

RECEIVED  
BEFORE THE FEDERAL ELECTION COMMISSION

2016 JAN 20 PM 4: 21

CAMPAIGN LEGAL CENTER  
1411 K Street, NW, Suite 1400  
Washington, DC 20005  
(202) 736-2200

DEMOCRACY 21  
2000 Massachusetts Avenue, NW  
Washington, DC 20036  
(202) 355-9600

v.

MUR No. \_\_\_\_\_

TED CRUZ FOR SENATE  
815A Brazos, PMB 550  
Austin, TX 78701

SENATOR RAFAEL EDWARD TED CRUZ  
c/o Ted Cruz for Senate  
815A Brazos, PMB 550  
Austin, TX 78701

**COMPLAINT**

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that Senator Rafael Edward Ted Cruz (ID S2TX00312):

- I. Obtained and used loans from Citibank and Goldman Sachs to influence his 2012 election to the U.S. Senate, and that Senator Cruz and Ted Cruz for Senate (ID C00492785), the principal campaign committee for Senator Cruz's 2012 Senate campaign, failed to disclose these loans in reports filed with Commission in violation of Federal Election Campaign Act (FECA), 52 U.S.C. § 30101, *et seq.*, and Commission regulations. The failure to report these loans caused an informational injury by depriving complainants, voters and members of the public of information that they were entitled by law to have.

II. These loans may have been secured, in part, by more than 50% of the joint assets owned by Senator Cruz and his wife, Heidi Cruz, resulting in Senator Cruz and Ted Cruz for Senate accepting excessive contributions from Heidi Cruz in violation of FECA and Commission regulations.

2. “If the Commission, upon receiving a complaint ... has reason to believe that a person has committed, or is about to commit, a violation of [FECA] ... [t]he Commission shall make an investigation of such alleged violation....” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a) (emphasis added).

#### **Statement of Facts**

3. Ted Cruz for Senate reported to the Commission that Senator Cruz loaned personal funds to the committee in 2012 totaling \$1,360,000: \$400,000 on May 18, \$560,000 on May 22, \$250,000 on July 23 and \$150,000 on August 7.<sup>1</sup>
4. Ted Cruz for Senate did not include any information in the Form 3 Schedule C field for “List All Endorsers or Guarantors (if any) to Loan Source” on any of the Schedule C forms filed with the Commission for 2012—*i.e.*, did not indicate in this field that the source of the loan was a bank loan, brokerage account, home equity line of credit or other line of credit.<sup>2</sup>
5. Ted Cruz for Senate did not include a Form 3 Schedule C-1 (Loans and Lines of Credit From Lending Institutions) with any of its Form 3 disclosure reports filed with the Commission for 2012—*i.e.*, did not indicate via Schedule C-1 that Senator Cruz had

---

<sup>1</sup> *See* Ted Cruz for Senate 2012 Year-End Report, Schedule C, pp. 125-28, filed Jan. 31, 2013.

<sup>2</sup> *See, e.g.*, Ted Cruz for Senate 2012 July Quarterly Report, Schedule C, pp. 1195-97, filed July 15, 2012; Ted Cruz for Senate 2012 October Quarterly Report, Schedule C, pp. 1870-78, filed October 15, 2012; Ted Cruz for Senate 2012 Year-End Report, Schedule C, pp. 124-28, filed Jan. 31, 2013.

obtained any loans or lines of credit from lending institutions used to influence his election.<sup>3</sup>

6. On his United States Senate Financial Disclosure Report for 2012, Senator Cruz reported incurring two new financial liabilities in 2012, one “line of credit” from Citibank and one “margin loan” from Goldman Sachs, each in the range of \$250,001–\$500,000.<sup>4</sup>
7. A *New York Times* review of Senator Cruz’s Senate Financial Disclosure Reports from 2011 and 2012 revealed the loans from Citibank and Goldman Sachs and did not show “a liquidation of assets that would have accounted for all the money” Senator Cruz loaned to his campaign in 2012.<sup>5</sup> According to the *Times* report:

Mr. Cruz’s filings show that at the close of 2011, he and his wife had cash and securities in bank, brokerage and retirement accounts worth \$1.3 million to \$3.4 million. They also had mortgages and a loan against Mr. Cruz’s partnership equity in his law firm. During 2012, they sold securities worth \$82,000 to \$355,000, and the value of other holdings was reduced by, at most, \$155,000.

