

RECEIVED
FEDERAL ELECTION COMMISSION
OCTOBER 26, 2020 9:50 AM
OFFICE OF GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

Anna Paulina Luna for Congress
1201 Gandy Blvd. N
P.O. Box 23064
Saint Petersburg, FL 33742-8001

v.

MUR No. **7832**

Twitter, Inc.
1355 Market Street,
Suite 900
San Francisco, CA 94103

Complaint

When the Federal Election Campaign Act ("FECA") was passed and amended, television was the dominant medium for federal campaigns, and rules were established by the Federal Election Commission ("FEC") and the Federal Communications Commission ("FCC") to ensure that candidates had equal access to this public forum. Twitter is a new public forum and when Twitter discriminates against conservative leaders like Anna Paulina Luna ("APL" or "Luna") by applying its universal regulations in an arbitrary and subjective manner, it is not only un-American and morally wrong, it is also illegal.

Twitter's anti-conservative discrimination became illegal when Twitter deliberately refused to "verify" Anna Paulina Luna, the Republican nominee for Florida's 13th Congressional District, while providing the verification logo to her opponents. When APL, an Air Force veteran and small business owner, became a federal candidate for Florida's 13th District, FEC and FCC regulations prohibited Twitter from discriminating against her candidacy and denying her something of value provided for free to her opponent. Just as a radio or television station may not sell time only to a candidate's opponent, Twitter may not do so either without providing equal access and opportunity to all candidates running for the same office.

In its latest attempt to minimize the views it does not like by suppressing APL's account, Twitter has run afoul of several FEC and FCC regulations. This complaint is filed pursuant to 52 U.S.C. §§ 30118(a) and 30109(a)(1) and is based on information providing reason to believe that Twitter, Inc. ("Twitter") has violated and is engaging in the continuing violation of the corporate contribution and/or expenditure prohibitions established by FECA, 52 U.S.C. § 30101, et. seq. and Commission regulations. Specifically, by not verifying federal candidate Anna Paulina Luna from its platform, Twitter is providing something of value to Luna's political opponents for the purpose of influencing the election in Florida's 13th District. Also, when Twitter refused to verify her account, it prevented Luna from having equal access to the platform that was given to her political opponents, thereby also violating the FCC's equal-time rule. 47 U.S.C. §§ 315(a).

The standard for an FEC investigation is, “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...” 52 U.S.C. § 30109(a)(2); see also 11 C.F.R. § 111.4(a). That standard is easily met in this matter and the Commission should take proper action.

FACTS

Twitter is a social media networking service where users can send and receive short posts known as “tweets.” Users can also interact with tweets through likes, re-tweets, and comments. Twitter is one of the largest social networks worldwide, with 330 million active users.¹ Users may also be “verified” on Twitter with a blue check mark, which indicates that the account is one of public interest.² Twitter will verify accounts maintained by users in music, acting, government, politics, media, and other prominent groups. Although Twitter is free to join, it places a valuation on access to its platform by allowing users to promote their tweets or account for a fee.³ The average cost of a promoted tweet is roughly \$1.35 per click, reply, or retweet.⁴ To promote an account, it costs users between \$2.50 and \$4 per account follow.⁵ Twitter suggests that advertisers spend \$30 per day in order to consistently reach audiences.⁶ Twitter recommends that individuals and groups that want to increase their follower list, see more engagement with their tweets, or gain more traffic for their website to use the promotion feature.⁷

Twitter’s rules state that in order to receive a verified badge from Twitter, candidates who qualify for the primary ballot for the United States House of Representatives, United States Senate, and Gubernatorial races must meet the following guidelines: (1) meet Ballotpedia’s threshold for an official candidate;⁸ (2) meet certain account requirements, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and (3) comply with Twitter’s Rules and Terms of Service.⁹

¹ See Twitter, Q1 2019 Earnings Report, at 5, *available at* https://s22.q4cdn.com/826641620/files/doc_financials/2019/q1/Q1-2019-Slide-Presentation.pdf.

² Twitter, About Verified Accounts, <https://help.twitter.com/en/managing-your-account/about-twitter-verified-accounts>.

