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JENNINGS & FULTON, LTD.  
ADAM R. FULTON, Esq., Nevada Bar No.  
11572  
Email: afulton@jfnvlaw.com  
6465 West Sahara Avenue, Suite 103  
Las Vegas, Nevada 89146  
Telephone (702) 979-3565  
Facsimile (702) 362-2060

*Specially Appearing to contest service and  
jurisdiction for Defendants: Stop the Steal, Inc.  
and Roger J. Stone, Jr.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

NEVADA STATE DEMOCRATIC  
PARTY

Case No.: 2:16-cv-02514-RFB-NJK

Plaintiffs,

vs.

**MOTION TO DISMISS FOR:**

- 1. Improper Service;**
- 2. Lack of Personal Jurisdiction**

NEVADA REPUBLICAN PARTY,  
et al.,

Defendants.

Now come Stop the Steal, incorrectly sued as Stop the Steal, Inc., and Roger J. Stone, by and through counsel, and hereby move this Court to dismiss this action as against them due to the lack of proper service over both, and to the court lacking personal jurisdiction over Mr. Stone. In support of this motion, the following is submitted.

**DECLARATION OF ROGER J. STONE**

1. I am a resident of the State of Florida, and am a defendant in this action. I have never in the past had, and today, do not have, any business in the State

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1 of Nevada. My only connection to Nevada has been as a tourist and  
2 occasional visitor.

3 2. I am not employed by Stop the Steal nor am I an officer of it. I do happen to  
4 be a volunteer for it, as are many other people. In no sense do I run Stop the  
5 Steal, but I do assist in managing one of its projects. I did not establish Stop  
6 the Steal. I do not control its bank account or in any other way manage its  
7 affairs.

8 3. I do not have a mailbox in California, and most particularly at the UPS Store  
9 referred to by Mr. Jensen in his declaration below. I do not receive mail  
10 there, and have NEVER received mail there. I have NEVER given anyone a  
11 California address, either for mail or for any other purpose.

12 4. With regard to the exit polling Stop the Steal will be conducting on election  
13 day next week, I have no intention whatsoever of violating any law or  
14 regulation, nor do I have any intention of targeting minority-majority  
15 precincts or of contacting individual voters based on their race or color.  
16 Indeed, it is my intention that all voters in a given precinct, or at least as  
17 many as possible, be contacted. However, since our election day effort is  
18 national, the amount of volunteers in any one state, including Nevada, will be  
19 minimal.

20 5. I have read press reports that the Democrats in numerous states have sued  
21 me. After hearing of the lawsuit filed in Pennsylvania, on Monday of this  
22 week (four days ago) I issued a press statement concerning it. The first I  
23 heard of the Nevada case was yesterday morning, Thursday, when my  
24 attorney called me.

25  
26 I hereby declare under the penalty of perjury of the laws of the United States  
27 and of Florida that the foregoing is true and correct of my own personal  
28 knowledge, and that if called upon, I would and could so competently testify.

1 Executed at Miami, Florida on November 4, 2016

2  
3 /s/

4 ROGER J. STONE

5  
6 DECLARATION OF PAUL ROLF JENSEN

- 7 1. I am an attorney at law, duly licensed to practice before the Supreme  
8 Court of California since 1991, and various other federal courts including  
9 (since 1999) the United States Supreme Court. My application for  
10 admission pro hac vice has been made this morning.
- 11 2. I drafted the papers that created the entity called Stop the Steal, which was  
12 erroneously sued herein as Stop the Steal, Inc. I established it under  
13 section 527 of the Internal Revenue Code. It has no office, and its only  
14 officer is Brad Boeck. Its address is a UPS store near my own office,  
15 which store has mail boxes. Roger Stone is not an officer of Stop the  
16 Steal nor does he control it. I am the only person who collects the mail  
17 for Stop the Steal, and I have never received any mail at that (or any  
18 other) location addressed to Roger Stone. Attached hereto as Exhibit 1 is  
19 the latest filing Stop the Steal has made with the Internal Revenue  
20 Service, which is available publicly on the IRS' website. This document  
21 was prepared under my direction.
- 22 3. On Monday of this week (four days ago) I became aware of a lawsuit filed  
23 in Pennsylvania by the Pennsylvania Democratic Party against Stop the  
24 Steal and Mr. Stone, and others. I had no knowledge of this case in  
25 Nevada until yesterday morning, when at approximately 9:45 a.m. I went  
26 to the UPS Store to retrieve the mail for Stop the Steal. When I did, the  
27 clerk handed me a stack of documents he said had been dropped off the  
28 day before. These loose documents consisted ONLY of the Summons and

