan Flynn](#) and [Michael Scherer](#)

March 2, 2021 at 4:00 p.m. EST



U.S. House candidate Kim Klacik walked onto Mike Huckabee’s cable talk show last August as the latest conservative celebrity, riding high on [a viral campaign ad](#) that had attracted 10 million views and was shared on social media by President Donald Trump and his eldest son.

“We raised close to \$2 million,” the Republican congressional hopeful said of the three-minute spot, which showed her marching in a red dress and high heels past abandoned buildings in Baltimore, asserting that Democrats do not care about Black lives.

But later that night, Klacik’s staff told her it would be best to stop disclosing how much [money the ad had raised](#) for her campaign against Rep. Kweisi Mfume (D) — because she wouldn’t be keeping much of it, Klacik recounted in an interview.

The company that produced the video, Arsenal Media Group, would take a cut. And a firm hired to promote the video, Olympic Media, would keep up to 70 percent of the money it generated, some of which was not disclosed in Klacik’s initial campaign finance filings.

Klacik, a self-described college dropout who launched a nonprofit organization to help disadvantaged women before running for office, said she did not personally approve or know about the contract with Olympic Media until that

“When I saw it, I almost passed out,” she said.

Her campaign is an example of how some consulting firms are profiting handsomely from Republican candidates who have robust appeal in today’s politically charged environment — even when they are running in deep-blue districts where it is virtually impossible for them to win. The more viral the candidate goes, the more money the companies make — a model possible only through the online outrage machine of hyperpartisan politics.

Fundraising companies say their fees are well-earned and still leave candidates with more money than they would have if their ads had not been shared widely. But critics, including Klacik and some other 2020 candidates, say the system is deceptive, trapping first-time politicians in onerous contracts that siphon away cash their donors intended for them.

“It sounds like part of the swamp that needs to be drained,” said Bruce Dale, a Klacik donor from Michigan who was aghast to learn that a chunk of his \$800 in donations may not have made it to her. “They can say it’s legal, but there are a lot of things that are legal that are wrong. This is wrong.”

High-margin fundraising fees — sometimes in excess of 90 percent of a donor’s first contribution — have sucked resources out of conservative politics ever since the movement organized in the 1970s around the costly medium of direct mail. Social media, email and text-message fundraising brought those same steep margins online.

By the end of Klacik’s campaign, she would raise a staggering \$8.3 million and pay nearly \$3.7 million of it to Olympic Media, according to campaign finance filings and her campaign manager. Klacik, now a frequent Fox News and Newsmax commentator, lost to Mfume in Maryland’s 7th Congressional District by more than 40 percentage points.

“I actually lost sleep over this,” she said of the high share of donations claimed by Olympic. “These companies — it’s a racket. Unfortunately, this is why we ask people to send us checks directly to our P.O. box.”

Olympic’s founder and chief executive, Ryan Coyne, a former U.S. rower, countered that his company’s work allowed Klacik, and Republicans in general, to amplify their voice in a traditionally Democratic part of the country and create a platform for future campaigns.

“It’s true, advertising costs related to getting your name out are the biggest driver of campaign expenses,” he said. “We are proud to have raised and netted millions of dollars for the Klacik campaign — helping turn her into a household name, generating many millions of dollars in earned media.”

Another Republican long-shot candidate in a deep-blue district, Lacy Johnson, also worked with Olympic. But his campaign manager, Anton Lazzaro, considered the firm’s rates reasonable in comparison with those of other vendors they encountered.

Lazzaro stopped working with digital fundraiser Bryan Rudnick, for example, after signing a contract that gave Rudnick’s firm 80 percent of the money it brought in for Johnson from new donors.

Johnson was challenging Rep. Ilhan Omar (D-Minn.), a national target of conservative scorn. Like Klacik, he urged Black voters to abandon the Democratic Party, saying it had served them poorly. Like Klacik, he lost by a wide margin — nearly 40 percentage points.

He raised about \$12 million from donors across the country. After Olympic's share and other fundraising costs were deducted, just \$5 million remained, Lazzaro estimated.

"There are so many vultures in GOP small-dollar fundraising," Lazzaro said. "It can be extremely difficult for first-time candidates to recognize legitimate fundraising vendors and self-serving operators taking upwards of 80 to 90 percent of gross donations."

Rudnick's firm, LGM Consulting Group, is suing Johnson's campaign for alleged breach of contract, saying its fees, along with a five-year no-cancellation clause and certain exclusivity rights, were appropriate.

"LGM invests significant time, effort and expense towards its client's campaign before it receives its first dollar," the company argued in a court filing. Rudnick referred questions to his attorney, who declined to comment.

Several GOP consultants, speaking on the condition of anonymity to protect their clients, said that some first-time or long-shot candidates in desperate need of money and name recognition may have no choice but to agree to expensive contracts.

But the consultants said that siphoning off such a large share of donations is counterproductive to achieving the greater conservative cause, because it redirects money that could be spent more directly on winning elections.

"It probably needs to be changed," Klacik's campaign manager, Greg Stewart, said of the fundraising system he encountered. "A lot of us new candidates are getting into it and are like, 'What the heck?' But you are on the spot. Election Day is in X amount of time. Are you going to be able to change the system before the election? The answer is more than likely not."