³ See Twitter, Create a Tweet Engagements Campaign (last accessed Jan. 9, 2020), *available at* <https://business.twitter.com/en/help/campaign-setup/create-a-tweet-engagement-campaign.html>.

⁴ Shashank Mehrotra, *How Much Does It Cost to Advertise on Facebook, Twitter, LinkedIn and YouTube?* LinkedIn (July 2, 2016).

⁵ *Id.*

⁶ See Twitter, Get Started with Twitter Ads, *available at* <https://business.twitter.com/en/solutions/twitter-ads.html?ref=en-btc-solutions-footer>. Twitter announced that it was banning all political advertising, which went into effect November 22, 2019. See Kate Conger, *Twitter Will Ban All Political Ads, C.E.O. Jack Dorsey Says*, THE NEW YORK TIMES (Oct. 30, 2019). However, Twitter does not preclude candidates from soliciting donations through the platform.

⁷ Twitter, Get Started with Twitter Ads, *available at* <https://business.twitter.com/en/solutions/twitter-ads.html>.

⁸ Ballotpedia requires candidates to register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline.

⁹ Twitter, About Election Labels on Twitter (last accessed Oct. 13, 2020).

Twitter's process of verifying candidates is done in partnership with Ballotpedia.¹⁰ Ballotpedia first checks to ensure the Twitter account is real and connected to the candidate, using official filings and lists.¹¹ Ballotpedia then sends Twitter a list of on-ballot candidates to verify, which it sends every week.¹² Then, Twitter conducts its own investigation into the account's legitimacy.¹³ For example, as discussed above, Twitter does not verify accounts that have never tweeted or that do not have profile pictures of the person's face. Once Twitter has completed its internal investigation and has found no errors, it will provide the candidate with a verification checkmark.

APL is the Republican nominee for Florida's 13th District. She is widely regarded as rising star in the Republican Party, being listed on the National Republican Congressional Committee's (NRCC) list of "Young Guns"¹⁴ and endorsed by President Donald Trump.¹⁵ Prior to becoming a federal candidate, Luna was nationally known as a social media influencer. Currently, even without verification she has still amassed over 219,000 followers on her Twitter account (@realannapaulina).¹⁶

On December 12, 2019, Twitter announced that it would start verifying the accounts of all candidates running for Congress in the 2020 election cycle.¹⁷ Under this plan, the responsibility is not supposed to be on the candidate to ask for verification, but rather Twitter will actively search for candidates to verify.¹⁸ When asked about the change in Twitter policy, Twitter spokesperson Nick Pacilio stated, "A significant factor in expanding verification to these races was to ensure a level playing field."¹⁹ However, Twitter has had significant issues in its verification process, from verifying fake candidates²⁰ to at one point not verifying ninety (90) percent of all gubernatorial candidates.²¹

On September 9, 2019, Luna filed her Statement of Candidacy with the Federal Election Commission.²² On February 7, 2020, two months after Twitter announced its new verification policy, Luna reached out to Twitter via e-mail, because she had not yet been verified and was the

¹⁰ Emily Birnbaum and Chris Mills Rodrigo, *Twitter Falling Short on ledge to Verify Primary Candidates*, THE HILL (Feb. 25, 2020).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ National Republican Congressional Committee (NRCC), Young Guns Program (last accessed Oct. 13, 2020), available at <https://gopyoungguns2020.com/>.

¹⁵ Anna Paulina Luna for Congress, Anna Paulina Luna Wins Republican Primary for FL-13 (Aug. 18, 2020), available at <https://www.voteannapaulina.com/post/anna-paulina-luna-wins-republican-primary-for-fl-13> (showing endorsement for President Trump).

¹⁶ Anna Paulina Luna (@realannapaulina), Twitter (last accessed Oct. 13, 2020), available at https://twitter.com/realannapaulina?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

¹⁷ Nancy Scola, *Twitter to Verify All Congressional and Gubernatorial Primary Hopefuls*, POLITICO (Dec. 12, 2019).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Allum Bokhari, *Twitter Verified a Fake Candidate, But Not Florida Congressional Candidate Anna Paulina Luna*, BREITBART (Mar. 6, 2020).

²¹ Birnbaum, *supra* Note 10.

