



FEDERAL ELECTION COMMISSION

Washington, DC 20463

**MEMORANDUM**

**TO: The Commission**

**FROM: Office of the Commission Secretary <sup>VFV</sup>**

**DATE: January 13, 2021**

**SUBJECT: AO 2020-02 (Bertrand) Comment on Draft A**

**Attached is a comment received from Jean-Marc Bertrand. This matter is on the January 14, 2021 Open Meeting Agenda.**

**Attachment**

**From:** [Jean-Marc Bertrand](#)  
**To:** [Kevin Paulsen](#)  
**Subject:** Re: AO 2020-02 (Bertrand) - Draft Made Public  
**Date:** Tuesday, January 12, 2021 11:38:07 PM

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## Response & Comments:

### FEC

To be clear, the requirements for a US residential address and a US bank account are required in ADDITION to presenting my valid US Passport to Facebook. The presentation of my valid US Passport to Facebook is indisputable proof of my US citizenship yet I am required to furnish other "proof" by Facebook. Is not the presentation of a valid US Passport "reasonable" proof of US citizenship?

Is presentation of a valid US Passport on Facebook's platform sufficient proof of US citizenship in regards to the Act? If not and given that US citizenship exists completely separate from residency and given that a foreign agent may have a US residential address and given that a well funded agent of a foreign adversary can easily appear to have a US residential address, how does presenting proof of a US residential address contribute or aid in any reasonable way to proof of US citizenship in regards to the Act. There seems to be no connection whatsoever. Is there some guidance from the FEC to third parties regarding screening process procedures or requirements that I should be made aware of to clarify how proof of US residency aids in proof of US citizenship? Given that the FEC has encouraged third parties to have screening procedures, what FEC guidance or requirements is there in place to prevent US citizens living abroad such as myself from being prohibited or barred from advertising on Facebook and other Social Media? It seems that the only consideration is to make it somewhat more difficult for foreign adversaries to interfere in US elections. No consideration has been given to someone like myself who is a US citizen living abroad. This requirement simply serves as an insurmountable barrier to myself so that Facebook does not have to deal with US citizens living abroad.

In the same regard stated above, how does payment using a US bank account differ from payment using a Canadian bank account in proving US citizenship. US citizenship exists completely separate from being able to obtain a US bank account. Canada, like all G7 nations, has stringent requirements, equivalent to US requirements, of proof of identity due to anti-Money Laundering agreements and laws in order to participate in the International and US banking systems? A foreign agent can open a US bank account without US citizenship therefore how is it that a US bank account will aid in proving US citizenship since the two are not interdependent? This requirement simply serves as another insurmountable barrier to myself so that Facebook does not have to deal with US citizens living abroad.

Imagine, as a requirement to purchase political ads on Facebook or any other Social Media platform that a US citizen living in the US, despite providing a valid US Passport, be required to provide proof of a Canadian residential address and to make any purchases from a Canadian bank account. That is a similar onus placed on me. These requirements require me to use cockamaimie methods to obtain proof of US residency such as taking an ad out on Craigslist for someone in the US to receive mail on my behalf for monetary compensation and scan and send mail to me. Something any foreign adversary could easily do as well. The screening requirements have to be balanced against the interests of effectively denying foreign

adversaries from interfering in elections with my rights to participate in advertising on election issues. There seems to be no reasonable limit to what Facebook and other Social Media platforms are encouraged to require regardless of how disconnected the requirements are from providing reasonable proof of US citizenship as required by the Act. They effectively deny me as a US citizen from advertising political issues in the US unless I use dubious and, in the case of bank accounts, possibly illegal methods to appear as residing in the US. Facebook and other Social Media platforms should not be encouraged to require anything more than my US Passport and proof of my Canadian address. That is all that I can reasonably provide. Although you clearly state that as a US citizen it does not matter where I reside but whatever encouragement the FEC is giving to third parties, that encouragement effectively denies me the ability to purchase political ads. The screening measures encouraged by the FEC need to be modified to encourage a proper balance as the Act says that requirements provide reasonable proof and not absolute proof of US citizenship. They should not encourage Facebook and other Social Media to put up an insurmountable barrier to an average US citizen living abroad such as myself.

It is noteworthy that I was able to make three monetary donations to the Bernie Sanders campaign during the 2020 Democratic Primaries from my Canadian bank account. I was simply asked to vouch and electronically sign a validation form as proof of citizenship by the Act Blue platform. I was not even asked to provide a US Passport. Why can this simple and easy method satisfy the Act while providing Facebook with my valid US Passport not satisfy the Act's requirements for reasonable proof of US citizenship?

Given all of the above, it would be best for me if this opinion indicates that at the most, Facebook and other Social Media not require more than my valid US Passport and proof of my Canadian address as an example of what reasonable proof is in regards to the Act so as to encourage Facebook and other Social Media to not put up insurmountable barriers to purchasing Political advertising to myself.

Thank you,  
Jean-Marc Bertrand.

On Tue, Jan 12, 2021 at 7:24 PM Jean-Marc Bertrand <[jean.marc.n.b@gmail.com](mailto:jean.marc.n.b@gmail.com)> wrote:  
Thanks Kevin. I will be writing it up tonight.

Jean-Marc

On Tue, Jan 12, 2021, 5:55 PM Kevin Paulsen, <[KPaulsen@fec.gov](mailto:KPaulsen@fec.gov)> wrote:

Mr. Bertrand,

Just as a courtesy, I wanted to remind you that the deadline for submitting written comments on the AO draft is noon tomorrow (Wednesday). Thanks.

Kevin

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**From:** Kevin Paulsen  
**Sent:** Friday, January 08, 2021 6:36 PM  
**To:** Jean-Marc Bertrand <[jean.marc.n.b@gmail.com](mailto:jean.marc.n.b@gmail.com)>  
**Cc:** Amy Rothstein <[ARothstein@fec.gov](mailto:ARothstein@fec.gov)>  
**Subject:** AO 2020-02 (Bertrand) - Draft Made Public

Mr. Bertrand,

The Commission has made public the attached draft advisory opinion in response to your request. This document has been placed on the agenda for consideration at the Commission's open meeting on Thursday, January 14<sup>th</sup>.

Best,

Kevin