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Complaint in this case, and NOTHING ELSE in this case. (The same is true of the Ohio case. Additional documents pertaining to the Arizona case had been left. There was NOTHING concerning the Pennsylvania case.

I hereby declare under the penalty of perjury of the laws of the United States and of Florida that the foregoing is true and correct of my own personal knowledge, and that if called upon, I would and could so competently testify. Executed at Costa Mesa, California on November 4, 2016

/s/

PAUL ROLF JENSEN

I. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS

A. NEITHER DEFENDANT ROGER J. STONE, JR. NOR DEFENDANT STOP THE STEAL HAVE BEEN PROPERLY SERVED

The Federal Rules of Civil Procedure allow a Court to dismiss an action for “insufficiency of service of process.” FED. R. CIV. P. 12(b)(5). The law is well settled that once a defendant challenges the sufficiency of service on them, the plaintiff bears the burden of establishing the validity of service as governed by FED. R. CIV. P. 4. See *Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir. 2004). Under this rule, proper service on an individual can be effectuated by (A) delivering a copy of the summons and of the complaint to the individual personally; (B) leaving a copy of each at the individual's dwelling or usual place of abode with

1 someone of suitable age and discretion who resides there; or (C) delivering a copy  
2 of each to an agent authorized by appointment or by law to receive service of  
3 process. FRCP 4(e)(2).  
4

5 Under the same Rule, a proper service on a corporation partnership, or  
6 association can be obtained through same means as service on an individual, or by  
7 delivering a copy of the summons and of the complaint to an officer, a managing or  
8 general agent, or any other agent authorized by appointment or by law to receive  
9 service of process and—if the agent is one authorized by statute and the statute so  
10 requires—by also mailing a copy of each to the defendant; FRCP4(h)(1)(B).  
11 Service by any means not proscribed by FED. R. CIV. P. 4 is not considered  
12 proper, and put simply, “[a] federal court does not have jurisdiction over a  
13 defendant unless the defendant has been served properly.” *Direct Mail Specialists,*  
14 *Inc. v. Éclat Computerized Tech., Inc.*, 840 F.2d 685, 688 (9th Cir. 1988).  
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19 As evidenced by the above declarations, proper service has not been  
20 effectuated against either of the moving defendants, and thus this action must be  
21 dismissed as to each. Plaintiff made a single attempt to serve Roger J. Stone, Jr.  
22 and Stop the Steal by delivering two copies of the summons and complaint to the  
23 post office box used by Stop the Steal for its incoming mail, in *California*. This  
24 quite clearly does not constitute proper service under the Federal Rules of Civil  
25 Procedure. Mr. Stone was neither personally served, nor were any attempts at  
26 service made to his home address. The California mailbox to which Plaintiff  
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1 delivered the copies has no affiliation with Mr. Stone, nor has it ever. Stop the Steal  
2 has one officer, and that is not Mr. Stone, but a Brad Boeck, who also has not been  
3 personally served. Plaintiff cannot be permitted to claim service on these  
4 Defendants was proper when it has done no more than drop papers off at a  
5 commercial mailbox facility in California, at which only Stop the Steal receives  
6 mail, as this method is not considered proper under FED. R. CIV. P. 4. Thus,  
7 under FED. R. CIV. P. 12(b)(5), this the complaint should be dismissed as to  
8 Defendants Roger J. Stone, Jr. and Stop the Steal.  
9