²² Anna Paulina Luna, FEC Form 2 (Statement of Candidacy), available at <https://docquery.fec.gov/cgi-bin/forms/H0FL13158/1350634/>.

only candidate in the Republican primary who had not been verified.²³ On the same day, she received a response from Twitter's Government and Elections Team, stating that she had not met Ballotpedia's thresholds, which is required to receive Twitter verification.²⁴ Luna responded by stating that her profile with Ballotpedia was up-to-date, and had been for some time.²⁵ Twitter then responded that her request would be processed "on a rolling basis."²⁶

After receiving no change in her verification almost a month later (March 3, 2020), Luna sent another email re-stating that she was the only candidate in her primary not verified.²⁷ Three days later, Twitter responded to Luna's email, stating Twitter's qualifications for receiving a verified badge without providing any explanation as to how Luna might not satisfy its requirements.²⁸ No further response was provided by Twitter on the status of her request.

Three months later, on June 11, 2020, Luna sent another request to Twitter to get her account verified.²⁹ She also explained that because she had not yet been verified, she had multiple people attempt to solicit money using her name and/or Anna Paulina Luna for Congress.³⁰ Twitter again re-stated their requirements for verification without providing an explanation for why Luna did not satisfy them, but claimed that it was going to "escalate" her request to Twitter's Support Team for further review.³¹

Two months later, and after Luna won the Republican primary for Florida's 13th Congressional District, Derek Utley, a consultant for Anna Paulina Luna for Congress, emailed Twitter's Government and Elections team, explaining that Ms. Luna had won her primary election, and that her verification should be submitted.³² Twitter yet again responded with their qualifications for verification, without providing any explanation as to how she might not have satisfied these requirements or why she was not currently verified.³³

There has been no further correspondence between Luna or anyone acting on behalf of the Campaign and Twitter. As of the date of this Complaint, Luna has still not been verified by Twitter.³⁴ Luna has satisfied all requirements to be verified on Twitter, and has not engaged in any conduct that would prohibit her from being verified on the platform.

Although Twitter claims to apply Twitter rules equally to all of its users,³⁵ publically available information indicates otherwise. Twitter has previously faced scrutiny for their

²³ See Attachment A.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Attachment B.

²⁸ *Id.*

²⁹ See Attachment C.

³⁰ *Id.*

³¹ *Id.*

³² See Attachment D.

³³ *Id.*

³⁴ Anna Paulina Luna (@realannapaulina), Twitter (last accessed Oct. 13, 2020), available at https://twitter.com/realannapaulina?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

³⁵ See Twitter, Safety on Twitter, https://about.twitter.com/en_us/safety.html (last accessed Jan. 13, 2020). Twitter states that "[w]e treat everyone equally: the same Twitter Rules apply to all."

discriminatory treatment of conservative voices on their platform. A report by *Vice News* alleged that Twitter was limiting the visibility of prominent Republicans in search results (“shadow-banning”).³⁶ Those who were impacted included Republican Party chair Ronna McDaniel, Rep. Mark Meadows, Rep. Jim Jordan, Rep. Matt Gaetz, and Rep. Devin Nunes.³⁷ A similar review of prominent Democrat officeholders indicated that Democrats were not being shadow-banned.³⁸ This and other reporting prompted Congress to hold two separate hearings with Twitter and other social media platforms regarding alleged bias.³⁹

There are numerous and significant benefits to being verified on Twitter. First, verification gives candidates an additional boost of credibility.⁴⁰ Verification indicates to other Twitter users that a profile is in the public interest and authentic, which can lead to more followers and a higher social media profile.⁴¹ Verified candidate accounts will automatically jump to the top of search results,⁴² and verified accounts also receive significant boosts in engagement, including a 38% increased engagement on photos, a 16% boost on tweets with hashtags, and a 28% boost on videos.⁴³ These statistics are especially significant as Election Day approaches and as candidates attempt to gain attention and raise money. In the week before Election Day, people on Twitter see tweets from Labeled accounts approximately 100 million times each day, and 13% of election conversation on Twitter in the United States included a Tweet with a label.⁴⁴

