

BEFORE THE FEDERAL ELECTION COMMISSION

FRIENDS OF MATT GAETZ

PO Box 168
Mary Esther, FL 3569

Complainant,

v.

TWITTER, INC.

1355 Market Street, Suite 900
San Francisco, California 94103

Respondent.

MUR No. 7443

2018 JUL 27 PM 2:09

OFFICE OF
GENERAL COUNSEL

COMPLAINT

1. This Complaint is filed pursuant to 52 U.S.C. §§ 30118(a), 30109(a)(1), & 30121(a)(1)(A) and is based on information providing reason to believe that Twitter, Inc. ("Twitter") violated the corporate contribution and/or expenditure prohibitions established by the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, et seq. and Commission regulations, including violations of 11 C.F.R. § 110.13(b)(2) and (c) related to staging organizations responsibilities for candidate debates; and has actively interfered in federal elections to censor certain viewpoints, particularly conservative or Republican, congressional candidates.

2. Twitter has shadow-banned Complainant from its interactive-news coverage website for the purpose of influencing the 2018 mid-term elections by making an in-kind contribution to Complainant's political opponents.

3. Further, as an interactive-news coverage website, Twitter operates as a debate platform for political candidates running for office, yet Twitter uses subjective criteria, rather than objective criteria (as required by 11 C.F.R. § 110.13(b)(2) and (c)) when it decides which political candidates will be allowed to debate each other on its debate platform.

4. 52 U.S.C. § 30109(a)(2) provides that: "If the Commission, upon receiving a complaint...has reason to believe that a person has committed, or is about to commit, a violation of [FECA]...[t]he Commission shall make an investigation of such alleged violation...."

5. "A "reason to believe" finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope." 72 Fed. Re. 12545 (March 16, 2007).

INTRODUCTION AND FACTS

6. Imagine the following: a billboard company in Florida wants to get involved in the political process, so it offers all candidates running for office—and all members of the public—free billboards to promote their campaigns.

7. If all candidates were offered free billboards, equally, in randomly assigned locations around their districts in Florida, the Commission would have no reason to investigate because the Company offered the same service to everyone for free.

8. However, if the Company did not randomly assign locations, but rather, offered large billboards in premium locations within the district to Democratic candidates, but only offered billboards stuck behind dumpsters, outside the district, to Republican candidates, it could not credibly argue that it was not giving an "in kind" donation to the Democratic candidates.

9. Or imagine another analogy: A printing press offers free printing of campaign materials for all candidates. But, one day the owner of the press decides that they will only print 2 copies a day for Republican candidates, but unlimited copies per day for Democrats. Meanwhile, the owner of the printing press claimed that it was not giving anything of value to one side or the other.

10. Despite the somewhat tortured analogies that always come from trying to apply old-technology logic to new, the logic holds. When Twitter was truly an ethical and "neutral" platform, it would have had no cause to be concerned with election regulations. At one time, Twitter considered itself to be the "free speech wing of the free speech party." At that time, Twitter was truly neutral, and offered an even platform to all – and the marketplace of ideas was the governing force. However, Twitter recently decided that it would tinker with the marketplace of ideas – by favoring some ideas and some speakers over others. While it may have the legal right to do so – when it does so in the context of a political campaign, it must adhere to FEC regulations: the regulations would not abide such a result.

11. Twitter is an interactive-news coverage website, and effectively operates as a modern billboard or printing press. It has an average of 330 million active users per month from all over the world.¹ Twitter describes itself as "the live public square, the public space — a forum where conversations happen."² Twitter's CEO, Jack Dorsey, has characterized Twitter as "a public utility, like water or electricity."³

12. Twitter recognizes its status as a news website: for example, in 2016 Twitter changed how its mobile application ("app") is categorized in the Apple

¹ See Twitter, Inc., Annual Report (Form 10-K), at 47 (Feb. 23, 2018).