10  
11 **B. DEFENDANT ROGER J. STONE, JR. IS NOT SUBJECT TO PERSONAL**  
12 **JURISDICTION IN NEVADA**

13  
14 In analyzing a motion to dismiss for lack of personal jurisdiction, the  
15 Plaintiff bears the burden of establishing that the Defendant is subject to personal  
16 jurisdiction in Nevada. *Freeman v. Second Judicial Dist. Ct.*, 1 P.3d 963, 965 (Nev.  
17 2000). To verify that the exercise of personal jurisdiction is proper, Plaintiff must  
18 demonstrate that Defendant established “minimum contacts” in Nevada. *See Int’l*  
19 *Shoe Co. v. Wash.*, 326 U.S. 310, 316 (1945); *Baker v. Eighth Judicial Dist. Ct.*,  
20 999 P.2d 1020, 1023 (Nev. 2000). “Specific personal jurisdiction over a defendant  
21 may be established only where the cause of action arises from the defendant’s  
22 contacts with the forum.” *Trump v. Eighth Judicial Dist. Ct.*, 857 P.2d 740, 748  
23 (Nev. 1993).  
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1 The Ninth Circuit uses a three-part test to determine if the exercise of  
2 specific personal jurisdiction over a defendant is proper:

3  
4 (A) The defendant must have done some act by which he purposefully avails  
5 himself of the privilege of conducting activities in the forum, thereby invoking the  
6 benefits and protection of its laws;

7  
8 (B) The claim must arise from the defendant's forum-related activities;

9 (C) The exercise of jurisdiction must be reasonable.

10 *See Terracom v. Valley Nat'l Bank*, 49 F.3d 555, 560 (9th Cir. 1995). The Ninth  
11 Circuit has further held that the "purposeful availment" requirement is satisfied "if  
12 the defendant has taken deliberate action within the forum state or if he has created  
13 continuing obligations to forum residents." *Cybersell, Inc. v. Cybersell, Inc.*, 130  
14 F.3d 414, 417 (9th Cir. 1997).

15  
16  
17 As evidenced by the above declaration of Roger J. Stone Jr., said Defendant  
18 has absolutely no contacts with the State of Nevada so as to confer personal  
19 jurisdiction over him, and Plaintiff has not plead otherwise. Plaintiff's complaint  
20 addresses personal jurisdiction with the single broad statement that "Defendants  
21 purposefully directed their activities toward Nevada, this Complaint relates to  
22 Defendants Nevada-related activities, and jurisdiction here is reasonable."  
23 (Complaint, paragraph 13.) Plaintiff cannot meet its burden as to Defendant Mr.  
24 Stone by pleading only this single conclusory allegation. Plaintiff has not  
25 established that Mr. Stone has *any* contact with the state of Nevada, let alone that he  
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1 has purposefully availed himself of the privileges of conducting activities in  
2 Nevada, nor does Plaintiff allege that it claims arise from any activities. Plaintiff  
3 cannot so allege, thereby rendering any amendment attempts futile, as Defendant  
4 Stone is a resident of Florida, with no business in Nevada and no contact with the  
5 state save for tourism. Plaintiff's pleadings attempt to lump Defendant Stone in  
6 with Defendant Stop the Steal, however Defendant Stone lacks any management or  
7 control over the entity, serves the entity only in a volunteer capacity. Thus,  
8 Plaintiff has failed to establish a proper basis for conferring personal jurisdiction  
9 over Defendant Stone, and this action must be dismissed as to him.

## 12 II. CONCLUSION

13  
14 Based on the foregoing, the complaint in this matter should be dismissed as  
15 Defendants Roger J. Stone Jr. and Stop the Steal due to lack of proper service, and  
16 further to Defendant Stone due to lack of personal jurisdiction.

17  
18 Respectfully Submitted,

19  
20 DATED this 4th day of November, 2016

21  
22 JENNINGS & FULTON, LTD.

