

**PROSECUTE SUPREME COURT JUSTICE CLARENCE THOMAS
AND HIS WIFE VIRGINIA FOR CORRUPTION**

Jack Smith, Chief
Public Integrity Section
United States Department of Justice

October 19, 2011

Dear Mr. Smith:

ProtectOurElections.org calls on the Department of Justice, Public Integrity Section, to promptly bring criminal charges against Clarence Thomas and his wife, Virginia, for violating numerous federal criminal statutes, including those proscribing bribery, fraud, false statements, honest services and conspiracy. Many other citizens have been prosecuted for similar conduct. On July 6, 2011, we submitted a complaint to the FBI with supporting documents detailing four separate instances of criminal conduct by Clarence and Virginia Thomas. See www.ProtectOurElections.org

I. Clarence Thomas Has Used His Position On The Supreme Court For Private Gain

- Clarence Thomas has received and/or solicited millions of dollars in gifts and donations from billionaire real estate magnate Harlan Crow. (*New York Times*, June 19, 2011, [“Friendship of Justice and Magnate Puts Focus on Ethics”](#)) These gifts are improper and violate the honest services statute, 18 USC 1346, and the bribery statute, 18 U.S.C. 201, because they constitute things of value that result in personal enrichment from a person who had an interest in the outcome of cases before the Supreme Court.

II. Clarence Thomas Falsified 20 Years Of Federal Financial Disclosure Forms

- Clarence Thomas falsified his AO 10 Federal Financial Disclosure forms for 20 years – from 1990 through 2009 by stating that his wife had no non-investment income, which includes salary from employment.
- *The Ethics in Government Act of 1978* requires all federal judges to file yearly financial disclosure forms including sources of income from their spouses. Failure to do so or falsifying information can result in civil and criminal penalties and fine under 5 USC app 104, as clearly noted on the forms in bold and ALL CAPITAL LETTERS. In 2007, Congress passed *The Honest Leadership and Open Government Act*, which amended section 104 to increase the civil penalties and add criminal penalties and imprisonment for false statements made on AO 10 Financial Disclosure statements. Also, making false statements on the forms is a *felony* under the federal false statement statute, 18 USC 1001 – “knowingly making false statements of material fact to a federal agency.” The Supreme Court in Woodward v. United States, 469 U.S. 105 (1985), held that a person can be prosecuted for both checking “no” on a federal form and for making that false statement on that same form.

III. Clarence And Virginia Thomas Used A \$500,000 Donation They Solicited From Harlan Crow For Personal Enrichment, And Then Used The Decision In *Citizens United* For Personal Enrichment

- In November 2009, Clarence Thomas' wife Virginia received a \$500,000 donation from Harlan Crow to launch Liberty Central, a 501c4 organization. Two months later, she told the IRS that she was going to be taking \$495,000 in salary from Liberty Central over the coming months. The Thomases also used the *Citizens United* decision to enrich themselves by raising money based on that decision. Such conduct violates at least five criminal statutes – 18 USC 1346 for a scheme to deprive the public of honest services based on bribery; 18 USC 1341 and 1343 for mail and wire fraud in furtherance of the honest services scheme; 18 USC 201 for bribery of a public official; 18 USC 1956 for money laundering; 18 USC 371 for conspiracy to commit these violations.

IV. In 1991, Citizens United Foundation's \$100,000 Ad Buy In Support Of Clarence Thomas' Nomination Was A Turning Point In The Nomination Process, Yet He Failed To Disclose That Conflict Of Interest In 2009 When *Citizens United* Was Reviewed By The Court, Which Violated The Honest Services Statute

- Clarence Thomas failed to disclose to the litigants in *Citizens United* that Citizens United Foundation had made a \$100,000 ad buy in support of his 1991 nomination to the Supreme Court which targeted three Democratic Senators. (*Time Magazine*, Sept 16, 1991, "Not So Hidden Persuaders"). The support by Citizens United Foundation marked a turning point in the nomination process. Had Clarence Thomas disclosed this support to *Citizens United* litigants in 2009, they would have had a legitimate basis on which to disqualify him, yet he withheld the information and then used that ruling to personally enrich himself and his wife. In *Caperton v. Massey*, 129 S. Ct. 2252 (2009), the Supreme Court found, in a similar fact situation, that a West Virginia Supreme Court Justice labored under a conflict of interest by reviewing a case involving a litigant who paid for campaign advertisements and reversed the case.
- This failure to disclose violates the honest service statute, which prohibits the withholding of information that constitutes a conflict of interest and results in personal enrichment.

Clarence and Virginia Thomas must be held to the same standards as every other American. We urge you to uphold the principle of "Equal Justice Under Law" by prosecuting them.

Sincerely,

Kevin Zeese, Attorney at Law
For ProtectOurElections.org