² Ronan Costello, Twitter: The Public Square of #GE16, Twitter Blog (Feb. 12, 2016), <https://blog.twitter.com/official/en_us/a/2016/twitter-the-public-square-of-ge16.html> (last visited July 25, 2018); see also Twitter Values, <https://about.twitter.com/en_us/values.html> (pledging that the company will "work with journalists, candidates and civil society to ensure Twitter is what you need it to be: the online public square ...") (last visited July 25, 2018).

³ D.T. Max, "Two Hit Wonder," THE NEW YORKER (Oct. 21, 2013), <<https://www.newyorker.com/magazine/2013/10/21/two-hit-wonder>> ("[Dorsey] insists that Twitter is neither liberal nor conservative; it's a public utility, like water or electricity. 'I like technology that is unbiased,' he says.") (last visited July 25, 2018).

Store from the "social media" category to the "news" category, and as of April 2016 it has consistently been ranked as the #1 news app in the Apple store.⁴

13. In 2017, Pew Research found that three-quarters of Twitter users reported that they used the platform to read the news⁵.

14. Social media accounts have significant value as a communication tool to reach constituents and amass public support.

15. The United States District Court for the Southern District of New York recently decided that it was unconstitutional for President Donald Trump to block private citizens from his Twitter profile and feed (see *Knight First Amendment Institute at Columbia Univ. v. Trump*, 2018 U.S. Dist. LEXIS 87432 (S.D.N.Y. May 23, 2018)), finding that President Trump's Twitter feed was a public forum, and he could not block users from it based on mere disagreement with the speech of users.

16. The Supreme Court recently declared in *Packingham v. North Carolina* that the social media platform Twitter is "perhaps the most powerful mechanism available to a private citizen to make his or her voice heard" and described social media sites such as Twitter as the "modern public square." 137 S. Ct. 1730, 1737 (2017). In recent years, Twitter has become a favored medium of communication for public officials to communicate and share ideas with their constituents and the public at large.

17. Twitter is an important communications channel for governments and heads of state. As the U.S. Supreme Court explained:

⁴ See Sarah Perez, "Twitter aims to boost its visibility by switching from 'Social Networking' to 'News' on the App Store," TECHCRUNCH (Apr. 28, 2016) <<https://techcrunch.com/2016/04/28/twitter-aims-to-boost-its-visibility-by-switching-from-social-networking-to-news-on-the-app-store/>> (last visited July 25, 2018).

⁵ See Natasha Lomes, "Even more US adults now getting news from social media, says Pew," TECHCRUNCH (Sep. 9, 2017), available at <<https://techcrunch.com/2017/09/09/even-more-us-adults-now-getting-news-from-social-media-says-pew/>> (last visited July 25, 2018).

On Twitter, users can petition their elected representatives and otherwise engage with them in a direct manner. Indeed, Governors in all 50 States and almost every Member of Congress have set up accounts for this purpose. In short, social media users employ these websites to engage in a wide array of protected First Amendment activity on topics as diverse as human thought.

See *Packingham, supra*.

18. Candidates often communicate and engage in political debates on Twitter.

19. For example, in 2016, then-candidates Donald Trump and Hillary Clinton often exchanged words on Twitter, with each other and with their followers.⁶ In effect, there was an ongoing political debate on Twitter throughout the 2016 election. During that election, on information and belief, Twitter did not interfere in the process – and let the marketplace of ideas function.

20. Twitter is the new political debate platform because the debates that take place on Twitter shape elections more than old-fashioned televised debates between candidates.

21. Accordingly, as a debate platform, Twitter is subject to the same regulations that traditional debate platforms must comply with because, “[i]n today’s America, Twitter drives much of the news cycle and much of the political debate...modern political candidate cannot win without a Twitter presence.”⁷

⁶ See Twitter exchange between candidate Donald Trump and Hillary Clinton, available at: <<https://twitter.com/realdonaldtrump/status/741007091947556864?lang=en>> (Jun. 9, 2016), (last visited July 25, 2018).