23 BY: /s/ Adam R. Fulton  
24 ADAM R. FULTON, ESQ., Bar No. 11572  
25 [afulton@jfnvlaw.com](mailto:afulton@jfnvlaw.com)  
26 6465 W. Sahara Ave., Suite 103  
27 Las Vegas, NV 89146  
28 Telephone: 702.979.3565  
Facsimile: 702.362.2060

Attorney for Defendants: Stop the Steal,  
Inc. and Roger J. Stone, Jr.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of JENNINGS & FULTON, LTD., and pursuant to FRCP 5, I caused a true and correct copy of the foregoing **MOTION TO DISMISS** to be submitted electronically for service with the CM/ECF system of the United States District Court in the District of Nevada on the 4<sup>th</sup> day of November, 2016, to the following:

Marc E. Elias, Esq.  
Perkins Coie LLP  
700 13<sup>th</sup> Street NW, Suite 600  
Washington, D.C. 20005

Michael Gottlieb, Esq.  
Boies, Schiller & Flexner LLP  
5301 Wisconsin Ave., NW  
Washington, DC 20015

Dawn Smalls, Esq.  
Boies, Schiller & Flexner, LLP  
575 Lexington Ave  
New York, NY 10022

Bradley S. Schrager, Esq.  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
3556 East Russell Rd  
Las Vegas, NV 89120

*Attorneys for Plaintiff*

/s/ Vicki Bierstedt  
an employee of Jennings & Fulton, Ltd.

# **EXHIBIT 1**

Form **8872**  
(November 2002)  
Department of the Treasury  
Internal Revenue Service

### Political Organization Report of Contributions and Expenditures

OMB No. 1545-1636

▶ See separate instructions.

**A** For the period beginning 10/01/2016 and ending 10/19/2016

**B** Check applicable box:  Initial report  Change of address  Amended report  Final report

**1** Name of organization: Stop The Steal **Employer identification number:** 81 - 2115618

**2** Mailing address (P.O. box or number, street, and room or suite number): 3843 S Bristol Street Suite 312

**City or town, state, and ZIP code:** Santa Ana, CA 92704

**3** E-mail address of organization: no@email **4** Date organization was formed: 04/06/2016

**5a** Name of custodian of records: Brad Boeck **5b** Custodian's address: 3843 S Bristol Street Suite 312 Santa Ana, CA 92704

**6a** Name of contact person: Brad Boeck **6b** Contact person's address: 3843 S Bristol Street Suite 312 Santa Ana, CA 92704

**7** Business address of organization (if different from mailing address shown above). Number, street, and room or suite number: 3843 S Bristol Street Suite 312

**City or town, state, and ZIP code:** Santa Ana, CA 92704

**8** Type of report (check only one box)

<input type="checkbox"/> First quarterly report (due by April 15)	<input type="checkbox"/> Monthly report for the month of: (due by the 20th day following the month shown above, except the December report, which is due by January 31)
<input type="checkbox"/> Second quarterly report (due by July 15)	<input checked="" type="checkbox"/> Pre-election report (due by the 12th or 15th day before the election)
<input type="checkbox"/> Third quarterly report (due by October 15)	(1) Type of election: general
<input type="checkbox"/> Year-end report (due by January 31)	(2) Date of election: 11/08/2016
<input type="checkbox"/> Mid-year report (Non-election year only-due by July 31)	(3) For the state of: CA
	<input type="checkbox"/> Post-general election report (due by the 30th day after general election)
	(1) Date of election:
	(2) For the state of:

**9** Total amount of reported contributions (total from all attached Schedules A)..... **9.** \$ 7365

**10** Total amount of reported expenditures (total from all attached Schedules B)..... **10.** \$ 5300

Under penalties of perjury, I declare that I have examined this report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Brad Boeck

10/26/2016

**Sign Here** ▶

Signature of authorized official

▶ Date

Form 8872 (11-2002)