In mid-July, before the release of her viral ad, Klacik had about \$56,000 in the bank. She was mostly known as the person whose 2019 video highlighting trash and abandoned buildings in Baltimore caught the attention of President Donald Trump, who used it to attack Rep. Elijah E. Cummings (D-Md.), who was chairman of the House Oversight Committee. (Cummings died in October 2019.)

The campaign ad that would launch Klacik onto Fox News and back into Trump's orbit took a similar tone: blaming Baltimore's crime and blight on Democratic policies.

Arsenal contracted with Benny Johnson, a Newsmax TV host and the chief creative officer at Turning Point USA, to script and direct the ad, which the firm asked prominent Republican activists to share online.

Olympic took over the job of further prospecting for campaign contributions, Stewart said, placing the video in digital ads and sending it to lists of potential donors via email, text messages and Facebook posts.

Unlike in a traditional contract, where a client pays a fixed fee for products or services, Arsenal and Olympic each received \$5,000 upfront, with the promise of additional income based on how much money came in from donors.

The ad was released online only. Klacik spent a relatively paltry \$66,000 on traditional cable or broadcast advertising in her district, believing that she would draw more productive attention if her spots spread across social media.

"We just felt like digital was the new wave," she said. "That's how President Donald Trump reached a lot of people."

Klacik's campaign finance filings show that she paid Arsenal just over \$500,000 by the end of the campaign. That included about \$100,000 in production and commission costs for the Baltimore ad and a second shoot later in the cycle, plus about \$400,000 for a digital marketing campaign in her district, Stewart said.

Initially, the campaign disclosed a total of \$1.6 million paid to Olympic by the end of 2020. A Feb. 1 amendment to federal filings revealed \$1.2 million more paid to the company, and Stewart disclosed an additional \$800,000 after questions from The Washington Post — bringing the total to nearly \$3.7 million.

The incorrect amounts involved fees paid through WinRed, a GOP fundraising platform that allows vendors such as

...direct amounts involved fees paid through WinRed, a GOP fundraising platform that allows vendors such as Olympic to deduct their share of donations automatically as the money comes in.

Klacik reported paying millions of dollars to WinRed that actually went through the donation processor to other vendors. Stewart and a WinRed spokesman confirmed the error. Other Republican candidates, including Lacy Johnson and Rep. Jim Jordan (Ohio), also misreported expenses paid to vendors, WinRed said.

Both the Klacik and Johnson campaigns said they are amending their filings. Jordan's campaign, which also hired Olympic Media for digital services, did not respond to a request for comment.

WinRed said in a statement that it “proactively insists that campaigns report fees accurately” to the Federal Election Commission and that it is “the responsibility of each campaign to manage their own agencies and their own FEC compliance.”

Stewart called the arrangement with Olympic the “price of doing business.” He said Olympic — which also worked for North Carolina Republican Madison Cawthorn, who won his House race — fit with the campaign’s insurgent brand and “did good work for us” by repackaging the Arsenal video.

But although Klacik said she thought Arsenal’s fees were fair, given the company’s creative work, she took issue with Olympic’s digital marketing rates.

“Whoever’s over there is making a killing,” she said.

Klacik certainly got something for the millions she paid her vendors: a national political platform.

Within days of the Baltimore ad’s release, she landed a speaking slot at the Republican National Convention. By October, she’d taken in more than \$6 million — mostly from small-dollar donors across the country.

She spent more than \$50,000 on private jets. She joined Donald Trump Jr. at a rally in Arizona, and the president himself in Atlanta to announce a plan to increase capital in Black communities. She traveled her district on a customized bus and spent thousands of dollars on a campaign event at Trump’s hotel in downtown Washington.

Part of the reason Klacik’s ad took off so rapidly was the influencers that Arsenal and Benny Johnson recruited, including Trump Jr., who were willing to praise and share the spot on their social media accounts.

The company shot similar ads for a half-dozen other GOP politicians, including a viral spot for Colorado’s Lauren Boebert that shows her walking the streets of D.C. promising to carry a Glock pistol to Congress. She won her House race. Joe Collins, who raised more than \$10 million in his losing bid against veteran Rep. Maxine Waters (D-Calif.), said his deal with Arsenal left him with more money than he would have had otherwise, and a list of donors he is using for his next campaign.

A contract between Arsenal and another 2020 Republican campaign, which was obtained by The Post, showed in detail how the payment structure can work.

The campaign paid Arsenal an upfront production fee of \$20,000, and used WinRed fundraising links to track how much money came in as a result of people viewing its spot in freely shared social media posts. The campaign kept the first \$20,000, to reimburse itself for the upfront fee. It split the next \$40,000 evenly with Arsenal, and forfeited 25 percent of the money raised above \$60,000.

Klacik and several campaign managers who worked with Arsenal and Benny Johnson in 2020 said their arrangements worked out well because they were able to attract donors who otherwise might never have heard of the candidates.

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“Without [Johnson] taking my message and putting it into a video forum, we would have never been on the level we were on,” Klacik said. This month, she launched her own political action committee, Red Renaissance PAC, which she said she will use to raise money for other Republicans.

Jason Cole, the managing partner at Arsenal, said the company works “with all types of groups to tell their stories. Often their budgets are limited, and we try to figure out creative solutions.”