However, they also added a money-market account with \$250,000 to \$500,000 in it, and the value of other holdings increased by as much as \$435,000. All told, the value of their cash and securities in 2012 saw a net increase of as much as \$400,000—even as the Cruzes were supposedly liquidating everything to finance Mr. Cruz’s Senate campaign.<sup>6</sup>

8. According to the *Times*:

A spokeswoman for Mr. Cruz’s presidential campaign, Catherine Frazier, acknowledged that the loan from Goldman Sachs, drawn against the value of the Cruzes’ brokerage account, was a source of money for the Senate

---

<sup>3</sup> See, e.g., Ted Cruz for Senate 2012 July Quarterly Report, filed July 15, 2012; Ted Cruz for Senate 2012 October Quarterly Report, filed October 15, 2012; Ted Cruz for Senate 2012 Year-End Report, filed Jan. 31, 2013.

<sup>4</sup> Senator Ted Cruz, United States Senate Financial Disclosure Report for calendar year 2012, Part VII. Liabilities, p. 8, available at [http://pfd.s.opensecrets.org/N00033085\\_2012.pdf](http://pfd.s.opensecrets.org/N00033085_2012.pdf).

<sup>5</sup> Mike McIntire, *Ted Cruz Didn’t Disclose Loan From Goldman Sachs for His First Senate Campaign*, N.Y. Times, Jan. 13, 2016.

<sup>6</sup> *Id.* (emphasis added).

race. Ms. Frazier added that Mr. Cruz also sold stocks and liquidated savings, but she did not address whether the Citibank loan was used.<sup>7</sup>

9. Cruz spokeswoman Catherine Frazier told the *Times* that “the failure to report the Goldman Sachs loan [to the Commission], for as much as \$500,000, was ‘inadvertent.’”<sup>8</sup>
10. According to a report in *The New York Times* dated January 16, 2016, Senator Cruz failed to disclose “a second loan, from Citibank, for the same race....”<sup>9</sup> According to this report, Senator Cruz has sent a letter to the Commission, which “said that the ‘underlying source’ of money for a series of personal loans Mr. Cruz made to his Senate campaign in Texas included both bank loans, which totaled as much as \$1 million. Both loans were ‘inadvertently omitted’ from the required filings, the letter said.”<sup>10</sup>
11. The Senate Financial Disclosure Report requires a filer to value assets in broad bands (e.g., \$15,001–\$50,000, \$50,001–\$100,00 and \$100,001–\$250,000) and designate which assets are owned by a spouse (S), dependent child (DC) or are jointly owned (J).<sup>11</sup> Senator Cruz’s personal disclosure report for 2011 only designates certain assets as S or DC. The majority of the assets in the 2011 report are left undesignated, either signifying they were wholly owned by Senator Cruz or making it impossible to determine if they were jointly owned by Senator Cruz and his wife or solely owned by Senator Cruz.<sup>12</sup> Senator Cruz’s amended personal financial disclosure report for 2012, which was filed with the Senate on October 21, 2013, does designate ownership of most, though not all, assets. Nevertheless, the valuation by broad bands does not allow a determination of the

---

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Mike McIntire, *Cruz Failed to Disclose Second Loan from 2012*, N.Y. Times, Jan. 16, 2016.

<sup>10</sup> *Id.*

<sup>11</sup> See, e.g., Senator Ted Cruz, United States Senate Financial Disclosure Report for calendar year 2012, Part III. at [http://pfd.s.opensecrets.org/N00033085\\_2012.pdf](http://pfd.s.opensecrets.org/N00033085_2012.pdf).

<sup>12</sup> Senator Ted Cruz, United States Senate Financial Disclosure Report for calendar year 2011, [http://pfd.s.opensecrets.org/N00033085\\_2011\\_nom.pdf](http://pfd.s.opensecrets.org/N00033085_2011_nom.pdf).

exact value of the assets. Moreover, some of the assets were in the form of retirement and other types of accounts that may have been restricted in their availability for certain loans. Depending on which assets were used to secure the loans and their valuation, Heidi Cruz's share of the assets may have been used to secure the loans.

