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By Office of General Counsel at 1:50 pm, May 29, 2020

Jean-Marc Bertrand
1770 Queen Street East
Toronto, ON M4L 1G7
CANADA

May 5, 2020

Dear Federal Election Commission,

I, Jean-Marc Bertrand, am writing on my own behalf and am requesting an advisory opinion regarding my efforts to commence advertising in the US regarding the 2020 Federal Elections. I am an American citizen born in the United States of America and who lived in the US until the age of 39 and moved 12 years ago to Canada where I presently live. I am not a Canadian citizen. I am actively pursuing campaign efforts in the US but I am being prohibited from advertising in the US on the Facebook platform due to Facebook's rules on running political ads in the US. Facebook requires that anyone who wishes to run political ads have residence in the US and US bank accounts. Below is their policy as stated on the Facebook platform US Ad Authorization Guide(emphasis my own)¹:

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[https://www.facebook.com/micro_site/url/?click_creative_path\[0\]=link&click_from_context_menu=true&country=CA&destination=https%3A%2F%2Fwww.facebook.com%2Fgms_hub%2Fshare%2Fad-authorizations-guide-us.pdf&event_type=click&last_nav_impression_id=05k5aixVrX6hZoLcd&max_percent_page_viewed=79&max_viewport_height_px=903&max_viewport_width_px=1920&orig_http_referrer=https%3A%2F%2Fwww.facebook.com%2Fbusiness%2Fm%2Fone-sheeters%2Fads-with-political-content-us&orig_request_uri=https%3A%2F%2Fwww.facebook.com%2Fgpa%2Fmore-resources%2F%3Fhc_location%3Dufi&primary_cmsid=407080876549635&primary_content_locale=en_US®ion=noam&scrolled=true&session_id=16FY2QVxQsTL5DTwy&site=gpa&extra_data\[creative_detail\]=link&extra_data\[create_type\]=link&extra_data\[create_type_detail\]=](https://www.facebook.com/micro_site/url/?click_creative_path[0]=link&click_from_context_menu=true&country=CA&destination=https%3A%2F%2Fwww.facebook.com%2Fgms_hub%2Fshare%2Fad-authorizations-guide-us.pdf&event_type=click&last_nav_impression_id=05k5aixVrX6hZoLcd&max_percent_page_viewed=79&max_viewport_height_px=903&max_viewport_width_px=1920&orig_http_referrer=https%3A%2F%2Fwww.facebook.com%2Fbusiness%2Fm%2Fone-sheeters%2Fads-with-political-content-us&orig_request_uri=https%3A%2F%2Fwww.facebook.com%2Fgpa%2Fmore-resources%2F%3Fhc_location%3Dufi&primary_cmsid=407080876549635&primary_content_locale=en_US®ion=noam&scrolled=true&session_id=16FY2QVxQsTL5DTwy&site=gpa&extra_data[creative_detail]=link&extra_data[create_type]=link&extra_data[create_type_detail]=)

What do I need to do to get authorized to run issue, electoral or political ads?

By requiring individuals to get authorized, we can confidently verify that **the individual is living in the US if they are targeting ads about social issues, elections or politics in the US. Being a resident of the country is core to our policy.** For an advertiser to get authorized to edit/create such ads, they must: turn on Two-factor authentication, **submit a valid identification document issued in the United States, answer four knowledge-based authentication questions, and verify their location by providing a residential US address where Facebook will send a letter with a verification code to enter within 21 days.** To create “Paid for by” disclaimers, a Page Admin of a Page must submit a disclaimer for review to confirm the person or organization responsible for the ad.

Another section of the Guide states:

We also want to ensure advertisers who may not have those credentials, such as smaller businesses or local politicians, are able to run ads about social issues, elections or politics. Advertisers who go through these two options will receive an “About this Ad” icon:

- Submit a self-declared organization name (**still requires a US street address, business phone number, email, and matching**

website)

- Page admin's legal name on ID documents

Even as a citizen of the US, I cannot advertise on the Facebook platform yet most other citizens can due to these residency requirements. This violates my Free Speech rights as provided by the First Amendment of the United States Constitution. I do not believe that my political advertising in any way qualifies as prohibited Foreign Interference in our elections. I am not a foreigner. I am a Natural citizen of the US who qualifies to run as President but resides in Canada. I will be running for President in the State of California to obtain California's 55 Electoral College Electors for the purpose of forcing the Electoral College to finally fulfil its intended function by the Founding Fathers to have wise men elect the President and Vice President of the United States rather than simply rubber stamping the Presidential ticket that wins 270 or more Electors.

I am organizing Progressives nationally and especially in the State of California to vote for Third Party candidates for President and Vice-President of the US. The extent of political advertising will be nationwide. I already have 40 followers on the Facebook platform who appear to all be voters from the US and they would like me to advertise as I am the lead organizer of this movement. I am trying to run a political video ad to both attract voters and raise funds.

In addition, the current Coronavirus pandemic has limited travel between the US and Canada and I am not allowed to enter the US without a valid

reason as interpreted by US Custom and Border Patrol officers which can be subjective and arbitrary. Anything other than trade and healthcare is prohibited. In addition, Canada requires anyone entering Canada from another country to quarantine themselves at home for 14 days after going to the US for any length of time. This makes any requirement requiring a presence in the US nearly impossible to absolutely impossible to fulfill. For example, this makes it impossible to notarize anything in the US or pick up any mail in the US.

I am unable to obtain Notary services in the US as requested by Facebook in order to prove my identity due to border restrictions and business closures. All Notaries in Canada are closed indefinitely due to the Coronavirus pandemic.