“We will always bet on our candidates and our work,” he added.

Once campaigns have the donors’ names, email addresses and phone numbers, they can seek repeat donations and keep 100 percent of the proceeds. But if a candidate takes off as a national fundraising target, as Klacik and Lacy Johnson did, the share of the money collected by the fundraisers spikes as well.

“If you’re a candidate who doesn’t have money, that makes sense,” said one GOP consultant, speaking on the condition of anonymity to protect the identity of his clients. “It’s just that, ultimately, the campaigns aren’t paying for it. The donors are.”

Suzanne Salata, who is active in Republican politics in San Jose, Calif., researched Klacik and gave her \$500 after seeing her initial viral video on Fox News.

“I knew she was a long shot, but I felt it was worth investing in her,” said Salata, who also donated to Lacy Johnson and other GOP hopefuls.

But Salata found it “ridiculous” that companies would take a sizable cut of a candidate’s fundraising money. “Like at a nonprofit, if their overhead was 40 or 50 percent, you wouldn’t give to them,” she said. “It’s not exactly apples to

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apples. But I've never heard of a kickback like this [in campaigns].”

Greg Ruggles of Bettendorf, Iowa, sent Klacik \$100 after stumbling onto her Baltimore campaign ad. He said he felt a little “duped” after learning that a large chunk may have gone to a vendor.

“If you’re giving money to a cause,” he said, “you want it to go to the cause, not to the company creating the ad.”

In the future, he added, “I’ll certainly be more cautious about my donations.”

Anu Narayanswamy, Erin Cox and Alice Crites contributed to this report.



Exhibit N

A Mail-In Experiment in Baltimore's 7th Congressional District

Testing out remote voting options that will soon go statewide, Maryland voters are expected to rebuff the candidate who depicted Baltimore City as rat-infested in a viral video.

[EDWARD ERICSON JR](#) / April 28, 2020

More than 85,000 people have already submitted ballots for the race to fill the seat still vacant after the 2019 death of Representative Elijah Cummings.

Kweisi Mfume, Democratic nominee for Maryland | Kimberly Klacik, a Republican vying to represent the 7th Congressional District candidate

BALTIMORE (CN) — Testing out remote voting options that will soon go statewide, Maryland voters are expected to rebuff the candidate who depicted Baltimore City as rat-infested in a [viral video](#).

The unusual special election is the second of four elections this year to fill the 7th Congressional District seat, which has been vacant since the death of U.S. Representative Elijah Cummings in October 2019.

It has pitted Kimberly Klacik, a 38-year-old Republican political newcomer, against 71-year-old Kweisi Mfume, a Democrat who [won the February primary](#) to retake the district he represented from 1987 to 1996, when Cummings took office.

With eight months left in the term, voting in the special election has been conducted mainly by mail-in ballot. Ballots with return postage were mailed to eligible voters in early April — or at least that was the plan. Some voters did not receive them and were scrambling last week along with election officials to mail or email and print out ballots in time. On April 14, the board of elections authorized three in-person polling places.

Given the new terrain of pandemic voting, Michael McDonald, a political science professor and elections expert at the University of Florida, said that the issues that have cropped up so far don't look so bad.

"Maryland is a little better off than some of the other states," McDonald said in an interview. "What they're doing is probably the best way forward: Run a mail ballot as much as you can, but give people the option to vote in person if they need to."

Election officials will announce the count as of 8 p.m. tonight, with final results [not announced until next week](#) because ballots mailed at the last minute will take several days to get to the elections board, then put in "quarantine boxes" for a day, before being validated and counted.

On June 2, there will be yet another primary election, which will include the presidential and down-ballot races, followed by a general election in November

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to decide who will be sworn in for the next full term in January of 2021. The rapid-fire pace of elections for the same seat have left some voters confused, as some who requested absentee ballots received both the special general ballot and the June primary ballot last week.

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Mfume ran a low-key campaign banking on the goodwill and name recognition he amassed over his decade in office and subsequent stint as the high-profile director of the NAACP, a job from which he was ousted over sexual harassment allegations that were kept quiet until recently. Mfume promises to continue the socially progressive policies both he and the late Cummings championed. He says he wants “\$16 billion for a major urban reinvestment program” and a law requiring “psychological testing as part of any gun sale.”

Klacik says she’ll be the opposite of what Cummings was. She’s for a 100% tax credit for home schooling and says “access to firearms is ‘essential’ in times of crisis.”

In a break from GOP orthodoxy, Klacik wants birth control pills to be sold over the counter but has mainly wrapped herself in the Trump brand. Credited with [inspiring the infamous tweet thread](#) where president said “no human would want to live” in Baltimore, she has made her name lately as a Fox News commentator and now claims to be a journalist, though her former occupation was as the founder of a nonprofit supplying clothing to people starting new jobs or wanting to attend their high school prom.

Klacik contends that her company [Potential Me](#) assisted “close to 200 women [to] become gainfully employed, thirty percent went on to obtain financial independence.”

“As the nonprofit grew, she employed women reentering society and quickly found out what it took to manage payroll and helping families thrive with opportunities she helps create,” according to biography published on Klacik’s [campaign website](#).

