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and Tulsi Now, Inc.*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Tulsi Gabbard and Tulsi Now, Inc.,

Plaintiffs,

v.

Hillary Rodham Clinton,

Defendant.

Civil Action No. 20-cv-558

COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Tulsi Gabbard and Tulsi Now, Inc. (collectively, “Tulsi”) bring this lawsuit against Defendant Hillary Rodham Clinton (“Clinton”) for defamation. Tulsi Gabbard is running for President of the United States, a position Clinton has long coveted, but has not been able to attain. In October 2019—whether out of personal animus, political enmity, or fear of real change within a political party Clinton and her allies have long dominated—Clinton lied about her perceived rival Tulsi Gabbard. She did so publicly, unambiguously, and with obvious malicious intent. Tulsi has been harmed by Clinton’s lies—and American democracy has suffered as well. With this action, Tulsi seeks to hold Clinton, and the political elites who enable her, accountable for distorting the truth in the middle of a critical Presidential election.

NATURE OF THE CASE

1. Tulsi Gabbard has lived her life with one guiding principle: putting the needs of others before her own. That's why she joined the Army National Guard. That is why she campaigned for and was elected to the United States House of Representatives. And that is why she is running for President.

2. Living by this principle, Tulsi has put the country's needs above all else—even when it means hurting her political career. For example, in February 2016, Tulsi believed the best Democratic presidential candidate for our country was Senator Bernie Sanders. She also knew that Clinton had a stranglehold over the Democratic party and that crossing Clinton (who considered herself the “inevitable nominee”) could mean the end of her own political career. Yet Tulsi put the country before herself, and she publicly endorsed Senator Sanders, becoming the most prominent politician to do so at the time.

3. Clinton—a cutthroat politician by any account—has never forgotten this perceived slight. And in October 2019, she sought retribution by lying, publicly and loudly, about Tulsi Gabbard. Specifically, in widely disseminated national comments, Clinton falsely stated that Tulsi—an Army National Guard officer and United States Congresswoman who has spent her entire adult life serving this country—is a “Russian asset.” Clinton's false assertions were made in a deliberate attempt to derail Tulsi's presidential campaign.

4. Clinton had no basis for making her false assertions about Tulsi—and indeed, there is no factual basis for Clinton's conspiracy theory. Clinton's peddling of this theory has harmed Tulsi, has harmed American voters, and has harmed American democracy. Tulsi brings this lawsuit to ensure that the truth prevails and to ensure this country's political elites are held accountable for intentionally trying to distort the truth in the midst of a critical Presidential election.

PARTIES

5. Tulsi Gabbard is a natural person who is a citizen and domiciliary of the State of Hawaii.

6. Tulsi Now, Inc., is the principal campaign committee for Tulsi Gabbard. Tulsi Now is incorporated in Delaware, with its principal place of business in Hawaii. For the purposes of Tulsi Gabbard's presidential campaign, Tulsi Gabbard and Tulsi Now are essentially synonymous and operate in sync. Gabbard cannot run for office without Tulsi Now, as Tulsi Now is the entity required for receiving, processing, and handling all contributions to her presidential campaign.

7. Clinton is a natural person who is a citizen and domiciliary of the State of New York.

JURISDICTION

8. This Court has personal jurisdiction over Clinton because she is a citizen and domiciliary of the State of New York.

9. This Court has subject matter jurisdiction because Tulsi and Clinton are citizens of different states and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

VENUE

10. Venue is proper in this judicial district because Clinton resides in this district and because a substantial part of the events giving rise to this Complaint occurred in this district.

FACTUAL ALLEGATIONS

I. Background

A. Tulsi Gabbard

11. Tulsi is a four-term United States Congresswoman, a Major in the National Guard, and a military combat veteran of Iraq. Tulsi is running for President of the United States as a member of the Democratic Party.

12. Tulsi's presidential campaign is the culmination of a long career of public service and a desire to step up when called upon for duty.

13. As a child, Tulsi's parents would enlist her and her siblings in "service days," where the family would pick up litter from beaches or prepare food for homeless families. At the age of 21, Tulsi began serving in the Hawaii State Legislature.