⁷ Noah Peters, “Twitter Censorship Should Terrify Everyone,” *THE DAILY CALLER* (Feb. 21, 2018), <<http://dailycaller.com/2018/02/21/twitter-censorship-should-terrify-everyone/>> (last visited July 25, 2018); see also Vann R. Newkirk II, “The American Idea in 140 Characters,” *THE ATLANTIC* (Mar. 24, 2016), <<https://theatlantic.com/politics/archive/2016/03/twitter-politics-last-decade/475131/>> (“Twitter’s early promise as a political tool has become ingrained as a political reality. A candidate without Twitter is a losing candidate.”) (last visited July 25, 2018).

22. Twitter recognizes the role that it plays in shaping political debates during election season, and recently announced that it would automatically verify candidate's accounts that qualify for the general election.⁸

23. Every Congressman who won their election in November 2016 had a presence on Twitter (at least throughout the election cycle, if not longer).

24. Not a single member of the U.S. House of Representatives won in November 2016 without a Twitter account.

25. Twitter has been criticized by users for favoring liberal speech on its platform over conservative speech⁹, a bias that is confirmed by current and former employees admitting on a hidden camera that Twitter utilizes techniques to "shadow-ban" and otherwise limit the reach of conservative accounts.¹⁰

26. Conrado Miranda, a former Twitter software engineer, admitted to an undercover journalist for Project Veritas that Twitter routinely bans specific users from the platform at the request of foreign governments:¹¹

27. As described by another former Twitter employee Abhinav Vadrevu, "The idea of a shadowban is that you ban someone but they don't know they've been banned, because they keep posting, but no one sees their content. So they

⁸ See Nancy Scola, "Twitter to verify election candidates in the midterms," POLITICO (May 23, 2018) <<https://www.politico.com/story/2018/05/23/twitter-verify-candidates-midterms-2018-1282802>>; (last visited July 25, 2018).

⁹ See Jessica Guynn, "Twitter accused of political bias in right-wing crackdown," USA TODAY (Nov. 18, 2016) <<https://www.usatoday.com/story/tech/news/2016/11/18/conservatives-accuse-twitter-of-liberal-bias/94037802/>> (last visited July 25, 2018).

¹⁰ See Valerie Richardson, "Conservatives demand Twitter answers after Project Veritas videos point to political bias" THE WASHINGTON TIMES (Jan. 16, 2018) <<https://www.washingtontimes.com/news/2018/jan/16/twitter-political-bias-seen-project-veritas-video/>> (last visited July 25, 2018).

¹¹ Project Veritas, "Twitter Bans Users Under Pressure From Their Foreign Governments," YouTube, <https://www.youtube.com/watch?v=SMU4SZ_Cims> [<http://archive.is/XqQYg>] (last visited July 25, 2018), at 0:57.

just think that no one is engaging with their content, when in reality, no one is seeing it...".¹²

28. Twitter initially responded to the Project Veritas video by dishonestly denying that it ever shadow-bans accounts¹³; however, Twitter has since backtracked on this position after Vice News confronted Twitter with screenshots that show that the Republican Party chair Ronna McDaniel, several conservative Republican congressmen, and Donald Trump Jr.'s spokesman do not appear in the auto-populated drop-down search box on Twitter, Twitter responded:

"We are aware that some accounts are not automatically populating in our search box and shipping a change to address this." Asked why only conservative Republicans appear to be affected and not liberal Democrats, the spokesperson wrote: "I'd emphasize that our technology is based on account *behavior* not the content of Tweets."¹⁴

29. Based on Vice News' published report, all of the Democratic counterparts to the above-named Republicans, such as Democratic Party chair Tom Perez and Democratic members of Congress such as Maxine Waters, Joe Kennedy III, Keith Ellison, and Mark Pocan, continue to appear in drop down search results.¹⁵

¹² *Id.* at 7:07, 7:42.

¹³ "Twitter does not shadowban accounts," Twitter told Fox News; see Christopher Carbone, "Twitter responds to Project Veritas allegation that it can share Trump's direct messages" FOX NEWS (Jan. 11, 2018), available at <<http://www.foxnews.com/tech/2018/01/11/twitter-responds-to-project-veritas-allegation-that-it-can-share-trumps-direct-messages.html>> (last visited July 25, 2018).