Courthouse News could not substantiate those claims.

Chartered in 2013 from the Middle River home she shares with her accountant husband, Potential Me has filed only [one tax return](#) since its founding. It reportedly raised less than \$7,000 and spent less than \$3,000 on its good works, providing clothing to 10 people. Klacik’s campaign did not respond to a request for an interview; messages left in Potential Me’s voicemail box was

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unanswered; and no one picked up the business phone listed for her husband, Jeff.

Klacik's record before Potential Me is somewhat troubled, with lawsuits involving debts and a number traffic tickets for driving under a suspended license. In 2007 she was arrested on that charge and had to pay a bail. Online court records indicate she skipped several court dates and the bail was forfeited.

In 2005 a car dealer won a \$2,500 judgment against her and moved to garnish her wages at the [Lexus Gold Club](#), an adult entertainment venue in Washington, D.C. The venue, which has since closed, told the court that she was not an employee. She paid the debt.

In her campaign, Klacik promises "no more socialism in District 7," in which she defines socialism as taxpayer funds under the control of government bureaucrats. "If you are advocating for Socialism, hopefully this small dose of government control due to the Coronavirus will be what it takes to change minds," she has said.

The virus forced the hybrid mail-in election, which Klacik regards as unfair, [telling a right-wing media host](#) that the three in-person polling places are in voting districts more likely to favor Mfume.

She is on the ballot for the June primary.

The 7th District encompasses sections of West Baltimore and the northwestern corridors extending into Baltimore and Howard Counties. It was carefully gerrymandered starting in 1973 both to remain in Democratic hands and to favor black candidates. Its population is 59% black and 81% of its registered voters are Democrats. Both Klacick and Mfume are black, as was the late Cummings.



MEET KWEISI MFUME, candidate for the 7th Congre...

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Exhibit O



Kimberly Klacik ✓

@kimKBaltimore

I want to assure my donors and supporters that an interview has been conducted where I rebut false accusations of federal crimes committed in a video by an individual on Instagram. The answers to so many of your questions will be outlined in detail in this interview...

8:30

Messages



requestatest.com



Klacik, Kimberly

DOB: 01/19/1982

Patient Report

Patient ID: 062017990
Specimen ID: 175-763-2467-6Age: 39
Sex: Female

Ordering Physician

Ordered Items: Chain-of-Custody Protocol, PSC Specimen Collection, 788652 5+Crft-Bund

Date Collected: 06/23/2021

Date Received: 06/24/2021

Date Reported: 06/24/2021

Fasting: Not Given

General Comments & Additional Information

Clinical Info: CDU/06/20/21/1990 H00644622
Clinical Info: 306 LM N
Reason for testing: Other: LM
Collectors Name: TIFFANY CUNDELL/HAM
Collectors Phone #: 4103915295
MRG Name from CCP:

Chain-of-Custody Protocol

Test	Current Result and Flag	Previous Result and Date	Units	Reference Interval
Chain-of-Custody Protocol**	Performed			

788652 5+Crft-Bund

Test	Current Result and Flag	Previous Result and Date	Units	Reference Interval
Amphetamines, Urine**	Negative		ng/mL	Cutoff=1000
Amphetamine test includes Amphetamine and Methamphetamine.				
Cannabinoid**	Negative		ng/mL	Cutoff=50
Cocaine (Metab)**	Negative		ng/mL	Cutoff=300
Opiates**	Negative		ng/mL	Cutoff=2000
Opiate test includes Codeine and Morphine only.				
Phencyclidine**	Negative		ng/mL	Cutoff=25
Specific Gravity**	1.016			
pH, Urine**	6.1			4.5-8.0
Creatinine, Urine**	248.0		mg/dL	20.0-300.0

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Item Legend

▲ Out of reference range ■ Critical or Alert

Performing Labs

01 - US - LabCorp QTS RTP 1904 TW Alexander Drive, RTP, NC, 27709-0153 Dr. Naei Akbulut, PhD
For Inquiries, the physician can contact Branch: 800-762-4344 Lab: 800-833-3984

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Date Issued: 06/24/21 16:12 ET Final Report Page 1 of 2

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Klacik, Kimberly

DOB: 01/19/1982

Patient Report

Patient ID: 062017990
Specimen ID: 175-763-2467-6Age: 39
Sex: Female

Ordering Physician

COPY

labcorp

Date Issued: 06/24/21 16:12 ET Final Report Page 1 of 2

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Klacik, Kimberly DOB: 01/19/1982 Patient Report

Patient ID: 862817990 Age: 38 Ordering Physician

Specimen ID: 175-743-2467-0 Sex: Female

Patient Details	Physician Details	Specimen Details
Klacik, Kimberly	Request & Test, LTD.	Specimen ID: 175-743-2467-0
Phone:	7027 Midwood Suite 201, BRACKVILLE, OH,	Control ID: 862817990
Date of Birth: 01/19/1982	44141	Alternate Control Number:
Age: 38	Phone: 888-732-2348	Date Collected: 06/23/2021 11:38 Local
Sex: Female		Date Received: 06/24/2021 09:06 ET
		Date Entered: 06/24/2021 09:14 ET
		Date Reported: 06/24/2021 16:08 ET

128 135 727 [Share]



Kimberly Klacik ✓
@kimKBaltimore

...

which will be distributed on major social platforms & in nearly 100 local television markets. Attached you will see the drug test I took hours after the claim was made that I use illegal substances. It's a shame I have to go this low, but here we go.

