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Washington, DC 20016

May 22, 2011

James W. McJunkin
Assistant Director in Charge
Federal Bureau of Investigation
Washington, D.C. Field Office
601 4th Street NW
Washington, DC 20535

Re: Justice Clarence Thomas

Dear Mr. McJunkin:

We are writing to ask that your office initiate criminal charges against Supreme Court Justice Clarence Thomas on several grounds. First, Clarence Thomas knowingly and willfully falsified his required AO 10 Financial Disclosure Forms from 1990 through 2009 by stating that his wife Virginia earned no non-investment income. Second, when Clarence Thomas sat in judgment of Citizens United v. FEC, 130 S.Ct. 876 (2010), he failed to disclose that Citizens United Foundation provided \$100,000 in support for his nomination to the Supreme Court, creating a clear conflict of interest that violated the federal disqualification statute, deprived the litigants of due process, and constituted judicial corruption in an apparent quid pro quo. Third, Clarence Thomas corruptly used his ruling in Citizens United to financially benefit him and his wife.

In March, we filed a formal disciplinary complaint with the Missouri Supreme Court Office of Disciplinary Counsel setting forth the factual and legal basis for our request. *See attached.* A summary follows:

Justice Thomas violated the federal judicial disclosure law for 20 years while sitting as a Supreme Court Justice. He signed each year's disclosure statements under oath stating that his wife had no "non-investment income," in violation of 5 U.S.C. app 104, which carries jail time and fines for false statement. This conduct also violates the catchall false statement statute, 18 U.S.C. section 1001. During those 20 years, the Department of Justice prosecuted hundreds of ordinary citizens for making false statements on federal forms, and many of them were sentenced to prison. In fact, on February 9, 2011, congressional aide Fraser Verrusio was found guilty, inter alia, of making a false statement on a financial disclosure statement.

http://tpmmuckraker.talkingpointsmemo.com/2011/02/former_aide_to_young_convicted

[in world series tic.php#more](#) Those citizens were not afforded the “immunity by amendment” defense that Justice Thomas seems to believe he is entitled when, on January 21, 2011, he filed his amended disclosure forms with the statement that he misunderstood the AO 10 filing instructions. Instead, they were required to present their defense at trial. As we point out in our attached bar complaint, the disclosure forms are simple, and other Supreme Court Justices who are married properly completed their forms by listing spousal income sources.

Moreover, Justice Thomas’ conduct as it relates to Citizens United, appears to violate not only ethical rules and the federal disqualification statute but also federal official corruption statutes. During his nomination process in 1991, Justice Thomas received \$100,000 in commercial advertising support from Citizens United Foundation that was parlayed into millions of dollars in free media time. *See* Editorial, “Not So Hidden Persuaders,” *Time*, Sept 16, 1991 (“The commercials, shown only in Washington at a cost of about \$100,000, have reaped millions of dollars' worth of free publicity through network television and print-media reproductions that have accompanied news stories about the flap. That probably was the intent all along.”) These ads were directed at Senators opposed to his nomination and marked a turning point in the nomination hearings. However, in 2009, when Citizens United took its case to the Supreme Court for review, Justice Thomas failed to disclose this crucial support by Citizens United, and then ruled in favor of Citizens United in January 2010. This has the appearance of a quid pro quo transaction with Citizens United “buying” Justice Thomas’ vote.

Furthermore, Justice Thomas’ corruption did not end with the ruling in Citizens United. In fact, he failed to disclose to the litigants in the case, which included the Federal Election Commission represented by the U.S. Solicitor General, that, shortly before the decision, his wife Virginia had left her job at the Heritage Foundation to launch a new organization called Liberty Central. According to the *Los Angeles Times*, Ms. Thomas stated that Liberty Central “would accept donations from various sources – including corporations – as allowed under campaign finance rules recently loosened by the Supreme Court.” Kathleen Hennessey, “The Nonprofit Run By Virginia Thomas, Wife Of Supreme Court Justice Clarence Thomas, Is Likely To Test Notions Of Political Impartiality For The Court,” *Los Angeles Times*, March 14, 2010. The *New York Times* reported that Mrs. Thomas received a salary and had raised more than \$500,000 for Liberty Central. Jackie Calmes, “Activism of Thomas’s Wife Could Raise Judicial Issues,” *New York Times*, October 8, 2010.

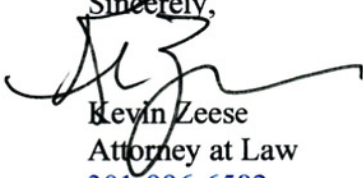
In short, Justice Thomas failed to disclose that his wife and her organization would benefit financially from Citizens United. And once the decision was issued, Virginia Thomas, with full knowledge of Justice Thomas, took advantage of the decision to enrich herself and her husband. This corrupt conduct appears to be a form “judicial insider trading,” with both Justice Thomas and his wife engaged in criminal activity.

The Supreme Court and its nine justices must be above reproach. Unfortunately, Justice Thomas’ conduct has brought shame and scandal to the Court. Over the past several months, NGOs, law professors, the media and others have called for Justice Thomas to be

held accountable through impeachment, disbarment, and criminal prosecution. Also, tens of thousands of people have written to Members of Congress and the DOJ demanding that Justice Thomas be held to the “Equal Treatment Under Law” standard carved above the portico of the Supreme Court. See <http://protectourelections.org/index.php?q=node/124>

We urge you to move quickly to restore integrity to the Court by bringing charges against Justice Thomas for the conduct outlined here and in the attached bar complaint. We urge you to demonstrate that no one, even a Supreme Court justice, is above the law. If we can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Zeese', with a long horizontal flourish extending to the right.

Kevin Zeese
Attorney at Law
[301-996-6582](tel:301-996-6582)