#### SUMMARY OF THE LAW

12. A political committee must file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104(a)(1); *see also* 11 C.F.R § 104.3(a). Such reports must include all loans made to the committee by, or guaranteed by, the candidate, as well as the identification of any endorser or guarantor of such loan. *Id.* at § 30104(b)(2)(G), (3)(E). Such reports must also include any disbursement by the committee for repayment of loans made by or guaranteed by the candidate and for the repayment of all other loans, as well as the name and address of any person who receives a loan repayment from the reporting committee, together with the date and amount of such loan repayment. *Id.* at § 30104(b)(4)(D)-(E), (5)(D).
13. More specifically, each report must disclose, on Schedule C, the "amount and nature" of outstanding debts and obligations owed by the reporting committee. 11 C.F.R. § 104.3(d).

When a candidate obtains a bank loan or loan of money derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit ... for use in connection with the candidate's campaign, the candidate's principal campaign committee shall disclose in the report covering the period when the loan was obtained, the following information on Schedule C-1 or C-P-1:

- (i) The date, amount, and interest rate of the loan, advance, or line of credit;
- (ii) The name and address of the lending institution; and
- (iii) The types and value of collateral or other sources of repayment that secure the loan, advance, or line of credit, if any.

11 C.F.R. § 104.3(d)(4).

14. Commission regulation further provides that, in order to not be deemed a contribution by the lending institution, a bank loan must be “made in accordance with applicable banking laws and regulations and ... made in the ordinary course of business.” A loan is made in the ordinary course of business if it “[b]ears the usual and customary interest rate of the lending institution for the category of loan involved,” is “made on a basis that assures repayment,” is “evidenced by a written instrument” and is “subject to a due date or amortization schedule.” 11 C.F.R. § 100.82(a). Such bank loans must be “reported by the political committee in accordance with 11 CFR 104.3(a) and (d).” 11 C.F.R. § 100.82(b).
15. Similarly, “any loan of money derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate” must be made “in accordance with applicable law and under commercially reasonable terms.” 11 C.F.R. § 100.83(a)(1).
16. “Loans derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate shall be reported by the candidate’s principal campaign committee in accordance with 11 CFR part 104.” 11 C.F.R. § 100.83(e).
17. The term “contribution” includes a loan made by any person for the purpose of influencing any election for Federal office. 52 U.S.C. § 30101(8)(A)(i). Generally, each endorser, guarantor, or co-signer of a loan shall be deemed to have contributed that portion of the total amount of the loan derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, for which he or she agreed to be liable in a written agreement. However,

if the spouse of the candidate is an endorser, guarantor, or co-signer of the loan, the spouse shall not be deemed to make a contribution only if, for a secured loan, “the value of the candidate’s share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate’s campaign” or, for an unsecured loan, “the amount of the loan used for in connection with the candidate's campaign does not exceed one-half of the available credit extended by the unsecured loan.” 11 C.F.R. § 100.83(b).

18. For the 2012 election, the limit on what an individual could contribute to a candidate was \$2,500 per election. 52 U.S.C. § 30116(a).<sup>13</sup>

### **Causes of Action**

- I. There is reason to believe that Senator Ted Cruz obtained and used loans from Citibank and Goldman Sachs to influence his 2012 election and that Senator Ted Cruz and Ted Cruz for Senate failed to timely disclose these loans in reports filed with Commission in violation of FECA.**
19. FECA and Commission regulations make clear that bank loans and brokerage loans obtained by a Senate candidate for the purpose of influencing his election must be disclosed on Form 3 Schedule C and Schedule C-1 in reports filed with the Commission.
20. Based on Senator Cruz’s United States Senate Financial Disclosure Reports for 2011 and 2012, Ted Cruz for Senate’s reports filed with the Commission, and the published reports detailed above, complainants have reason to believe that Senator Cruz obtained and used loans from Citibank and Goldman Sachs to influence his 2012 election and that Senator Cruz and Ted Cruz for Senate failed to disclose these loans in reports filed with the Commission in violation of 52 U.S.C. § 30104(a)(1), (b)(2)(G), (3)(E), (4)(D)-(E) and

---

<sup>13</sup> The individual contribution limits are indexed for inflation and adjusted at the start of each new election cycle. <http://www.fec.gov/press/20110203newlimits.shtml>. Senator Cruz ran in the Republican primary on March 29, 2012. Because no candidate received 50% of the vote, a run-off was held on July 31, 2012, which Senator Cruz won. Because the loans were reported as received on May 18, May 22, July 23 and August 7, Ms. Cruz was likely entitled to two separate \$2,500 contribution limits.

