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October 20, 2020

Ms. Lisa J. Stevenson, Esq.
Acting General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Re: Complaint against Twitter, Inc. and Twitter Executives Jack
Dorsey and Brandon Borman, Respondents for Illegal
Corporate Campaign Contributions

Dear Ms. Stevenson:

Pursuant to 52 U.S.C. §30109 and 11 C.F.R. § 111.4, Tea Party Patriots Foundation, by and through its President Jenny Beth Martin, files this Complaint against Twitter, Inc., Jack Dorsey, Twitter's Founder and CEO, and Brandon Borman, Twitter's Vice President of Global Communications

This complaint is filed against Twitter, Inc., a Delaware corporation with its principal place of business in San Francisco, CA ("Twitter"), its Founder and CEO Jack Dorsey ("Dorsey") and Brandon Borman, Twitter Vice-President of Global Communications ("Borman") (collectively, "Respondents") for violation of the Federal Election Campaigns Act, [Title 52](#) United States Code, [Subtitle III](#), [Chapter 301](#), [Subchapter I](#) ("the Act") and the regulations promulgated thereunder by the Federal Election Commission ("FEC" or "Commission").

Respondents have violated multiple provisions of federal law by using Twitter's corporate resources to support --and oppose-- candidates for President of the United States, which is illegal under federal law.

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SUMMARY OF THE VIOLATIONS

Twitter, Dorsey, and Borrmann have violated federal campaign finance law by willfully blocking news and information published by the *New York Post* on October 14, 2020 because it was deemed by them to be detrimental to the presidential candidacy / campaign of Democratic nominee Joseph R. Biden (hereinafter referred to as “Joe Biden” or “Biden”). The monetary value of suppressing the NY Post Story (as defined below) is incalculable, but is certainly well into the millions of dollars.

Respondents have conspired to, have been, and continue using corporate resources of Twitter in a manner that constitutes multi-million dollars in illegal, in-kind contributions to Biden for President.

The actions of Respondents violate federal campaign finance law as more fully described below.

FACTS OF THE VIOLATION

1. Complainant Tea Party Patriots Foundation is a Georgia nonpartisan, nonprofit charitable and educational foundation (“TPPF”) that provides grassroots training and educational resources to the largest network of grassroots Tea Party groups in the country. One of its missions is to teach citizens how to use social media resources, such as Twitter, to communicate news, information, and updates about current issues of interest to citizens. TPPF has invested resources in building its presence on Twitter and other social media platforms.
2. Respondent Twitter, Inc. is a publicly traded corporation with its principal place of business in San Francisco, California.
3. Respondent Jack Dorsey is the Chief Executive Officer and Director of Twitter.
4. Respondent Brandon Borrmann is the Vice-President of Global Communications of Twitter.
5. On October 14, 2020, the *New York Post* published a front page story that casts doubt on the truthfulness of Presidential candidate Joe Biden. Biden has denied any / all involvement with his son’s, Hunter Biden, ‘business’ activities in Ukraine when Biden was responsible for U.S.-Ukrainian policy during the Obama administration and has repeatedly denied having met with any of his son’s Ukrainian business



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associates. The *New York Post* story on October 14, 2020 published emails from a computer belonging to Hunter Biden which show at least one meeting involving Joe Biden and a Ukrainian business associate of Hunter Biden's (the "NY Post Story").¹

6. The *New York Post* has a Twitter account and regularly 'tweets' links to 'breaking news & features from the New York Post', as described on its Twitter home page.²
7. According to data published on its Twitter home page, the *New York Post* has 1.8 million Twitter followers.³
8. Upon publishing its front page story on October 14, 2020, the *New York Post* also tweeted the story from its Twitter account as it does regularly for 'breaking news'.
9. Twitter, within moments of the tweet linking to the NY Post Story blocked the link. According to *The Guardian* "[i]n an unprecedented step against a major news publication, Twitter blocked users from posting links to the Post story or photos from the unconfirmed report. Users attempting to share the story were shown a notice saying: 'We can't complete this request because this link has been identified by Twitter or our partners as being potentially harmful.'" Users clicking or retweeting the link already posted to Twitter are shown a warning that the "link may be unsafe".⁴
10. Respondent Borrmann falsely stated to the public that the reason for blocking the NY Post Story was that it was "content obtained through hacking that contains private information"...and further said 'the company had blocked links before under the policy, but did not specify when.'"⁵

¹ Gabrielle Fonrouge and Emma-Jo Morris, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, New York Post (Oct. 14, 2020, 5:00 A.M.), <https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/>.