¹⁴ Alex Thompson, "Twitter is 'shadow banning' prominent Republicans like the RNC chair and Trump Jr.'s spokesman," Vice News (Jul 25, 2018) <https://news.vice.com/en_us/article/43paqg/twitter-is-shadow-banning-prominent-republicans-like-the-rnc-chair-and-trump-jrs-spokesman?utm_campaign=sharebutton> (last visited July 25, 2018).

¹⁵ *Id.*

30. Vice News notes that, "[n]ot a single member of the 78-person Progressive Caucus faces the same situation in Twitter's search."¹⁶

31. Vice News also notes that Twitter directed it one of Twitter's May 15, 2018 blog posts that explains how Twitter has created a new approach to combat "troll behavior".¹⁷

32. The blog post says that Twitter has started using, "new tools to address this conduct from a behavioral perspective, [Twitter] is able to improve the health of the conversation..."¹⁸

33. The blog post goes on to say that, "[t]hese signals will now be considered in how we organize and present content in communal areas like conversation and search."¹⁹

34. Twitter also admits in the post that Twitter has been testing this new approach to censoring political speech prior to informing its users:

In our early testing in markets around the world, we've already seen this new approach have a positive impact, resulting in a 4% drop in abuse reports from search and 8% fewer abuse reports from conversations. That means fewer people are seeing Tweets that disrupt their experience on Twitter.²⁰

35. Twitter has likely expended significant costs in implementing this new program on Twitter which effectively shadow bans conservative voices: these costs likely amount to an in-kind contribution to Democratic candidates.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Del Harvey and David Gasca, "Serving healthy conversation," Twitter Blog (May 15, 2018), available at https://blog.twitter.com/official/en_us/topics/product/2018/Serving_Healthy_Conversation.html > (last visited July 25, 2018).

¹⁹ *Id.*

²⁰ *Id.*

36. Twitter CEO Jack Dorsey has openly denounced bi-partisanship by promoting an article on Twitter that urges Democrats to thoroughly defeat their opponents by eliminating political opposition; given that Dorsey is often personally involved with banning individuals from Twitter²¹, Dorsey's statements and actions on behalf of Twitter show that there is a significant likelihood that Twitter purposefully bans candidates with the intent of influencing the next election and as a way of making in-kind contributions to Democratic candidates.

37. Although Twitter accounts and posts are technically "free", Twitter does recognize that posts on its platform have significant value; for example, Twitter charges users for "promoted tweets" which Twitter defines as, "ordinary Tweets purchased by advertisers who want to reach a wider group of users or to spark engagement from their existing followers."²²

38. Twitter also charges users for "promoted trends" which places tweets in the Twitter Trends category of Twitter.

39. Twitter does not list an exact price for promoted tweets or promoted trends on its website, but it appears that users can bid on average about \$1.40 per promoted tweet.²³

40. Twitter has essentially created a three-tier model: users who pay get the most exposure on twitter, users who do not pay for their tweets get less exposure on twitter, while political conservatives get even less exposure on twitter than either of these two groups.

²¹ See Austin Carr, "When Jack Dorsey's Fight Against Twitter Trolls Got Personal," FAST COMPANY (April 9, 2018) <<https://www.fastcompany.com/40549979/when-jack-dorseys-fight-against-twitter-trolls-got-personal>> (last visited July 25, 2018).

²² Twitter Business, "What are promoted Tweets?", available at <<https://business.twitter.com/en/help/overview/what-are-promoted-tweets.html>> (last visited July 25, 2018).

²³ Twitter Business, "Bidding and Auctions", available at <<https://business.twitter.com/en/help/troubleshooting/bidding-and-auctions-faqs.html>> (last visited July 25, 2018).