11:54 AM - Jun 25, 2021 - Twitter for iPhone

45 Retweets 1 Quote Tweet 388 Likes

[Reply] [Retweet] [Like] [Share]

Exhibit P

TRANSCRIPT OF PODCAST:

<https://www.iheart.com/podcast/269-the-thegreatdivide1776s-p-o-77274024/episode/tgd055-kim-klacik-president-of-the-84573130/>

**REQUESTED PORTION FROM 29:12 to 46:01(end)
AIRED JULY 7, 2021
CONVERSATION BETWEEN ALEX JACOBY AND KIM KLACIK**

Transcribed from a digital file by:

Laurie McClain
615-351-6293
lauriemcclainmusic@gmail.com

1 MR. JACOBY: So it is -- it is what it is.

2 MS. KLACIK: Yeah.

3 MR. JACOBY: So I want to -- I'm going to talk
4 about -- you've been -- you've been, obviously, pretty --
5 you -- you've been trending, Kim. You've been trending on
6 -- on -- on social media lately.

7 MS. KLACIK: Right.

8 MR. JACOBY: And I know people -- people are going
9 to -- going to watch this podcast, and obviously they'll
10 probably -- they would have attacked you and attacked me if
11 we didn't touch on the Kim Klacik/Candace Owens riff that's
12 going on.

13 MS. KLACIK: Yeah.

14 MR. JACOBY: I'm not -- I'm not looking to talk
15 about details. I have my opinions on the whole thing in
16 general, as -- as an issue. I -- I have a -- I have
17 messages for just people out there that are on social media
18 that are picking sides, when to me, there's no sides to pick
19 at this point, there shouldn't be any sides.

20 We have two strong conservative women, which there
21 aren't that many of in the conservative movement -- there
22 are some, but not a lot -- who are feuding with each other
23 over accusations and tweets over social media and some
24 Google searches that, in my opinion, don't really add up to
25 much, and they don't show any facts.

1 MS. KLACIK: Right.

2 MR. JACOBY: So how -- how -- how are you doing
3 all this, first, before I -- because I -- I -- I have a -- I
4 have a few things to rant about, about the whole thing, in
5 general, that I -- that I want you to hear, and -- and I
6 want everybody to hear. But how are you doing with all of
7 this? What's -- what can you talk about?

8 MS. KLACIK: Well, you know, we have a legal team
9 that's on it. We got our legal team on it almost
10 immediately. There were just so many crazy accusations. I
11 was like, Look, I'm not going to pick through this crazy
12 nonsense.

13 MR. JACOBY: Right.

14 MS. KLACIK: I'm going to get a legal team and
15 we're going to fight this the right way. You know, I think
16 everybody wanted me to react immediately with an emotional
17 reaction. I -- I think I've, you know, taken a measured
18 response to things. It's something that we should do,
19 especially someone that wants to be a leader in -- in -- in
20 public office. So I wanted to sit back and gather
21 information and observe, and you know, talk to my lawyers.

22 Unfortunately, there were so many different people
23 mentioned in this video that was put out that are private
24 citizens, and so we had to wait for them to also get their
25 legal counsel together. And so you know, there was a little

1 bit of waiting around just until we could make sure that
2 everybody was equipt to go forward and handle it.

3 I -- I understand that a lot of them were framed
4 as questions, but some of them were not. Some -- some
5 things that were said were complete accusations. And you
6 know, it's a shame. You know, none of it is true.

7 But you know, no matter what I say, unfortunately,
8 like you said, you know, the social media mob mentality, no
9 matter what I say, you know, Candace's supporters are going
10 to say, No, she's right. You know, No, that's -- that's not
11 how this went down. I looked it up myself.

12 You know, there's so many people out there that
13 can't correctly read an FEC report, first of all. There's a
14 lot of people out there that have no idea how much it costs
15 to run a campaign. You know, we just talked about the
16 senate runoff race in Georgia, Kelly Loeffler spent
17 \$80 million on her campaign, and she lost.

18 MR. JACOBY: Right.

19 MS. KLACIK: Campaigns cost a lot of money. At
20 the grand scheme of things \$8.2 million, it's a lot of
21 money, but not really, when you're trying to flip a deep
22 blue district. And people have to understand, we didn't get
23 that money until the -- the viral ad came out. So that was
24 August 17th when that viral ad hit the ground. And from
25 there, we had to scramble and make the best decisions

1 possible.

2 I myself did not take a salary or any pay from my
3 campaign. My treasurer is the only one that had access to
4 it, the bank accounts. So I could not wire money. I
5 couldn't withdrawal cash. I couldn't do anything with --
6 with the campaign treasury.

7 MR. JACOBY: And not to interrupt you, but you
8 were entitled to take a salary as a congressional candidate.

9 MS. KLACIK: Yes, I was. I was. And many -- many
10 people do. And -- and I don't blame them for doing that,
11 because it's a full-time job.