² @nypost, Twitter, twitter.com/nypost?s=11.

³ *Id.*

⁴ Kari Paul, *Facebook and Twitter restrict controversial New York Post story on Joe Biden*, The Guardian (Oct. 14, 2020, 10:36 P.M.), <https://www.theguardian.com/technology/2020/oct/14/facebook-twitter-new-york-post-hunter-biden>

⁵ Elizabeth Dwoskin, *Facebook and Twitter take unusual steps to limit spread of New York Post story*, The Washington Post (Oct. 15, 2020, 10:52 A.M.), <https://www.washingtonpost.com/technology/2020/10/15/facebook-twitter-hunter-biden/>.



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11. The reason given by Respondents for blocking the NY Post Story (“use of hacked material”) is demonstrably false and a mere pretext, as the *New York Post* violated *none* of Respondents’ published policies, rules, or guidelines.⁶
12. The source of the information utilized to support the NY Post Story was *not* derived from hacking, rather the source was a laptop apparently belonging to and abandoned by Hunter Biden at a computer shop in Delaware.⁷
13. The owner of the computer shop, who is the source of the information for the NY Post Story, has come forward and publicly identified himself, and has made known the circumstances by which he came into possession of Hunter Biden’s computer and hard drive. No hacking was involved.⁸
14. Since Respondents’ blocking of the NY Post Story, there have been multiple public statements and confirmation that the source(s) of the information were not based on unauthorized intrusion into the Hunter Biden laptop and no ‘hacking’ occurred.⁹
15. If, indeed, Respondents blocked the NY Post Story on the basis of its ‘hacking’ policy, now that it is confirmed that there was no hacking involved in the development of the article, Respondents have nonetheless refused to unlock the *New York Post*’s Twitter account, which remains unable to make posts to this day.¹⁰
16. Respondents have made much of changing its corporate policy on ‘hacking’ the day following its blocking of the NY Post Story,¹¹ which is wholly irrelevant to the real reason Respondents have blocked and continue to block the NY Post Story about Hunter Biden’s illicit ties to foreign money, since no hacking occurred with regard to the NY Post Story and Respondents are well aware of that fact.

⁶ Twitter’s General guidelines and policies, Distribution of hacked material policy, <https://help.twitter.com/en/rules-and-policies/hacked-materials>, (last visited Oct. 19, 2020).

⁷ Charles Creitz, *Giuliani: Computer shop owner who found alleged Hunter Biden emails told FBI he was ‘really afraid’*, Fox News (Oct. 18, 2020), <https://www.foxnews.com/politics/rudy-giuliani-hunter-biden-emails-hard-drive>.

⁸ Thomas Barrabi, Jacqui Heinrich, and Tara Prindiville, *Hunter Biden email story: Computer repair store owner describes handing over laptop to FBI*, Fox News (Oct. 15, 2020) <https://www.foxnews.com/politics/hunter-biden-emails-computer-repair-store-owner-john-paul-mac-isaac>.

⁹ *Id.*

¹⁰ Audrey Conklin, *Twitter refuses to unlock New York Post account unless Hunter Biden posts deleted*, Fox Business (Oct. 17, 2020), <https://www.foxbusiness.com/technology/twitter-has-refused-to-unlock-new-york-posts-account>; see also @nypost, Twitter, twitter.com/nypost?s=11.

¹¹ Natasha Lomas, *Twitter changes its hacked materials policy in wake of New York Post controversy*, Tech Crunch (Oct. 16, 2020, 5:07 A.M.), <https://techcrunch.com/2020/10/16/twitter-changes-its-hacked-materials-policy-in-wake-of-new-york-post-controversy/?guccounter=1>.