Schedule A Itemized Contributions		Schedule A
<b>Contributor's name, mailing address and ZIP code</b> Aggregate below the threshold NA NA, CA 92626 -	<b>Name of contributor's employer</b> NA <b>Contributor's occupation</b> NA <b>Aggregate contributions year-to-date</b> \$ 4515	<b>Amount of contribution</b> \$ 4515 <b>Date of contribution</b> 10/19/2016
<b>Contributor's name, mailing address and ZIP code</b> Helen Lin 2513 Champions Corner Leander, TX 78641 -	<b>Name of contributor's employer</b> Retired <b>Contributor's occupation</b> Retired <b>Aggregate contributions year-to-date</b> \$ 200	<b>Amount of contribution</b> \$ 200 <b>Date of contribution</b> 10/15/2016
<b>Contributor's name, mailing address and ZIP code</b> Anton Krell Berth Cove 06-27 Singapore, WA 98616 -	<b>Name of contributor's employer</b> Institute of Trading <b>Contributor's occupation</b> Managing Partner <b>Aggregate contributions year-to-date</b> \$ 1000	<b>Amount of contribution</b> \$ 1000 <b>Date of contribution</b> 10/15/2016
<b>Contributor's name, mailing address and ZIP code</b> Erik Foster 311 Maybrook Dr Buda, TX 78610 -	<b>Name of contributor's employer</b> AT and T <b>Contributor's occupation</b> Technician <b>Aggregate contributions year-to-date</b> \$ 500	<b>Amount of contribution</b> \$ 500 <b>Date of contribution</b> 10/17/2016
<b>Contributor's name, mailing address and ZIP code</b> Donald Ausmus 9601 N. 10th Street Unit1 McAllen, TX 78504 -	<b>Name of contributor's employer</b> Retired <b>Contributor's occupation</b> Retired <b>Aggregate contributions year-to-date</b> \$ 200	<b>Amount of contribution</b> \$ 100 <b>Date of contribution</b> 10/08/2016
<b>Contributor's name, mailing address and ZIP code</b> Julian Webb 19 Quirk Ct Newton, MA 02458 -	<b>Name of contributor's employer</b> M. Siedman, Inc. <b>Contributor's occupation</b> Accountant <b>Aggregate contributions year-to-date</b> \$ 500	<b>Amount of contribution</b> \$ 500 <b>Date of contribution</b> 10/15/2016
<b>Contributor's name, mailing address and ZIP code</b> Giles Wormser Dorfstrasse 27 Fruesisberg, NJ 08835 -	<b>Name of contributor's employer</b> Swiss Investment Corp <b>Contributor's occupation</b> Executive <b>Aggregate contributions year-to-date</b> \$ 500	<b>Amount of contribution</b> \$ 500 <b>Date of contribution</b> 10/15/2016
<b>Contributor's name, mailing address and ZIP code</b> William Belcher 86177 Vegas Blvd Yulee, FL 32097 -	<b>Name of contributor's employer</b> Gemini Motor Transport <b>Contributor's occupation</b> Driver <b>Aggregate contributions year-to-date</b> \$ 250	<b>Amount of contribution</b> \$ 50 <b>Date of contribution</b> 10/06/2016

Form 8872 (11-2002)

<b>Schedule B Itemized Expenditures</b>		Schedule B
<b>Recipient's name, mailing address and ZIP code</b> Democracy Engine 2125 Fourteenth Street NW Washington, DC 20009 -	<b>Name of recipient's employer</b> NA <b>Recipients's occupation</b> NA	<b>Amount of Expenditure</b> \$ 300 <b>Date of expenditure</b> 10/19/2016
<b>Purpose of expenditure</b> Contributions processing fees		
<b>Recipient's name, mailing address and ZIP code</b> A. Miller Research 6563 E Paseo El Greco Anaheim Hills, CA 92807 -	<b>Name of recipient's employer</b> NA <b>Recipients's occupation</b> NA	<b>Amount of Expenditure</b> \$ 5000 <b>Date of expenditure</b> 10/13/2016
<b>Purpose of expenditure</b> Consulting Fees		