Second, it cuts down on impersonation or scam accounts, a common issue for public figures, and a costly problem for political candidates.⁴⁵ With the prevalence of fake and parody accounts on social media, being verified can help official accounts stand out and provide confidence to voters that they are hearing directly from the individual behind the account and/or contributing to the candidates campaign as opposed to a sham group.⁴⁶ Many candidates who have not been verified have faced these exact bad actors during their campaign.⁴⁷

Twitter is well-aware of the value of verification and its influence on American politics. When explaining the exact Twitter policy at issue in this matter, Twitter’s Public Policy Director

³⁶ Alex Thompson, *Twitter Appears to Have Fixed “Shadow Ban” of Prominent Republicans Like the RNC Chair and Trump Jr.’s Spokesperson*, VICE NEWS (July 25, 2018).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Twitter CEO Jack Dorsey testified before the House Energy and Commerce Committee about the moderation of online conduct on September 5, 2018. See Cecilia Kang, et. al., *Twitter Dorsey Avoids Taking Sides in Partisan House Hearing*, THE NEW YORK TIMES (Sept. 5, 2018); Cecilia King and Sheera Frenkel, *Republicans Accuse Twitter of Bias Against Conservatives*, THE NEW YORK TIMES (Sept. 5, 2018). Carlos Monje, Jr., Twitter Director of Public Policy and Philanthropy, testified for the Senate Judiciary Constitution Subcommittee on April 1, 2019 about alleged bias against conservative voices on its platform. See David Shepardson, *Facebook, Google Accused of Anti-Conservative Bias at U.S. Senate Hearing*, REUTERS (Apr. 10, 2019).

⁴⁰ Josh Solomon, *Congressional Candidate Anna Paulina Luna Threatens to Sue Twitter Over Blue Check Mark*, TAMPA BAY TIMES (Sept. 16, 2020); see also Scola, *supra* Note 17.

⁴¹ Solomon, *supra* Note 40.

⁴² Scola, *supra* Note 17.

⁴³ Simon Rogers, *What Fuel’s a Tweet’s Engagement?*, Twitter (Mar. 10, 2014).

⁴⁴ Bridget Coyne, *Helping Identify 2020 US Election Candidates on Twitter*, Twitter (Dec. 12, 2019).

⁴⁵ Scola, *supra* Note 17.

⁴⁶ Michelle Castillo, *Does Being Verified on Twitter Really Matter?* CNBC (May 19, 2015).

⁴⁷ Birnbaum, *supra* Note 10.

Bridget Coyne stated “when voters look for the latest breaking news and political commentary during an election, they turn to Twitter to find it directly from the source.”⁴⁸ Additionally, Twitter has emphasized that it plays a “critical role” in “empowering democratic conversation, driving civil participation, facilitating meaningful political debate, and enabling people to hold those in power accountable.”⁴⁹ News commentators, election gurus, and political figures have also emphasized Twitter’s influence on American politics, especially in regards to the recent changes it has implemented on political advertising and combatting misinformation.

CAUSES OF ACTION

COUNT 1

Prohibited Contributions by Corporations

Under FECA, a contribution is defined 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); 11 C.F.R. § 100.52. The phrase “anything of value” includes all in-kind contributions. *Id.* at § 100.52(d)(1). The term “person” includes corporations. 52 U.S.C. § 30101(11). Federal law prohibits corporations, such as Twitter from making contributions to Federal candidates. 52 U.S.C. § 30118(a). If a corporation makes its facility available to one candidate for free, it must do so for all candidates. 11 C.F.R. § 114.13.

By verifying Luna’s Democrat opponent Charlie Crist but not Luna, Twitter is giving something of value to Luna’s opponent while at the same time denying Luna’s political campaign something of significant value. While it is difficult to ascertain an exact numerical value of a Twitter verification, we can rely on the valuation of a promoted tweet (as previously discussed) to provide an estimate. A promoted tweet, on average, costs \$1.35 per tweet. Even without being verified, Luna has a significant level of engagement, with many of her tweets having over 5,000 retweets.⁵⁰ With a Twitter verification, she would emerge as a top result on the website, which would naturally lead to an increase in engagement. Under Twitter’s valuation of \$1.35 per tweet and Twitter’s own statistics that show an increase an engagement by up to 38% with a verification label, the value of one of Luna’s tweets would increase by roughly \$1,900. Taking into account that Luna tweets multiple times per day and has been actively tweeting throughout her campaign, the added value that would have been provided by a verification is considerably higher.