12 MR. JACOBY: Yeah.

13 MS. KLACIK: You know, you give up your whole life
14 running for office. I was just fortunate enough, you know,
15 to have my husband that was still paying the bills, and I
16 said, You know what? People are donating this money because
17 they want us to win. So if I can use as much money as
18 possible on the race itself, then that's what I'm going to
19 do, you know.

20 And -- and I didn't hear anybody account for the
21 fact that we left close to \$1 million in the bank. So what
22 am I, a conservative thief? You know, I -- I only took some
23 money? You know what I mean? Like it just doesn't make any
24 sense.

25 But you know, it was hurtful, it -- it -- it --

1 you know, I guess it damaged my reputation, because I -- I
2 did a quote -- tweet that -- you know, with my opinion that
3 someone didn't like.

4 And so like I said, we're going to continue to
5 fight this. But you know, it's -- it's just unfortunate
6 that anybody that's really for the conservative movement
7 would try to tear another conservative down, especially one
8 that is supporting 20 other conservatives that are currently
9 running for office. It just doesn't make any sense.

10 MR. JACOBY: It doesn't make sense, Kim. You're
11 absolutely right. And you made a comment on the social
12 media mob. And when I hear "social media mob," in our
13 realm, in our conservative realm, I immediately think of the
14 social media aggressive leftist mob that want nothing more
15 than to attack conservatives to weaken the conservative
16 movement.

17 And then we have -- yes, okay, so Candace Owens
18 has a lot of fans. She has like three million followers are
19 Twitter or Instagram, or whatever it is. She's got a show
20 on the Daily Wire. She wrote a book. I'm a fan of
21 Candace Owens. I -- I -- I read her book. I -- I watch her
22 occasionally.

23 My problem is with the supporters, the con -- so-
24 called conservatives that, based off social media actions,
25 Oh, my God, Kim -- Kim turned off her comments.

1 Well, you know, not for nothing. Kim has a child.
2 I have an 8 year old that's very -- very good with her
3 tablet and reading certain things.

4 MS. KLACIK: Yeah.

5 MR. JACOBY: Maybe Kim doesn't want her daughter
6 exposed to that, she has a family to protect. So the social
7 media nonsense mob -- that's what I think it is, it's
8 nonsense, because all of the junior gumshoe detectives out
9 there that said, Well, I did a search myself, and this
10 doesn't come up right.

11 Come on, say -- stay in your lane and stick to
12 what you know. Everybody needs to take a deep breath.

13 MS. KLACIK: Yeah.

14 MR. JACOBY: Couple things, couple things: If you,
15 Kim Klacik, were under any sort of investigation, whether it
16 be the IRS, any type of federal investigation, people, don't
17 we think -- remember, Kim Klacik, Donald Trump endorsed
18 candidate, she has a connection to the former president of
19 the United States that everybody loves in the conservative
20 community -- do -- do you honestly think that an
21 investigation would not be made public by left-leaning media
22 to try to discredit you --

23 MS. KLACIK: Uh-huh

24 MR. JACOBY: -- in order to discredit the former
25 president, Donald Trump, who's having rallies, who's every

1 day putting statements out, who's -- every day is endorsing
2 candidates, who every day is fighting, who you were just
3 with at an event in New Jersey -- and -- and another thing,
4 to be at that event, Kim, with the Red Renaissance and all
5 of your candidates that you're backing -- because there were
6 several of them there, I saw the pictures, I saw the videos
7 -- doesn't the Secret Service have to vet everybody that
8 attends that event?

9 And if you -- maybe you were under some sort of
10 investigation, they probably wouldn't want Kim Klacik there,
11 especially to take pictures and have a chat with Donald
12 Trump?

13 MS. KLACIK: Yes, that is correct. The
14 Secret Service always vets you. So yes, if I was under
15 investigation -- I know a lot of people say, Well, you're
16 saying that you're not under investigation, but they
17 wouldn't necessarily call you.

18 But the FEC would be contacting my accountant and
19 my treasurer, yes they would.

20 And like you said, I wouldn't have been able to be
21 with the Trump organization, or Trump himself in New Jersey
22 on Tuesday. It just wouldn't have been possible. And so I
23 think like you said, people need to take a deep breath.
24 People are not thinking clearly.

25 MR. JACOBY: No.

1 MS. KLACIK: They are literally just jumping the
2 gun, and just say, Ah, you're guilty. You have to prove
3 your innocence.

4 No, you got to prove my guilt.

5 MR. JACOBY: Exactly.

6 MS. KLACIK: And that has not been done. Other
7 than --

8 MR. JACOBY: And --

9 MS. KLACIK: -- that, I'm going to keep working,
10 and -- and moving forward, because that's -- this is a
11 distraction. We got Stacey Abrams in Georgia right now with
12 Ariana Grande registering all of these voters, flipping
13 Republican voters to democrats, and here we are going back
14 and forth on some hearsay on social media. It's
15 unbelievable. You know, we look like little children at
16 this point.

17 MR. JACOBY: I agree. And you're out there
18 working, pushing conservative candidates, campaigning every
19 day. I see -- I see social media every day, there's events
20 going on all the time, you're attending events. You're
21 working. You're campaigning. You're trying to strengthen
22 the conservative movement in this country by helping to he
23 elect conservative candidates.