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17. Since Respondents' illegal actions on October 14, 2020, using corporate resources to protect and advantage the Biden campaign by blocking the NY Post Story, multiple additional emails have been released from the abandoned computer which contain additional damaging information about former Vice-President Biden, his son Hunter and the family's foreign money-making ventures.¹²
18. Respondents claim its mission is "to give everyone the power to create and share ideas and information, and to express their opinions and beliefs *without barriers*" (emphasis added),¹³ but in reality, Respondents are using corporate resources to support the Biden campaign and to oppose President Trump's reelection campaign by placing barriers in front of a news organization's ability to disseminate newsworthy information about Joe Biden on its platform.
19. As proof of Respondents' duplicity in illegally using corporate resources to support the Biden campaign and oppose President Trump's reelection, on September 27, 2020, the *New York Times* published a story based on purloined copies of the tax returns of President Donald Trump ("the NY Times Story") and immediately posted / linked to that story on its Twitter account.¹⁴
20. The NY Times Story was based on documents and materials that were *not* authorized for release by their owner, President Trump, and the documents came into the possession of the *New York Times* in a still unexplained manner. ("An Editor's Note on the Trump Tax Investigation: We are not making the records themselves public because we do not want to jeopardize our sources, who have taken enormous personal risks to help inform the public.")¹⁵
21. In the days and weeks since the NY Times Story painting President Trump in an unfavorable light, the New York Times has published several additional stories on the same topic, relying on the same purloined materials, and Twitter has allowed multiple tweets and posts by the *New York Times* on the issue of the President's tax returns. In

¹² Gabrielle Fonrouge and Emma-Jo Morris, *Emails reveal how Hunter Biden tried to cash in big on behalf of family with Chinese firm*, New York Post (Oct. 15, 2020, 5:00 A.M.), <https://nypost.com/2020/10/15/emails-reveal-how-hunter-biden-tried-to-cash-in-big-with-chinese-firm/>.

¹³ Twitter's Rules and policies, *Hateful conduct policy*, <https://help.twitter.com/en/rules-and-policies/hateful-conduct-policy> (last visited Oct. 19, 2020).

¹⁴ @nytimes, Twitter (Sept. 27, 2020, 5:10 P.M.), <https://twitter.com/nytimes/status/1310325842535477248>.

¹⁵ Russ Buettner, Susanne Craig and Mike McIntire, *Long Concealed Records Show Trump's Chronic Losses and Years of Tax Avoidance*, The New York Times (Sept. 27, 2020), <https://www.nytimes.com/interactive/2020/09/27/us/donald-trump-taxes.html?smid=tw-nytimes&smtyp=cur>.



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fact, on the day after Respondents blocked all tweets seeking to disseminate the NY Post Story, Twitter allowed the *New York Times* to republish all their stories about the Trump tax returns, with the headline that appeared on the *New York Times* Twitter account, “Read our investigation on President Trump’s Taxes.”¹⁶

22. Twitter has taken *no* action to block the New York Times Story at any time since the *New York Times* began its series of stories attacking the President, based on the unauthorized release of and potentially hacked materials.
23. Not only did Respondents conspire to use their corporate resources to limit the access to and knowledge of the NY Post Story by locking the *New York Post* Twitter account, it also blocked *all* Twitter users from re-tweeting or posting links to the New York Post Story up until October 16, 2020.¹⁷
24. Respondents blocked the Twitter accounts of White House Press Secretary Kayleigh McEnany in order to prevent the distribution of the NY Post Story. On the day Twitter blocked the NY Post Story at the *New York Post* Twitter account, Respondents blocked McEnany’s Twitter account from being accessed by other Twitter users when she tried to retweet the NY Post Story.¹⁸ Only when McEnany removed the link to the NY Post Story on the following day was her Twitter account unblocked.¹⁹
25. Respondents blocked the Twitter accounts of the Trump Campaign,²⁰ *Politico* reporter Jake Sherman²¹ and myriad of others²² to stop them from tweeting and linking to the NY Post Story; Respondents have not similarly blocked the NY Times Story.

¹⁶ @nytimes, Twitter, (Oct 15, 2020, 8:43 P.M.), <https://twitter.com/nytimes/status/1316902565397876740?s=20>.