41. Thus, despite the fact that Twitter is technically "free" – it is handing Democrats, especially Democrats who are up for re-election in 2018, more exposure on its platform than Republicans by shadow-banning or otherwise down-throttling Republican candidate platforms – effectively giving its preferred candidates free promotion status.

42. Complainant Friends of Matt Gaetz ("Gaetz") is the is the U.S. Representative for Florida's First Congressional District.

43. Matt Gaetz is the incumbent candidate in the Republican primary and is up for re-election in 2018.

44. According to Vice News, when their investigative reporters typed in Matt Gaetz's name (along with similarly situated Republicans) into Twitter's drop-down search bar, it does not show his profile.²⁴

45. According to Vice News, this, "limits [Gaetz's] visibility and the ease of finding [Gaetz's profile] compared to [his] liberal counterparts."²⁵

46. Complainant Gaetz finds the fact that Twitter has shadow banned him especially troubling given his recent heated exchange with Twitter senior executives before the House Judiciary Committee regarding Twitter's history of banning or down-throttling users based on their political viewpoint.²⁶

47. Complainant Gaetz does not know when the shadow ban started.

48. Based upon public reports, Gaetz asserts that Twitter has shadow banned him on the platform, that the shadow banning amounts to an in-kind contribution to Democratic candidates, an independent expenditure for

²⁴ See Vice News, "Twitter is 'shadow banning' prominent Republicans like the RNC chair and Trump Jr.'s spokesman," *supra*.

²⁵ *Id.*

²⁶ The House Judiciary Committee has uploaded a full video of the hearing on YouTube, which is available here: https://www.youtube.com/watch?time_continue=8&v=q9Va6eczXoQ

Democratic candidates, and amounts to subjective criteria for sponsoring a political debate, in violation of Federal Regulations.

49. To the Complainant's knowledge, based upon a good-faith search of publically available information, Twitter has never shadow banned a Democratic candidates' Twitter account or tweets.

SUMMARY OF THE LAW

50. 52 U.S.C. § 30118(a) provides

It is unlawful ... for any corporation whatever ... to make a contribution or expenditure in connection with any election at which ... a Senator or Representative in ... Congress are to be voted for, or in connection with any primary election ... held to select candidates for any of the foregoing offices

51. The term "contribution" is defined in FECA as, "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for *the purpose of influencing any election for Federal office.*" 52 U.S.C. § 30101(8)(A)(i) (emphasis added); see also 11 C.F.R. §§ 100.51-100.56.

52. As used in the definition of "contribution," the phrase "anything of value" includes "all in-kind contributions." The "provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution." 11 C.F.R. § 100.52(d)(1).

53. Pursuant to 52 U.S.C. § 30101(11), "The term 'person' includes a[] ... corporation...".

54. FECA's "press exemption" provides that the term "expenditure" does not include "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication" 52 U.S.C. § 30101(9)(B)(i)

55. FECA's "press exemption" provides that "[a]ny cost incurred in covering or carrying a news story, commentary, or editorial by any...newspaper,

magazine, or other periodical publication, including any Internet or electronic publication, is not" a contribution or expenditure. 11 C.F.R. §§ 100.73 and 100.132.

56. The Commission conducts a two-step analysis to determine whether the "press exemption" applies. First, the Commission asks whether the entity engaging in the activity is a press entity. See, e.g., AO 2010-08 at 4 (*Citizens United*).

57. Second, the Commission applies the two-part analysis presented in *Reader's Digest Ass'n v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y.1981): (1) Whether the press entity is owned or controlled by a political party, political committee or candidate; and (2) Whether the press entity is acting as a press entity in conducting the activity at issue (i.e., whether the entity is acting in its "legitimate press function"). See, e.g., AO 2010-08 at 5 (citing *FEC v. Phillips Publ'g*, 517 F. Supp. 1308, 1312-13 (D.D.C.1981).