Based on publically available information regarding the Twitter corporation’s political bias, it is clear that Twitter’s continued refusal to provide Luna with verification is intentional and for the purpose of influencing the Congressional election in Florida’s 13th District. If Twitter is going to provide certain benefits of its corporate-funded platform to one candidate in Florida’s 13th Congressional District, it must provide access to all of the candidates, including Luna.

⁴⁸ Coyne, *supra* Note 44.

⁴⁹ Vijaya Gadde and Kayvon Beykpour, Additional Steps We’re Taking Ahead of the 2020 US Election, Twitter (Oct. 9, 2020).

⁵⁰ See, e.g. Anna Paulina Luna (@realannapaulina), Twitter (Oct. 11, 2020), available at https://twitter.com/realannapaulina?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor. This specific tweet had over 5,000 retweets.

There is no evidence, nor has Twitter provided any evidence, to show that Luna has not abided by all of Twitter's qualifications to receive verification. Her Ballotpedia profile is updated, she has met all of Twitter's qualifications, and she had followed Twitter's Terms of Engagement. Even though Twitter is responsible for finding candidates to verify on its platform, Luna has repeatedly reached out to Twitter to get her verification status changed. At no time during her correspondence with Twitter did they provide any explanation for how or why she has not been verified. Certainly, if there were a legitimate reason, it would have been provided her.

Thus, Twitter provided a prohibited corporate in-kind contribution to Luna's political opponents, violating 52 U.S.C. § 30118(a).

COUNT II

Failure to Provide Equal Access

In response to growing concerns that broadcast stations could influence the outcome of elections through the corporate in-kind contribution of promoting access to their platform to only select federal candidates, the FCC passed the "Equal-Time Rule," which states that "if any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station." 47 U.S.C. §§ 315(a), 73.1941(a). To comply with the law and provide equal access to candidates, licensees are prohibited discriminating between candidates in practice, regulations, facilities, or services for or in connection with the service, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage. *Id.* at § 73.1941(e).

A legally qualified candidate is defined as any person who (1) has publically announced his or her intent to run for nomination or office; (2) is qualified under the applicable local, State or federal law to hold the office for which he or she is a candidate; and (3) has met other qualifications.⁵¹ 47 C.F.R. § 73.1940. APL is considered a legally qualified candidate under FCC regulations.

Twitter only giving access to its corporate-funded platform to select favored candidates implicates the exact issue that the Equal-Time Rule was passed to address with broadcasters. By limiting Luna's use of its platform, Twitter is failing to provide equal access to all political candidates for Florida's 13th District. The Internet, and particularly social media, is the modern public forum, which is why Federal candidates rely heavily on it to win elections. Twitter, by allowing candidates for federal office to have free access to its platform, is no different from other broadcasting entities, such as radio or television. When Twitter permits political candidates to be verified its platform, it has the duty to allow all candidates access to that benefit. By refusing to provide Luna verification, while giving her opponent, Representative Charlie Crist

⁵¹ The third prong requires a person to meet either section (b)(c)(d) or (e) of the Regulations. Relevant to this case is section (b), which considers an individual to be a legally qualified candidate if that person (1) has qualified for a place on the ballot; or (2) has publically committed himself or herself to seeking election by the write-in method and is eligible under applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other method, and makes a substantial showing that he or she is a bona fide candidate for nomination or office. See 47 C.F.R. § 17.1940(b).

verification, Twitter is not providing her with equal access as her political opponents, which it is obligated to do by law.

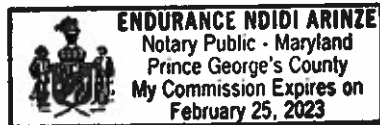
The writers of the Equal Time Rule feared the exact conduct being exhibited by Twitter. If social media platforms are allowed to arbitrarily (or with a political agenda) limit certain voices, especially federal candidates, from engaging in political discourse, they have the ability to influence and manipulate elections, which should alarm every person that participates or will participate in the voting process.