14. Motivated by the terrorist attacks on September 11, 2001, Tulsi made the decision to dedicate her life to protect the safety, security, and freedom of the American people. She enlisted in the Hawaii Army National Guard. In 2004, as Tulsi was campaigning for reelection to the State House, the Hawaii National Guard's 29th Brigade Combat Team was called up to deploy to Iraq. Tulsi's name was not on the mandatory deployment roster, but she knew there was no way she could stay behind as her brothers and sisters-in-arms were sent off to war, possibly to never return. So Tulsi left an easy reelection campaign and volunteered to deploy—the first of two deployments to the Middle East as a soldier.

15. Between tours of duty in the Middle East, Tulsi worked in the United States Senate as a legislative aide to Senator Danny Akaka, where she focused on veterans' issues. After her two deployments, Tulsi returned to Hawaii to serve on the Honolulu City Council. And today, Gabbard continues to serve—now as a fourth-term United States Congresswoman and as a Major in the National Guard with sixteen years of service.

B. Hillary Clinton

16. Clinton was the 2016 Democratic Party nominee for President of the United States, the United States Secretary of State from 2009 until 2013, a United States Senator for the State of New York from 2001 to 2009, and the First Lady of the United States from 1993 to 2001. Clinton also ran for president in 2008, but she failed to secure the Democratic Party nomination. In both the 2008 and the 2016 presidential elections, Clinton was the clear frontrunner, but she ultimately lost in surprise upsets (first to President Barack Obama in the 2008 presidential primary, then to President Donald Trump in the 2016 presidential election).

II. Clinton's Defaming Tulsi

A. Clinton's Defamatory Statements

17. On October 17, 2019, Clinton was a guest on the podcast Campaign HQ With David Plouffe. In the course of a widely-distributed national interview, Clinton stated the

following regarding “somebody who is currently in the Democratic primary” who “[they] are grooming . . . to be the third-party candidate”¹:

She’s the favorite of the Russians. They have a bunch of sites and bots and other ways of supporting her so far. And, that’s assuming Jill Stein will give it up, which she might not because she’s also a Russian asset. Yeah, she’s a Russian asset.

(“Defamatory Statements”).

18. Campaign HQ with David Plouffe is a popular and prominent political podcast. The podcast is hosted by David Plouffe, President Barack Obama’s former campaign manager. Campaign HQ With David Plouffe has a large audience and is available for streaming through Apple podcasts, Stitcher, Radio.com, and Player.fm, amongst other places. The podcast is produced and hosted by Cadence13, a company valued around \$50 million.

19. The next day, October 18, Clinton doubled down on the Defamatory Statements. A CNN reporter asked Clinton’s official spokesman, Nick Merrill, whether the Defamatory Statements were about Tulsi. Clinton’s spokesman responded: “If the nesting doll fits.” He continued: “This is not some outlandish claim. This is reality.”

20. Clinton’s reference to “the nesting doll” is a reference to the universally known Russian nesting dolls (Matryoshka dolls).

21. Clinton’s Defamatory Statements immediately harmed Tulsi. Despite reprobation of Clinton by several 2020 presidential candidates—including Senator Bernie Sanders, Marianne Williamson, and Andrew Yang—for her baseless conspiracy-mongering, Clinton’s Defamatory Statements spread like wildfire across the Internet, and took on a life of their own. Millions of Americans heard (or read about) a well-known authority figure, Clinton, stating as fact that Tulsi was a “Russian asset” and “the favorite of the Russians.” Scientifically conducted opinion surveys have shown that Clinton’s false, malicious statements about Tulsi were accepted as true

¹ Precisely whom Clinton asserted is “grooming” Tulsi has been disputed by Clinton’s allies. The “grooming” dispute is a red herring, as this Complaint—which precisely identifies Clinton’s Defamatory Statements—makes clear.

by millions of Americans, including large numbers of voters in battleground Presidential primary states.

22. In short, Clinton got exactly what she wanted by lying about Tulsi—she harmed her political and personal rival’s reputation and ongoing Presidential campaign, and started a damaging whisper campaign based on baseless, but vicious, untruths.

B. Clinton Refuses to Retract the Defamatory Statements

23. Despite calls from Tulsi and other public figures to correct the record, Clinton did not retract the Defamatory Statements. Nor did she apologize for the Defamatory Statements.

24. Before bringing this lawsuit, Tulsi wrote to Clinton and advised her of the complete and total falsity of the Defamatory Statements. Tulsi also asked Clinton to retract the Defamatory Statements.

25. Clinton refused to retract the Defamatory Statements and instead stood by them. She continues to stand by them. She refuses to apologize. And Tulsi continues to be greatly injured.