¹⁷ Reuters Staff, Twitter backtrack, allows users to post previously blocked NY Post article, Reuters (Oct. 16, 2020, 9:34 A.M.), <https://www.reuters.com/article/us-usa-election-twitter-idUSKBN27121P>.

¹⁸ Steven Nelson, *WH press secretary locked out of Twitter for sharing Post’s Hunter Biden Story*, New York Post (Oct. 17, 2020, 7:06 P.M.), <https://nypost.com/2020/10/14/kayleigh-mcenany-locked-out-of-twitter-for-sharing-posts-hunter-biden-story/>.

¹⁹ Lia Eustachewich, *Kayleigh McEnany: Twitter has me at ‘gunpoint’ to delete The Post’s Hunter Biden story*, New York Post (Oct. 15, 2020, 8:23 A.M.), <https://nypost.com/2020/10/15/kayleigh-mcenany-twitter-has-me-at-gunpoint-to-delete-biden-story/>.

²⁰ Mia Jankowicz, *Twitter locked the official Trump campaign account after it referred to the New York Post’s dubious story on Hunter Biden*, Business Insider (Oct. 15, 2020, 10:42 A.M.), <https://www.businessinsider.com/trump-campaign-account-locked-twitter-ny-post-biden-2020-10>.

²¹ Joseph Wulfsohn, *Politico’s Jake Sherman says Twitter suspended him for sharing New York Post Story*, Fox News (Oct. 16, 2020), <https://www.foxnews.com/media/politico-jake-sherman-twitter-suspended-hunter-biden>.

²² Tasha Milne, *Twitter BLOCKS sharing links to NYPost’s Hunter Biden emails story, invoking ‘HACKED MATERIALS’ policy for first time ever* – RT USA News, The Union Journal (Oct. 15, 2020),



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26. In response to public outcry regarding the censorship of the NY Post Story, Respondents have said only that their “communication” regarding the decision to block access to the NY Post Story was “unacceptable”, but it has not reversed its decision to block the story; the *New York Post*’s account remains locked by Twitter while the NY Times Story continues to be disseminated.²³
27. Respondent Dorsey has a history prior to the censorship and blocking of the NY Post Story of using Twitter corporate resources for ‘fact-checking’ President Trump with no similar ‘fact-checking’ of Biden.²⁴
28. Respondent Twitter has a history of labeling as ‘misleading media’ information tweeted by President Trump.²⁵
29. There is no similar history of Twitter fact-checking or labeling *any* content posted by the Biden-Harris campaign, the Democratic Party or by Biden-Harris supporters.
30. Respondent Dorsey is clearly opposed to President Trump’s reelection, having contributed the maximum to two different Democratic candidates for President during the 2019-20 election cycle.²⁶
31. Respondent Dorsey has given to several Democratic candidates during the 2019-20 election cycle, but has given to *no* Republican candidates for office this cycle.²⁷

<https://theunionjournal.com/twitter-blocks-sharing-links-to-nyposts-hunter-biden-emails-story-invoking-hacked-materials-policy-for-first-time-ever-rt-usa-news-2/>.

²³ Ben Feuerherd, *Twitter CEO admits handling of blocked Post article was ‘unacceptable’*, New York Post (Oct. 14, 2020, 8:41 P.M.), <https://nypost.com/2020/10/14/twitter-ceo-says-handling-of-blocked-post-article-was-unacceptable/>; Audrey Conklin, *Twitter refuses to unlock New York Post account unless Hunter Biden posts deleted*, Fox Business (Oct. 17, 2020), <https://www.foxbusiness.com/technology/twitter-has-refused-to-unlock-new-york-posts-account>.

²⁴ Natasha Lomas, *Twitter changes its hacked materials policy in wake of New York Post controversy*, Tech Crunch (Oct. 16, 2020, 5:07 A.M.), <https://techcrunch.com/2020/05/27/twitter-vs-trump-fact-checking-dorsey/>; Savannah Behrmann, ‘Contain potentially misleading information’: Twitter fact-checks Trump’s tweets, USA Today (May 26, 2020 8:09 P.M., updated May 27, 2020, 2:14 P.M.), <https://www.usatoday.com/story/news/politics/2020/05/26/twitter-fact-checking-president-trump-tweets/5263437002/>.