PRAYER FOR RELIEF

1. Wherefore, the Commission should find expedited reason to believe that Respondent Twitter is engaging in an ongoing knowing and willful violation of 52 U.S.C. § 301011, *et. seq.*; and move expeditiously to force Twitter to comply with the law.
2. Further, the Commission and/or the Department of Justice 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: October 22, 2020

Respectfully submitted,

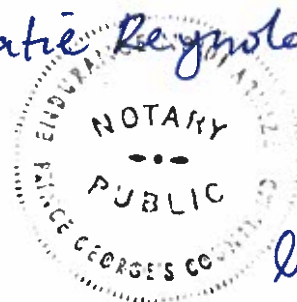


Charlie Spies
Katie Reynolds
Counsel to Anna Paulina Luna for Congress
Dickinson Wright PLLC
1825 I. Street NW Suite 900
Washington, D.C. 20006

CC:
U.S. Department of Justice
Attn: Atty. Gen. William Barr
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Subscribed and sworn before me on this 26 day of October, 2020

This notary is specifically for Ms. Katie Reynolds.



an P10/26/20

ATTACHMENT A

From: "Twitter Government & Politics" <gov@twitter.com>
Subject: Re: Anna Paulina Luna Ballotpedia
Date: February 7, 2020 at 7:33:59 PM EST
To: Anna Paulina <

Great! It should now be processed on a rolling basis.

--
Twitter Government & Elections
gov@twitter.com | follow us: [@TwitterGov](https://twitter.com/TwitterGov)

On Fri, Feb 7, 2020 at 7:33 PM Anna Paulina
wrote:

Hello,

Thank you very much for your response. My profile on Ballotpedia has been up to date for a while now with correct information and my profile has still not been verified. The other candidates in my primary race have all been verified. Can you please assist with the verification?

V/r,
Anna Paulina

Sent from my iPhone

On Feb 7, 2020, at 4:30 PM, Twitter Government & Politics <gov@twitter.com> wrote:

Hi Anna,

Thanks for reaching out. We're happy that you saw the announcement.

We're partnering with Ballotpedia to accurately identify candidates. Please contact Ballotpedia to

ensure your candidate profile is up-to-date with the most accurate information, including your official campaign Twitter handle.

To treat all candidates fairly, we will process these requests once we have received them from Ballotpedia. So in the meantime, we appreciate your enthusiasm and patience.

You can reach out to editor@ballotpedia.org or fill out your candidate

survey: <https://ballotpedia.org/Survey>

--

Twitter Government & Elections

gov@twitter.com | follow us: [@TwitterGov](https://twitter.com/TwitterGov)

From: **Anna Paulina** <

Date: Fri, Feb 7, 2020 at 5:34 PM

Subject: Anna Paulina Luna Ballotpedia

To: <krosborough@twitter.com>

Cc: Anna Paulina Luna

<apl@voteannapaulina.com>

Good Afternoon Katie,

My name is Anna Paulina Luna. I am a congressional candidate in FL-13. I was given your contact by Allum from Breitbart. I have a Ballotpedia page (please see below) with my twitter listed. To date, everyone in my primary race has been verified on twitter except for me. I was wondering if you could assist with this? Please let me know if you need any more information. I look forward to speaking with you.

https://ballotpedia.org/Anna_Paulina_Luna

V/r,

Anna Paulina Luna

Sent from my iPhone

--

ATTACHMENT B

From: "Twitter Government & Politics" <gov@twitter.com>

Subject: Re: Candidate verification update

Date: March 6, 2020 at 3:24:52 PM EST

To: Anna Paulina <

Hi Anna,

In order to receive a verified badge, candidates who qualify for the primary ballot for US House, US Senate, and Gubernatorial races must:

- Meet Ballotpedia's threshold for an official candidate requiring that they register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline (this may require gathering petition signatures and paying a filing fee);
- Meet certain account requirements before becoming verified, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and
- Comply with our Twitter Rules and Terms of Service as we have stated on our Help Center page.

Attempts to abuse this system diminish the integrity of the conversation on Twitter regarding elections. If a Twitter account engages in, or has engaged in, activity that violates the Twitter Rules, it may be ineligible for verification or subject to enforcement action.