C. The Defamatory Statements are False and Defamatory *Per Se*

26. The Defamatory Statements are false and defamatory *per se*.

27. The Defamatory Statements expressly stated, and specifically conveyed, that Tulsi—a United States Congresswoman, Presidential Candidate, and Major in the United States Army National Guard—is a “Russian asset”. The ordinary and average person who heard and read the Defamatory Statements understood them to be making serious charges against Tulsi: that Tulsi is a tool of, and perhaps an agent of, the United States’s geopolitical rival Russia.

28. The Defamatory Statements indisputably were made about and concerned Tulsi. This much is clear from the words of Clinton’s own official spokesman on October 18, 2019, as well as from innumerable media reports interpreting the Defamatory Statements as concerning Tulsi. Americans throughout the country interpreted Clinton’s Defamatory Statements exactly as they were intended to be interpreted: as referring to Tulsi, and stating as fact that Tulsi was a Russian asset.

29. The Defamatory Statements implicitly conveyed additional information. The ordinary and average person who heard and read the Defamatory Statements understood them to mean that Tulsi was in general sympathy with Russia's aims, objects, and methods. They also understood them to mean that Tulsi was aligned with Russia—not the United States—and would act to further Russia's interests in this presidential election.

30. The ordinary and average person who heard and read the Defamatory Statements also understood them to be statements of fact. The statements used specific language with a precise meaning that is capable of being objectively characterized as true or false, and the statements were conveyed in a tenor of complete sincerity as conveying facts and not opinions. The ordinary and average person who heard and read the Defamatory Statements understood them to impute Tulsi with a lack of fitness for her office and profession, both in her political office and candidacy, and in her position as an officer in the Army National Guard. They understood the Defamatory Statements to mean that Tulsi was assisting the Russians—their “asset”—potentially even as a Russian agent and traitor to this country (which is a widely understood meaning of “Russian asset”).

31. The ordinary and average person who heard and read the Defamatory Statements additionally understood them to be statements of fact because Clinton portrays herself to the public as the flagbearer for ensuring that truth prevails in speech related to politics. As the Democratic Party's presidential nominee in 2016; a former Secretary of State; a former United States Senator; and the former First Lady of the United States, Clinton is widely perceived by the public as someone who would have access to information and intelligence not available to ordinary Americans, and who would therefore know if Tulsi or anyone else were a Russian asset. Not only that, but Clinton has campaigned for stopping false and misleading statements by election campaigns. She portrays herself as a neutral, third-party observer. These were not statements by someone who is well-known to speak in hyperbole.

32. The Defamatory Statements are materially false because they would have a different effect on the mind of the listener or reader from that which the truth would have produced.

33. Tulsi is not a Russian asset. No one—Russia or anyone else—controls her or her presidential campaign. Instead, Tulsi is a loyal American servant, declaring her allegiance to the United States of America both as a soldier and as a member of Congress. She has been serving for over sixteen years in the United States Army National Guard and has voluntarily deployed twice to war zones in the Middle East.

34. The Defamatory Statements are defamatory because they tend to lead the average person in the community to form an evil or bad opinion of Tulsi, as well as because they tend to discredit Tulsi in the conduct of her occupation, profession, and office.

35. The Defamatory Statement's accusation is devastating to a United States politician's reputation. During the 2016 presidential election, state-sponsored content farms sought to interfere with the U.S. presidential elections. This issue of foreign interference in United States elections is an important concern that is treated seriously, as Americans as a whole do not want any other country interfering in their elections. The ordinary and average person who heard and read the Defamatory Statements understood them to be stating that Tulsi's candidacy is part and parcel of Russian efforts to interfere with the 2020 presidential election.

36. Americans do not want to support Russian interference in the 2020 presidential election, and because Clinton maliciously lied, many Americans now associate Tulsi with such foreign interference. In short, Clinton has to date gotten exactly what she wanted by spreading malicious lies about Tulsi through the Defamatory Statements: she has greatly harmed Tulsi's Presidential Campaign.

D. Clinton Made the Defamatory Statements With Actual Malice

37. Clinton knew that the Defamatory Statements were false, and she published them knowing they were false. Clinton also intended the Defamatory Statements to be defamatory and

endorsed their defamatory nature. At the very least, Clinton acted in reckless disregard of the truth or falsity of the Defamatory Statements when she published them.