Furthermore, Facebook is requiring that any US document I provide not have expired. My US passport expired in February of 2020 and the US Consulate in Toronto where I reside is not taking any appointments to renew passports until further notice and the passport renewal by mail service has stated on their website that passports will take many months to renew and that only renewals with life or death consequences should be processed by mail. Thus I have no non-expired US document containing a photo of myself as requested by Facebook.

Additionally, restrictions on the location of bank accounts to the United States further prevents me from participating and availing myself of Facebook's political ad service. As stated in their Guide (emphasis my own):

What other verification steps are in place to run issue, electoral or political ads?

In addition to ensuring the ad account's currency (USD) and business country are in the US, when an advertiser tries to run ads targeted in-country Facebook uses a variety of signals to determine whether the ads are coming from an authorized user in the US, by checking for information about people, ad accounts, and Pages. When setting up a campaign in Ads Manager, following successful authorization, you will need to check the box "This ad is about social issues, elections or politics" to submit ads on these topics for review (turnaround time is up to 72 hours).

This requires me to have a US checking account requiring me at the very minimum to go to the US which is impossible. Since I do not have a US residence, I may not be able to open a US account.

All this has put my political movement in jeopardy due to Facebook's above policy. I have a limited amount of time as California's deadline to obtain about 200,000 signatures to get on the ballot is August 7, 2020. I cannot wait for the current pandemic to subside as that would make our efforts impossible to accomplish. Facebook has stated that no further requests to obtain authorization for political ads will be processed due to COVID-19 but that anyone who does have authorization can continue to use political ads.

Facebook's requirements go far beyond what legitimate political organizations require from donors to protect against foreign influence on our elections. I have made three monetary contributions to the Bernie Sanders campaign this year and was only required to vouch that I was a US citizen. Furthermore, the funds came from a Canadian bank from a checking account in Canadian Dollars. It was crystal clear to the Bernie Sanders organization that I did not reside in the US. I made four contributions. Two were accepted before having to vouch for my US citizenship and two more after vouching for my US citizenship. All four contributions were accepted and the funds transferred to the campaign.

Facebook's requirements put me at a significant disadvantage. It is not fair that I with so little resources am required to provide so much proof to a large organization while legitimate political groups require so little proof from me simply because I reside outside the US.

I have pursued all reasonable means to try to fulfil Facebook's requirements but despite this, I am still prohibited from participating in the political advertising services of Facebook and have no way of fulfilling them any time soon enough to not endanger my movement.

I have provided the following evidence:

1. A copy of Facebook's US Ad Authorization Guide
2. A copy of my expired US passport
3. ~~An enlarged copy of my expired US passport~~

4. A copy of my New York State Birth Certificate
5. A copy of my valid Nexus card
6. A copy of proof of Selective Service
7. A copy of my New York Voter Registration
8. A copy of my Absentee Balloting Envelope with Canadian Address
9. A copy of my Absentee Balloting Return Envelope
10. A copy of Jury Duty evidence for myself
11. A copy of my valid Province of Ontario Drivers License
12. A copy of my valid Province of Ontario Health Card
13. Copies of all 6 pertinent emails from the Bernie Sanders campaign (via the ActBlue organization) for contributions and proof of US citizenship.
14. Screenshots of the US Consulate in Toronto website indicating that the Consulate is no longer taking appointments for any reason.
15. A PDF of the travel.state.gov website page indicating that passports are no longer being renewed unless it is a life or death emergency for travel from the US going outside of the US.

My questions are:

Is Jean-Marc Bertrand residing at:

1770 Queen Street East

Toronto, ON M4L 1G7

Canada

a US citizen who is legally allowed to engage in political advertising and any other political activities just as any other US citizen residing in the US is able to do?

Is Facebook or any other platform or media required to ask Jean-Marc Bertrand to furnish US Bank accounts or other US financial instruments for payment purposes if Facebook accepts non-US bank accounts or other non-US financial instruments in the country where Jean-Marc Bertrand resides in for said purposes of political activity?

Is Facebook or any other platform or media required to ask Jean-Marc Bertrand to provide a US address for said purposes of political activity?

Can Facebook or any other platform or media use this advisory opinion in place of all of Facebook's methods (and other platforms and media similar methods) as provided in the Guide as legal proof that Jean-Marc Bertrand is a US citizen who is allowed to participate in all political activities in the US just as a US citizen residing in the US is allowed to do?

Will this advisory opinion absolve Facebook and any other platform or media of further requirements to prove that Jean-Marc Bertrand is a US citizen who is allowed to participate in all political activities in the US just as a US citizen residing in the US is allowed to do?

Should it be compulsory for Facebook or any other platform or media to make the burden of proof for qualifying to advertise political content in the United States equal between resident and non-resident US Citizens?

I request if possible that this advisory opinion clearly state that I, Jean-Marc Bertrand living at 1770 Queen Street East, Toronto, ON M4L 1G7,
CANADA:

1. be immediately authorized to advertise for any political purposes on Facebook and any other platform.
2. be immediately granted access to political ad services by Facebook and any other platform or media.
3. be immediately considered a US citizen by Facebook and any other platform or media and not a foreigner. No further proof is necessary.
4. not be required to furnish US bank accounts for the purpose of proving that he is a US citizen and not a foreigner to Facebook and any other platform or media.
5. not be required to furnish US bank accounts or other US financial accounts for the purpose of payments to Facebook and any other platform or media for political ad services.
6. not be required to furnish anything requiring a presence or residence in the US or anything requiring access to services in the US.

7. have full and immediate access to all political ad services that any US citizen residing in the US would have on Facebook and any other platform or media.
8. can furnish expired documents if there are delays in the processes of renewing such documents. For example, accepting expired US passports due to delays due to the COVID-19 pandemic.
9. not be required to answer knowledge based questions.
10. not be required to furnish a US address for the purpose of using Facebook's political ad services. International addresses are acceptable.

Thank you,

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Canada
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