(5)(D), as well as 11 C.F.R § 104.3(a), (d), (d)(4), 11 C.F.R. § 100.82(a)-(b), 11 C.F.R. § 100.83(a)(1), (b) and (e).

21. The failure by Senator Ted Cruz and Ted Cruz for Senate to timely and fully report loans obtained and used to influence his 2012 Senate campaign deprived voters and members of the public of information required by law to be disclosed about the sources and amounts of money used to influence a federal election, thus causing informational injury to complainants, voters and members of the public.

**II. There is reason to believe that Senator Ted Cruz and Ted Cruz for Senate accepted contributions in excess of the applicable contribution limit from Heidi Cruz in violation of FECA in the amount of her share of their joint assets in excess of \$5,000 used to guarantee the loans from Citibank and Goldman Sachs.**

22. Commission regulations make clear that if the spouse of the candidate is an endorser, guarantor, or co-signer of a loan obtained by a Senate candidate for the purpose of influencing his or her election, the spouse will be deemed to have made a contribution to the candidate if “the value of the candidate’s share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate’s campaign.”  
11 C.F.R. § 100.83(b).
23. Based on Senator Ted Cruz’s 2011 and 2012 Senate Financial Disclosure Reports, there is reason to believe that the value of Senator Cruz’s share of the property used as collateral for the loans from Citibank and Goldman Sachs to influence his 2012 election was less than the amount of the loans used for his campaign, necessitating the use of a portion of Heidi Cruz’s share of the jointly owned property in excess of her \$5,000 combined contribution limit as collateral for the loans, in violation of 52 U.S.C. § 30116(a)(1)(A).



**Prayer For Relief**

24. Wherefore, the Commission should find reason to believe that Senator Cruz and Ted Cruz for Senate have violated 52 U.S.C. § 30101, *et seq.*, including 52 U.S.C. § 30104(a)(1), (b)(2)(G), (3)(E), (4)(D)-(E) and (5)(D) and § 30116(a)(1)(A), and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondents from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

January 20, 2016

Respectfully submitted,



Campaign Legal Center, by  
Lawrence M. Noble  
1411 K Street, NW, Suite 1400  
Washington, DC 20005  
(202) 736-2200



Democracy 21, by  
Fred Wertheimer  
2000 Massachusetts Avenue, NW  
Washington, DC 20036  
(202) 355-9600

Paul S. Ryan  
The Campaign Legal Center  
1411 K Street, NW, Suite 1400  
Washington, DC 20005

Counsel to the Campaign Legal Center

Donald J. Simon  
Sonosky, Chambers, Sachse  
Endreson & Perry LLP  
1425 K Street, NW, Suite 600  
Washington, DC 20005

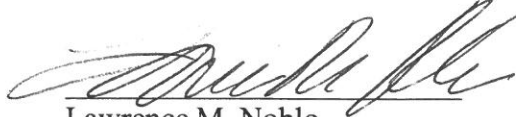
Counsel to Democracy 21

**VERIFICATION**


The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

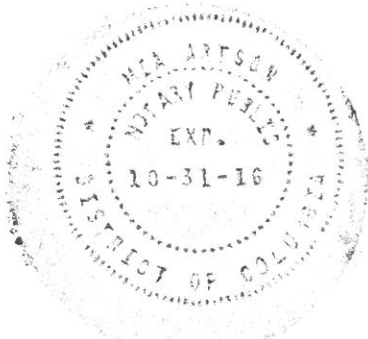
Sworn to pursuant to 18 U.S.C. § 1001.

**For Complainant Campaign Legal Center**

  
Lawrence M. Noble

Sworn to and subscribed before me this 20 day of January, 2016.

  
Notary Public



**For Complainant Democracy 21**

  
Fred Wertheimer

Sworn to and subscribed before me this 20 day of January, 2016.

  
Notary Public