²⁵ Donnie O’Sullivan and Sarah Mucha, *Twitter botches fact-check of manipulated Biden video retweeted by Trump*, CNN Business (March 9, 2020, 2:11 P.M.), <https://www.cnn.com/2020/03/09/tech/scavino-trump-biden-twitter-video/index.html>.

²⁶ Donor Lookup – Jack Dorsey, Open Secrets (Updated as of Oct. 19, 2020), <https://www.opensecrets.org/donor-lookup/results?name=Jack+Dorsey>.

²⁷ *Id.*

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32. In August 2020, Respondent Borman personally contributed to the Biden presidential campaign.²⁸
33. During prior election cycles, Respondent Borman contributed to the Obama-Biden campaign and has not contributed to any Republican candidates.²⁹
34. Respondents are politically and philosophically biased against President Trump and his reelection, and are using their corporate resources to undermine and oppose President Trump and his reelection bid, while using those same corporate resources to support and advantage the candidacy of his opponent, Joe Biden.

Legal Authority for the Violations

The Federal Election Campaign Laws (52 U.S.C. § 30118) make it illegal for any corporation to make contributions or expenditures in connection with any election to any political office.

Specifically, federal law provides:

“It is unlawful for ... any corporation ... to make a contribution or expenditure in connection with any election to any political office, ... or for any corporation whatever...to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors ... are to be voted for, ... or any officer or any director of any corporation ... to consent to any contribution or expenditure by the corporation, ... prohibited by this section”.³⁰

The Act and Commission regulations define the terms “contribution” and “expenditure” to include any gift of money or “anything of value” made in connection with a federal election.³¹

Respondents are *not* exempt from the prohibition against making contributions from or expenditures by corporations. Respondent Twitter is a corporation. Respondents Dorsey and Borman are executive officers of Twitter and are separately liable under § 30118 for their decisions to utilize the corporate resources of the Twitter company to support the Biden campaign and to disadvantage and campaign against President Trump’s reelection.

²⁸ Donor Lookup – Brandon Borman, Open Secrets (Updated as of Oct. 19, 2020), <https://www.opensecrets.org/donor-lookup/results?name=Brandon+Borman>.

²⁹ *Id.*

³⁰ 52 U.S.C. § 52118(a).

³¹ *See* 52 U.S.C. § 30118(b).

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Nor are Respondents exempt from the statutory prohibition against corporate contributions and expenditures under the “media exemption” of 52 U.S.C. § 30101(9)(B) which provides in relevant part that:

“... [t]he term “expenditure” does not include— (i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate.”³²

Respondent Twitter does not produce or disseminate its own content, which distinguishes it from other entities that have been recognized by the Commission in recent years as qualifying for the media exemption.³³ In Advisory Opinion 2010-08, the Commission noted that it “...has not limited the press exemption to traditional news outlets, but rather has applied it to...news stories, commentaries, and editorials no matter in what medium they are published...”³⁴

The Commission’s inquiry and analyses do not end with the question of public dissemination of materials, but engages in further inquiry as to whether an entity is acting in a “legitimate press function entitling it to the exemption.”³⁵ As the Commission discussed in Advisory Opinion 2010-08: “[t]here are two considerations in determining whether an entity is engaging in its legitimate press function: (1) whether the entity’s materials are available to the general public, and (2) whether they are comparable in form to those ordinarily issued by the entity.”³⁶ In *MCFL*, the Supreme Court held that a “Special Edition” newsletter did not qualify for the press exemption on the basis that it deviated from certain “considerations of form” relating to the production and distribution of its regular newsletter.³⁷ Among those “considerations of form” enumerated by the Supreme Court were the fact that the Special Edition was not published through the facilities of the regular newsletter, but

³² 52 U.S.C. §30101(9)(B).

³³ FEC Advisory Opinion 2008-14 (Melothe, Inc.) (citing the Commission’s 2006 rulemaking, Explanation and Justification for Final Rules on Internet Communications, 71 C.F.R. 18589, 18608 (Apr. 12, 2006), extending the press exemption to websites and “any Internet or electronic *publication*”) (emphasis added), available at <https://www.fec.gov/files/legal/aos/2008-14/AO-2008-14-final.pdf>

³⁴ FEC Advisory Opinion 2010-08 (In re Citizens United), available at https://www.fec.gov/resources/about-fec/commissioners/walther/statements/STW_AO_2010-08_Citizens_United.pdf.