24 MS. KLACIK: Yeah.

25 MR. JACOBY: And I -- and I mean no disrespect to

1 Candace Owens. She's a political commentator. She has a
2 show. She's a firecracker, she's aggressive. I like
3 99.9 percent of the things that she says, that I agree with.
4 But that's what she is. And she's very good at what she
5 does. She's a commentator. She's good at debating. She's
6 good at attacking.

7 I don't think Candace Owens is going to be
8 watching this, but if there's a chance she is: Candace, I
9 think you might have it a little wrong. I think you might
10 have to take a step back. Hopefully you're not going to
11 come and attack me. But it is what it is. You can come
12 after the little guys.

13 I -- I hope that, Kim -- that you and Candace,
14 with your legal teams, because that's who's involved, can
15 come to some sort of conclusion here. Everyone is on the
16 same team. The conservatives that are out there attacking
17 you on social media, we're all supposed to be on the same
18 team. Everything that these conservatives -- so-called
19 conservatives, because I don't know -- I don't know what
20 they are now, that they want to attack another conservative
21 based off no facts, based off no evidence.

22 I'll ask you straight out, Kim, about an
23 investigation -- but you already said it -- but I'm going to
24 ask you: Has your legal team or your financial people been
25 -- have -- have -- have they been reached, too, by any

1 federal agency asking questions in an investigation?

2 MS. KLACIK: No, not at all.

3 MR. JACOBY: Okay. So there you go.

4 MS. KLACIK: Not at all.

5 MR. JACOBY: So there you go.

6 MS. KLACIK: As you know -- you know, we -- we
7 file every quarter with the FEC. This isn't like, you know,
8 I -- we wait until the end of the -- the -- the -- the
9 election cycle and try to push money --

10 MR. JACOBY: Right.

11 MS. KLACIK: -- off the books. You can't even do
12 that with the FEC. There are quarters that you have to
13 file. You know, they want receipts for everything.

14 We have canvassers that were literally hitting the
15 streets when they could, and you know, we had to give them
16 their -- their W-9 forms, or whatever it's called. They --
17 they kept -- they keep track of every single dollar that
18 comes into a campaign. There's no way that you're just
19 taking money off the books. I mean, you would literally
20 have to do something like Congresswoman Ilhan Omar, have her
21 -- you know, now husband, have some consulting firm --

22 MR. JACOBY: Right.

23 MS. KLACIK: -- pay him, you know, show the
24 receipts [indiscernible] framing him for his consulting
25 firm. There's no way you could just push money off the

1 books. Right? Obviously I didn't do any of that stuff.

2 And so it's interesting to me that we're at this
3 point. I can't believe we're even having this fight. Like
4 you said, Candace Owens is a commentator. I'm someone that
5 runs for office and helps other people run for office.
6 We're in two totally different lanes --

7 MR. JACOBY: Right.

8 MS. KLACIK: -- that -- we don't -- our lanes
9 don't even cross paths. We don't collide. You know? So it
10 doesn't make any sense to me.

11 I know that there are certain candidates that they
12 support, you know, through the crew that they have. And --
13 and maybe they feel that we're -- our candidates have taken
14 money from others. And -- and I see that comment a lot,
15 that I shouldn't have made all that money, because it could
16 have been used in other, I guess, districts.

17 Well, guess what? I didn't hold a gun to any
18 donor's head. Right? They are free to choose to donate to
19 anybody that they wanted to. They chose to donate to me
20 because they believed in our race, they understood that it
21 might be a win this time, it might be a win next time. You
22 know, it's going to take time. But they donated because
23 they care.

24 They saw what's going on in the Baltimore, and
25 they care. They saw how hard we were working, and so they

1 donated. It's not about taking money from other candidates.
2 They could have donated to anybody else in the country.
3 They chose our race because this is who they wanted to
4 support.

5 MR. JACOBY: Well, it's -- it all -- it all -- it
6 all makes sense.

7 And I -- I'm going to -- I'm going to leave that
8 subject like this: To everyone out there, just -- just --
9 just watch and listen, just be rational. These -- these
10 attacks on -- and on both sides -- there -- there are some
11 people out there attacking Candace too, and I don't agree
12 with it.

13 And like you said, you guys don't collide.
14 Candace is in her political commentary lane, you in your --
15 in your campaign PAC lane. I -- I hope there's -- there's
16 -- there's a resolution.

17 They -- you are innocent until proven otherwise.
18 No one has -- you don't have to move that you're innocent.
19 You are innocent. And -- and -- and -- and that's it. So
20 forget about all that.

21 Like I said, if anybody's listening that's --
22 that's -- or -- or watching, that -- that has gone on the
23 attack, I think you should just take a minute and think
24 about what you're doing, and -- and -- and the -- and the
25 potential damage it's causing, based off nothing.

1 It's almost like critical race theory, it's a
2 theory. It's not --

3 MS. KLACIK: Yes.

4 MR. JACOBY: -- based on facts. So --

5 MS. KLACIK: Right.

6 MR. JACOBY: -- I'm going to leave that at that.
7 Kim, I want you to tell everybody where they can find you,
8 the Red Renaissance PAC, how they can help, how they can
9 donate, where do they go, what can they check out to do
10 that.