38. As a former United States Senator and Secretary of State, and not just an ordinary American, Clinton had reason to know that the Defamatory Statements were false. She had no facts backing up her Defamatory Statements, including her claim that Tulsi was “a Russian asset.” In fact, Clinton had access to a surfeit of reliable information to the contrary.

39. For example, no United States law enforcement or intelligence agencies have claimed, much less presented any evidence, that Congresswoman Gabbard is a Russian asset. As a member of the House Armed Services Committee, Foreign Affairs Committee, and Homeland Security Committee; and as a Major in the United States Army National Guard, with access to highly sensitive and classified information, Tulsi has never had her security clearances challenged or revoked. Clinton—a former United States Senator and Secretary of State—certainly knows (and knew at the time she made the Defamatory Statements) that if Tulsi was truthfully a “Russian asset,” she would not have been in these positions of great responsibility, with access to the most sensitive national security information, and working closely with officials at the highest levels in the United States military, including the commander of the United States Pacific Command.

40. Rather than facts or reliable evidence, Clinton’s basis for the Defamatory Statements was one or both of: (a) her own imagination; or (b) extremely dubious conspiracy theories that any reasonable person (and especially Clinton, a former United States Senator and Secretary of State) would know to be fanciful, wholly unverified, and inherently and objectively unreliable. In view of Clinton’s personal and professional history, there is no other reasonable inference but that Clinton at minimum made a deliberate decision not to acquire knowledge of facts that might confirm the probable falsity of the Defamatory Statements and purposefully avoided the truth—but the more likely inference is that Clinton intentionally lied to harm her perceived personal and professional rival, Tulsi.

41. Actual malice is further demonstrated by the Defamatory Statements' inherent improbability. Tulsi is a four-term sitting United States Congresswoman. She is a Major in the United States Army National Guard. She is a loyal American who has taken an oath declaring her allegiance to the United States of America both as a soldier and as a member of Congress. Tulsi has been serving for over sixteen years in the Army National Guard, having voluntarily deployed twice to war zones in the Middle East. She was the Vice Chair of the Democratic National Committee. And she is a candidate for the President of the United States. Given this, Clinton would have known there was no basis for her Defamatory Statements, including her claim that Tulsi is "a Russian asset."

42. Actual malice is also demonstrated by Clinton's refusal to retract the Defamatory Statements. Before filing this lawsuit, Tulsi sent Clinton a letter explaining why the Defamatory Statements are false and defamatory and demanded their retraction. Clinton has refused and continues to stand by the statements. Clinton purposefully avoids and recklessly disregards information demonstrating the falsity of the Defamatory Statements.

43. Actual malice is further demonstrated by Clinton's ill will against Tulsi. Tulsi broke ranks from the DNC and backed Senator Bernie Sanders against Clinton in the 2016 presidential election. Clinton has not gotten over her loss in that election and still dwells on what happened. Clinton blames many persons for her loss. One of them is Senator Sanders, whom Clinton blames for being late to endorse her during her 2016 campaign. But Clinton reserves a special hatred and animosity for Tulsi—who never endorsed Clinton, did not campaign for her, and to top it off, gave the nomination speech for Senator Sanders at the 2016 Democratic National Convention.

44. In February 2016, Tulsi was the Vice Chair of the DNC. She publicly backed Senator Sanders (over Clinton) for President, and she was the highest profile Congressperson to do so at the time. Clinton was extremely angry—to put it mildly—that Tulsi endorsed Senator Sanders over her. Clinton's agents emailed Tulsi to tell her that the Clinton team "no longer trust[s] [Tulsi's] judgment," and Tulsi was told that the Clinton team would never forget this

slight. Among other things, Clinton’s agents relayed that the Clinton team will refuse to assist Tulsi in any of her campaigns. These agents then forwarded this correspondence to Huma Abedin (Clinton’s closest aide) and John Podesta (chairman of Clinton’s 2016 presidential campaign) to gloat about the beatdown they felt they delivered on Tulsi, writing “Hammer dropped!” It has been widely reported by news sources that Clinton is known to keep long-time grudges, even going as far as maintaining “for-me and against-me databases” and scoring degrees of treachery for those that have crossed her.

45. This ill will is further demonstrated by vitriolic comments by Clinton (through her spokesman Merrill) about Tulsi. In one public comment on October 10, 2019, Clinton’s spokesman stated that he was seriously considering watching the presidential debate if Tulsi promised that she would not be there.