58. Regarding the "legitimate press function" requirement, the district court in *Readers Digest Association* explained:

If, for example, on Election Day a partisan newspaper hired an army of incognito propaganda distributors to stand on street corners denouncing allegedly illegal acts of a candidate and sent sound trucks through the streets blaring the same denunciations, all in a manner unrelated to the sale of its newspapers, **this activity would not come within the press exemption** even though it might comply with a technical reading of the statutory exemption, being a "news story ... distributed through the facilities of ... (a) newspaper."

509 Supp. at 1214 (emphasis added).

59. Federal law prohibits corporations from making contributions to Federal Candidates. See 52 U.S.C. § 30118(a).

60. The term independent expenditure means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate. See 11 C.F.R. § 100.16(a) and 52 U.S.C. § 30101(17).

61. Pursuant to 11 C.F.R. § 110.13(a) relating to candidate debates, a staging organization for a candidate debate can be either a nonprofit OR a broadcaster, which includes publications acting as press entities.

62. Pursuant to 11 C.F.R. § 110.13(b), the structure of debates staged in accordance with this section and 11 C.F.R. § 114.4(f) is left to the discretion of the staging organizations(s), provided that:

(b)(2) **Debate Structure.** The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) **Criteria for candidate selection.** For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate.

(Emphasis added).

63. *La Botz v. FEC*, 889 F. Supp. 2d 51 (D.D.C. 2012) is instructive on debate criteria and structure issues:

- (a) "Pre-established" and "objective" criteria are two distinct components.
- (b) Staging organizations are well advised to reduce their objective criteria to writing and to make the criteria available to all candidates before the debate.
- (c) Staging organizations must be able to show their objective criteria were used to pick the participants, and were not designed to result in the selection of certain pre-chosen participants.

CAUSES OF ACTION

COUNT I

Prohibited Contributions by Corporations

64. Gaetz restates and realleges the foregoing paragraphs as if fully set forth herein.

65. Given that candidates for Federal office likely cannot win elections in the modern era without having a Twitter account, Twitter accounts are of great value to candidates for Federal office.

66. When Twitter shadow banned Republican Congressman Matt Gaetz from Twitter, it gave something of value, and in turn made an in-kind contribution, to Matt Gaetz's opponents. Gaetz's opponents are receiving the equivalent of promoted tweets and promoted trends. Further, Gaetz is unable to debate his campaign platform on Twitter in a meaningful way if users cannot see his tweets in the *de facto* public square.

67. Twitter shadow banned Gaetz's twitter account for the purpose of influencing the 2018 mid-term elections and Twitter's ban amounts to an in-kind contribution to Gaetz's opponents.

68. Based on publically available information, Twitter's shadowban of Gaetz's tweets amounts to giving Democratic candidates premium "billboard space" on its platform, and gives worthless "billboard space" to Republican candidates, which amounts to an in-kind contribution to Democratic candidates. Alternatively, it is giving unlimited "copies" or exposure to Democratic candidates, while limiting the number for select Republicans.

69. Based on Twitter's pricing structure for its promoted tweets and trends, Twitter admits that tweets on its platform, and the exposure of its tweets on its platform, have an inherent monetary value, to be determined through an investigation by the Commission.

70. Further, Twitter's costs in implementing its shadow-ban program on Republican candidates amounts to an in-kind contribution to Democratic candidates.

71. Twitter is a corporation and is prohibited from making contributions to candidates for federal office.

72. Twitter is making in-kind campaign contributions by giving favored candidates Twitter accounts because it is a popular platform for the purposes of campaigning and taking disfavored candidates accounts away by shadow banning the account.

73. Twitter's actions of banning Republican Congressman Matt Gaetz was not for any legitimate press function, as contemplated by *Reader's Digest supra*. The press exemption does not apply to Twitter because banning or suppressing Gaetz's account does not amount to a legitimate press function.

74. Accordingly, the costs involved in banning or shadow-banning Gaetz's Twitter account are prohibited in-kind contributions and are not protected by the press exemption.