11 MS. KLACIK: Yeah. So you can find me on Twitter
12 @KimKBaltimore, Instagram and Facebook @KimberlyKlacik.
13 YouTube, I do post some stuff on YouTube every now and then
14 under Kimberly Klacik.

15 And far as Red Renaissance, we have a Twitter
16 page, Red Renaissance; Instagram, Red Renaissance; same with
17 Facebook, Red Renaissance.

18 And then, of course, RedRenaissance.com. And on
19 that website you'll see a lot of the candidates that we
20 support. And we ask people to donate directly to the
21 candidates themselves, not to Red Renaissance, because
22 again, this is not about us. We'll -- we'll, you know, get
23 our money and make our money elsewhere, to continue, you
24 know, the strides that we make by crawl -- you know, going
25 across the country and fund-raising.

1 Right now we would just love for people to just
2 donate directly to the candidates. They've got to get their
3 signs up. They've got to get their mailers out. There's a
4 lot of things that they've got to do, even, you know, paying
5 for those meet-and-greets and those fundraisers. They've
6 got to do all that stuff.

7 So you know, I just hope people really take a good
8 look at those candidates, because like I said, we have some
9 really great people running for office.

10 MR. JACOBY: Absolutely. Everybody go to
11 RedRenaissance.com and check out the candidates. I -- I've
12 read about some of them myself, and they're -- they're real
13 -- they're real fighters. They're real -- they're real
14 patriots, especially Alex Stovall, who I've -- who I've had
15 here. He -- he's unbelievable.

16 MS. KLACIK: Yes.

17 MR. JACOBY: Kim, I -- I can't thank you enough
18 for taking the time to be here with me.

19 MS. KLACIK: Thank you.

20 MR. JACOBY: And I wish you the best of luck in --
21 in everything that you're doing, especially pushing the
22 conservative values and all of these -- these -- these
23 candidates. So again, thank you so much.

24 MS. KLACIK: No, thanks for having me. I
25 appreciate it.

1 MR. JACOBY: Absolutely.

2 All right, everybody, we're going to -- we're
3 going to end it there. So to get all the episodes, go over
4 to the website, TheGreatDivide1776.com. Remember, take care
5 of yourselves, take care of each other. And most of all,
6 God bless America. You take care.

7 You can reach out to me with opinions and ideas
8 for other episodes at TheGreatDivide1776@gmail.com. You can
9 also find me on social media at The Great Divide Podcast.
10 And please be sure to leave a review for this podcast so the
11 show can be shared to other listeners. Thank you, and God
12 bless America.

13 (End of requested portion of recording.)

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I, Laurie McClain, Transcriber,

DO HEREBY CERTIFY that the foregoing proceedings were transcribed by me from a digital file, and the foregoing proceedings constitute a true and correct transcript of said recording, to the best of my ability.

I FURTHER CERTIFY I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel, nor do I have any interest in the outcome or events of this action.

Date 12/30/2021

Laurie McClain
Laurie McClain
Transcriber

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Exhibit Q

IN THE FIRST CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

KIMBERLY KLACIK,

Plaintiff,

v.

CANDACE OWENS,

Defendant.

§
§
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§
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§
§

Case No. 21C1607

JURY DEMANDED

AFFIDAVIT OF CANDACE OWENS

1. My name is Candace Owens, I have personal knowledge of the facts affirmed in this Affidavit, I am competent to testify regarding them, and I swear under penalty of perjury that they are true.

2. I am the Defendant in Davidson County Circuit Court Case No. 21C1607.

3. The exhibits appended to my contemporaneously filed Memorandum of Law in support of my Petition to Dismiss the Plaintiff's Complaint Pursuant to the Tennessee Public Participation Act are authentic.

4. The exhibits to my Petition that pre-date the publications over which I have been sued—and the information contained within them—helped inform my reporting regarding the Plaintiff.

5. The exhibits to my Petition that post-date the publications over which I have been sued—and the information contained within them—helped inform my belief that Plaintiff Kimberly Klacik is not credible.

Further affiant sayeth naught.

Pursuant to Tenn. R. Civ. P. 72, I declare under penalty of perjury that the

foregoing is true and correct.

By:  _____
Carlace Owens Farmer (Jan 3, 2022 09:27 CST)

Jan 3, 2022
Date: _____

Exhibit R

COPY



Kimberly Klacik ✓ @kimKBaltimore · Nov 16

...

In my case it was the person. If someone said I didn't work hard enough or there was actual criticism, then okay. However, she told her followers I stole money which is a complete lie. All in an attempt to destroy my career. Pretty pathetic.



3



17



Dave @DavidKapur · Nov 16

...

I'll be honest. I'm a fan of both of you but I didn't understand where the conflict arose from? What did she have to gain by claiming you stole money? She wasn't running against you or something so what did she have to gain?

I'm not discounting it happened just trying to get it



1



7



Kimberly Klacik ✓
@kimKBaltimore

...

Replying to @DavidKapur @JulJul89981911 and @PastorDScott

That's the million dollar question that will hopefully be answered during the discovery phase of the lawsuit. My supporters, staff, family... so many people were hurt and very confused. Saying we knocked money off the books to put in my pocket? Unreal & unacceptable.

8:11 AM · Nov 16, 2021 · Twitter for iPhone

4 Likes