46. In short, Clinton has a unique, personal connection to Tulsi that animates her hostility towards Tulsi and her presidential campaign.

E. The Defamatory Statements Were Republished by Many Media Outlets and Disseminated Widely

47. The press extensively covered the Defamatory Statements, publishing more than 200 articles about the Defamatory Statements—putting aside the significant airtime devoted to the subject. News companies reporting on the Defamatory Statements included ABC, the Associated Press, CBS News, CNN, FOX News, NBC, the New York Times, and the Washington Post, among others.

48. This reporting interpreted the Defamatory Statements just as the ordinary and average audience member did—that Clinton was asserting that Tulsi was a “Russian asset,” and that her presidential candidacy was part and parcel of Russian interference in the 2020 United States Presidential election. Some articles affirmatively called out Clinton for peddling a reckless conspiracy theory that had no factual basis—but as noted earlier, Clinton’s own spokesman rejected this criticism and declared Clinton’s “Russian asset” assertions as “fact[.]”

F. The Defamatory Statements Injured Tulsi's Reputation

49. The Defamatory Statements have injured Tulsi's reputation. As a direct and proximate result of Clinton's intentional and malicious misconduct, Tulsi has suffered anguish and damage to her reputation, with direct and substantial injury to her positions as United States Congresswoman; Presidential candidate; and officer in the Army National Guard. These substantial injuries are continuing in nature and will continued to be suffered in the future, unless and until they are remediated by this Court.

50. Millions of Americans heard (or read about) Clinton's Defamatory Statements. Scientifically conducted opinion surveys have shown that Clinton's false, malicious statements about Tulsi, including that Tulsi is a "Russian asset" and "the favorite of the Russians," were accepted as true by millions of Americans, including large numbers of voters in battleground Presidential primary states.

51. The Defamatory Statements have caused Tulsi to lose potential donors and potential voters who heard the Defamatory Statements. Tulsi has suffered significant actual damages, personally and professionally, that are estimated to exceed \$50 million—and continue to this day.

**FIRST CAUSE OF ACTION
Defamation**

52. Tulsi realleges and incorporates by reference each of the preceding paragraphs as if fully set forth herein.

53. The Defamatory Statements were defamatory *per se*. They had a tendency to expose Tulsi to public hatred, contempt, ridicule, or disgrace. The defamatory meaning is clear without reference to extrinsic facts. The defamatory import is apparent on the face of the Defamatory Statements. The Defamatory Statements falsely impute Tulsi with a lack of fitness for her office and profession. The Defamatory Statements would tend to harm, and indeed have harmed, Tulsi in her office and profession (both politically and military), and they have assailed her integrity. The Defamatory statements tend to expose, and indeed have exposed, Tulsi to contempt, ridicule, aversion or disgrace. The Defamatory Statements falsely impute criminal conduct to Tulsi.

54. The Defamatory Statements concerned Tulsi. The Defamatory Statements were reasonably understood to be about Tulsi. The reading and listening public would have understood, and did understand, that the Defamatory Statements were of and concerning Tulsi.

55. Clinton published the Defamatory Statements. She communicated the Defamatory Statements to someone other than Tulsi, and Clinton intended that the Defamatory Statements be distributed widely to the American public.

56. The Defamatory Statements were false and substantially untrue. The Defamatory Statements were materially false.

57. When Clinton made the Defamatory Statements, she knew that they were false or acted in reckless disregard of the truth or falsity of the statements.

58. Clinton had no applicable privilege or legal authorization to publish the Defamatory Statements.

59. The Defamatory Statements were a substantial factor in causing Tulsi to suffer economic loss, in an amount to be proven at trial. At present, actual damages are estimated at \$50 million—and counting.

60. In addition to actual damages, Tulsi is entitled to appropriate special and punitive damages of in view of Clinton's malicious and unrepentant conduct. The amount of these damages will be proven at trial, but in no event should they be less than the amount of Tulsi's actual damages.

PRAYER FOR RELIEF

Tulsi demands judgment against Clinton as follows:

- i. An award of compensatory, special and punitive damages in appropriate amounts to be established at trial;
- ii. Injunctive relief prohibiting the publication or republication of the Defamatory Statements;
- iii. An award of Tulsi's costs associated with this action; and
- iv. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Tulsi demands a trial by jury on all issues so triable.

Date: January 22, 2020

Respectfully Submitted,

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