³⁵ *Id.* at pg. 4.

³⁶ FEC Advisory Opinion 2005-16 (FiredUp!) (citing *FEC v. Mass. Citizens for Life* (“MCFL”), 479 U.S. 238, 251 (1986)) and Advisory Opinion 2000-13 (iNEXTV) (concluding that a website was “viewable by the general public and akin to a periodical or news program distributed to the general public”), available at <https://www.fec.gov/files/legal/aos/2005-16/2005-16.pdf>.

³⁷ *MCFL*, 479 U.S. at 250-51.



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by a staff which prepared no previous or subsequent newsletters, and the increase in distribution to a group far larger than the newsletter's regular audience."³⁸

Respondent Twitter does not engage in a 'legitimate press function' because it does not publish original content; rather, it disseminates content published by third parties and its Mission Statement claims that the company does so in an inherently equal fashion: "The mission we serve as Twitter, Inc. is to give everyone the power to create and share ideas and information instantly without barriers. Our business and revenue will always follow that mission in ways that improve – and do not detract from – a free and global conversation."³⁹ Respondents obviously ignored Twitter's own mission statement when it decided to block the NY Post Story.

Respondent Twitter is not a 'press' or 'media' entity as that term is defined in federal campaign finance law because it does not engage in a legitimate press function, namely, the production of its own content.

Additionally, Respondent Twitter and other social media entities are legally defined as 'interactive service providers' pursuant to Section 230 of the Federal Communications Act.⁴⁰ Congress concluded that 'interactive computer services', such as Twitter, "...are permitted to publish others' content without reviewing it for criminality or other potential legal issues."⁴¹ Section 230 of the Communications Decency Act provides a liability shield for Twitter and other social media platforms that do not exist for media entities recognized under federal campaign finance law, because social media companies do not produce their own content.⁴²

Among the Congressional findings as to the reasons and purposes for adopting Section 230 in 1995 were that "the rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens" as well as an additional finding that "[t]he Internet and other *interactive computer services offer a forum for a true diversity of political discourse...*"⁴³ (emphasis added).

³⁸ FEC Advisory Opinion 2005-16 (FiredUp!), at pg. 6.

³⁹ Twitter Investor Relations FAQ, "What Is Twitter's Mission Statement?" <https://investor.twitterinc.com/contact/faq/default.aspx#:~:text=back%20to%20top-.What%20is%20Twitter's%20mission%20statement%3F.a%20free%20and%20global%20conversation>. (last visited Oct. 19, 2020).

⁴⁰ 47 U.S.C. § 230.

⁴¹ See Kathleen Ann Ruane, *How Broad A Shield? A Brief Overview of Section 230 of the Communications Decency Act*, Congressional Research Services, February 21, 2018.

⁴² 47 U.S.C. § 230.

⁴³ 47 U.S.C. § 230 (A)(1), (3).

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Clearly, Respondents are abusing the corporation's liability shield established under federal law with an understanding that as an interactive computer service, it would offer a forum for a "true diversity of political discourse."⁴⁴ Instead, Respondents have chosen to deploy its massive corporate resources from a multi-billion dollar company to support the Biden presidential campaign while simultaneously opposing the reelection of President Trump.

Twitter is a corporation with no exemption from federal campaign laws governing contributions and expenditures. As such, it is subject to the standard analysis in which the Commission has historically and consistently engaged when considering the role of a corporation in relation to federal elections, namely, whether the expenditure of corporate resources are used to favor or oppose federal candidates.

In numerous advisory opinions issued by the Commission, the principle of ensuring that corporate resources are *not* used in that manner has been fundamental to the Commission's approval of proposed corporate activities and services related to federal elections.⁴⁵

The use by Respondents of their corporate platform to disseminate negative stories about President Trump while blocking similar negative stories about his opponent Joe Biden constitutes a willful violation of federal law by using Twitter's corporate treasury to facilitate in-kind, illegal soft money contributions from Twitter and its decision-makers to the Biden campaign.