COUNT II

Failure to Disclose Independent Expenditures

75. Gaetz restates and realleges the foregoing paragraphs as if fully set forth herein.

76. Based on the publically available information analyzed above, by shadow banning Republican Congressman Matt Gaetz from its news-coverage website, Twitter is "expressly advocating" against the election of Matt Gaetz and/or for the election of Gaetz's political opponents, within the meaning of 11 C.F.R. § 110.22

77. Based on the publically available information analyzed above, by shadow banning Republican Congressman Matt Gaetz from its news-coverage website, Twitter has engaged in express advocacy against Gaetz and for Gaetz's opponents which constitutes independent expenditures under 11 C.F.R. § 100.16.

78. By shadow banning Republican Congressman Matt Gaetz from its news-coverage website, Twitter contributed more than \$250 worth of in-kind contributions during 2018.

79. Upon information and belief, there is a sufficient basis for the FEC to investigate whether Twitter spent more than \$10,000 on these independent expenditures during 2018.

80. Respondent Twitter has failed to file any FEC disclosure reports regarding the above cited independent expenditures.

81. Respondent Twitter has violated 11 C.F.R. §§ 109.10(b) and (c) by failing to report independent expenditures.

COUNT III

Improper Candidate Promotion and Use of Criteria by a Debate Sponsor

82. Gaetz repeats and realleges the foregoing paragraphs as if fully set forth herein.

83. Twitter is the modern public square opined upon in *Packingham*, *supra*, because it is a place where political candidates gather to debate their platforms.

84. Based on publically available information, Twitter understands its role as a debate platform for candidates for public office because as discussed above Twitter is unrolling a new way to verify political candidates so that they may continue to debate their platforms.

85. Twitter, as a self-identified news organization, and as a recognized debate platform, is a staging organization for candidate debates, as regulated by 11 C.F.R. § 110.13.

86. When Twitter excluded Gaetz, and other similarly situated Republicans, from participating in public debates on Twitter by shadow banning them without excluding Democratic candidates, it violated 11 C.F.R. § 110.13 because it structured the debates to promote or advance Democratic candidates and it improperly promoted and advanced Gaetz's political opponents.

87. When Twitter shadow banned Gaetz from participating in debates on Twitter, without citing any specific objective reason to do so, it failed to provide any pre-established objective criteria to determine which candidates may participate in debates on Twitter as required by 11 C.F.R. § 110.13, and Gaetz was unable to review the pre-established objective criteria to determine why he had been shadow banned.

88. Based upon publically available information, Twitter uses subjective criteria to ban accounts it disfavors, and quickly bans or shadow-bans accounts it disfavors, including accounts Republican candidates like Congressman Gaetz who are running for re-election.

89. Upon information and belief, Twitter will be unable to show what objective criteria it used to pick the participants in its debate and will not be able to show that it did not select certain pre-chosen participants because the only participants Twitter has shadow banned from the debate are Republican candidates with disfavored views.

PRAYER FOR RELIEF

90. Wherefore, the Commission should find reason to believe that the Respondent Twitter violated 52 U.S.C. § 301011, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

91. Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin respondent(s) from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Dated: July 26, 2018.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matt Gaetz", is written over a horizontal line. To the right of the signature is a large, stylized, looped flourish or scribble.

Friends of Matt Gaetz
PO Box 168
Mary Esther, FL 32569

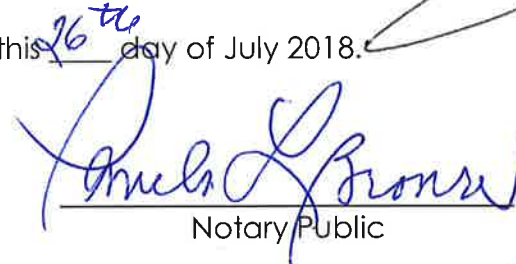
VERIFICATION

Complainant Friends of Matt Gaetz hereby verifies that the statements made in the attached complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.


Friends of Matt Gaetz

Subscribed to and sworn to before me this 26th day of July 2018.


Notary Public

Pamela L. Brown
Notary Public, District of Columbia
My Commission Expires 10/31/2022