Respondents have knowingly and willfully engaged in the illegal conduct (described above) in amount(s) in excess of \$25,000.00, which subjects each of them to the following criminal penalties under the Act:

⁴⁴ 47 U.S.C. § 230 (A)(3).

⁴⁵ See FEC Advisory Opinion 2014-07 (In re: CrowdPAC) (finding that since "CrowdPAC will allow every candidate, on an equal and nonpartisan basis, to upload certain content to his or her candidate page" its proposed corporate activity did not violate campaign finance law) (emphasis added), available at [https://www.fec.gov/files/legal/aos/2014-07/AO-2014-07-\(Crowdpac\)-Final-\(8.14.14\).pdf](https://www.fec.gov/files/legal/aos/2014-07/AO-2014-07-(Crowdpac)-Final-(8.14.14).pdf); Advisory Opinion 2015-08 (In re Repledge) (finding that "[a]lthough Repledge's members will use its website to contribute only to major party nominees in the 2016 presidential election, this selection of a set of opposing candidates — with pledges to one effectively canceling out pledges to the other — does not raise concerns that Repledge is selecting candidate recipients to influence the outcome of the election. As long as Repledge transmits funds to the opposing candidates, as requested by its members, on identical terms and without any preferential placement or treatment..."), available at https://www.fec.gov/files/legal/aos/2015-08/201508_4.pdf; FEC Advisory Opinion 2015-15 (In re: WeSupportThat.com) (finding that because the requestor will not "advance[e] any particular issue, position on an issue, or any political outcome" and will often feature candidates who oppose each other on a given issue because doing so will "ensure the largest possible customer base," the requestor's listing of candidate activities that it considers most likely to motivate individuals to make contributions on its website *does not raise concerns that the requestor is selecting candidate recipients to influence the outcome of the election*), available at https://saos.fec.gov/saos/aonum_143.jsp?AONUM=2015-15. (emphasis added).



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“(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure— (i) aggregating \$25,000 or more during a calendar year shall be fined under title 18, or imprisoned for not more than 5 years, or both;”⁴⁶

The amounts at issue in Respondents’ violation are incalculable, but undoubtedly exceed the criminal threshold of \$25,000. Respondents’ conduct is knowing and willful and they should be prosecuted to the fullest extent of the law.

⁴⁶ 52 U.S.C. § 30109(d).



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Conclusion

Upon information and belief, and based upon the facts and legal authorities cited herein, Respondents Twitter, Inc., Jack Dorsey, and Brandon Borman have each individually and collectively knowingly and willfully violated the Federal Election Campaign Laws, in amount(s) exceeding \$25,000.00 and should be held accountable for their illegal actions both with civil penalties and criminal prosecution.

Please contact me at (202) 295-4081 or cmitchell@foley.com for further information.

Respectfully submitted,

A handwritten signature in black ink that reads 'Cleta Mitchell'.

Cleta Mitchell, Esq.
Counsel to Complainants

Tea Party Patriots Foundation &
Jenny Beth Martin, President
Complainants
1025 Rose Creek Dr Suite 620-322
Woodstock, GA 30189

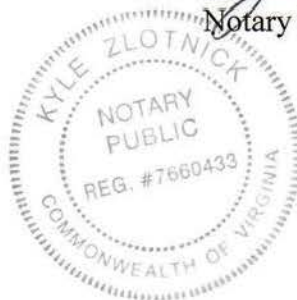
Sworn Affidavit of Jenny Beth Martin, for Tea Party Patriots Foundation

Before me this 17 day of October, 2020, appeared Jennifer "Jenny Beth" Martin, President of Tea Party Patriots Foundation, and under penalty of perjury did swear and affirm that the above and foregoing facts are true and correct to the best of her knowledge and belief.

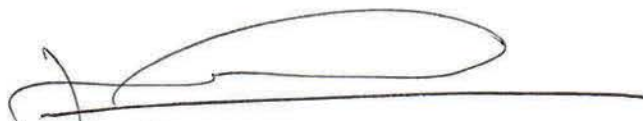
Alexandria, VA

SEAL

My Commission Expires: 01/31/23
#7660433



Notary Public


Jennifer Martin