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Twitter Government & Elections

gov@twitter.com | follow us: [@TwitterGov](https://twitter.com/TwitterGov)

On Tue, Mar 3, 2020 at 2:50 PM Anna Paulina <

Good Morning,

Can you please check into my profile (@realannapaulina). I am not verified yet and I am

the only candidate I my primary to not be. My profile is in compliance with Ballotpedia and twitters standards for verification.

V/r,
Anna Paulina

Sent from my iPhone

ATTACHMENT C

From: cstrom@twitter.com <cstrom@twitter.com> **On Behalf Of** Twitter Government & Politics
Sent: Friday, June 12, 2020 1:12 PM
To: Anna Paulina Luna <apl@voteannapaulina.com>
Cc: Anna Paulina <
Subject: Re: About your recent Twitter report 0156350059
 [ref:00DA0000000K0A8.5004A00001wOBPl:ref]

Hi Anna,

Thank you for flagging. We have escalated this with our Support Team for further review.

In order to receive a verified badge, candidates who qualify for the primary ballot for US House, US Senate, and Gubernatorial races must:

- Meet Ballotpedia's threshold for an official candidate requiring that they register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline (this may require gathering petition signatures and paying a filing fee);
- Meet certain account requirements before becoming verified, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and
- Comply with our Twitter Rules and Terms of Service as we have stated on our [Help Center page](#).

Attempts to abuse this system diminish the integrity of the conversation on Twitter regarding elections. If a Twitter account engages in, or has engaged in, activity that violates the [Twitter Rules](#), it may be ineligible for verification or subject to enforcement action.

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Twitter Government & Elections
gov@twitter.com | follow us: [@TwitterGov](#)

On Thu, Jun 11, 2020 at 1:57 PM Anna Paulina Luna <apl@voteannapaulina.com> wrote:

My name is Anna Paulina Luna.

I am a congressional candidate
 (@realannapaulina / <http://www.twitter.com/realannapaulina>) for the 13th district of Florida and have not yet been verified.

I have been recognized by the National Republican Congressional Committee on the Young Guns list (<https://www.nrcc.org/2020/04/27/mccarthy-adds-candidates-to-2020-young-guns-program-2/>)

My Ballotpedia page is https://ballotpedia.org/Anna_Paulina_Luna

Would appreciate it if you guys could verify my account. I've had multiple people attempting to solicit money under false pretenses, of which I had to report pages to get them removed, people running scams pretending to use money for my campaign, and am the only unverified candidate in my race.

Thank you.

Anna Paulina Luna

From: Twitter Support <support@twitter.com>

Date: June 10, 2020 at 7:48:14 PM EDT

To: ' ' < >

Subject: About your recent Twitter report 0156350059

[ref:00DA0000000K0A8.5004A00001wOBPI:ref]



Hello,

Thanks for reaching out.

For security reasons, we need this report to be sent from an email address at your company's domain. You can [refile your support request](#) using an email from your organization.

Once the request has been filed, we'll review the report from that email address. We appreciate your help!

Thanks,

Twitter

ref:00DA0000000K0A8.5004A00001wOBPI:ref

[Help](#) | [Privacy](#)

Twitter, Inc. 1355 Market Street, Suite 900 San Francisco, CA 94103

ATTACHMENT D

From: Derek Utley <derek@xstrats.com>
Subject: Re: @RealAnnaPaulina Candidate Verification
Date: August 19, 2020 at 3:16:01 PM EDT
To: "Twitter Government & Politics" <gov@twitter.com>
Cc: Anna Paulina Luna <anna@annapaulina.com>, Grace Albergo
 <grace@voteannapaulina.com>, James Blair <jblair@blairfl.com>

She has already won her primary. She's already passed all of ballotpedia's rules and she clearly identifies as a candidate. She is the nominee for the Republican party. Please proceed forward with verification.

Derek Utley
Chairman
X Strategies, LLC
Mobile:
www.xstrats.com
 303 Evernia Street, Suite 200
 West Palm Beach, FL 33401

On Wed, Aug 19, 2020 at 3:14 PM Twitter Government & Politics <gov@twitter.com> wrote:

Thanks for reaching out here.

In order to receive a verified badge, candidates who qualify for the primary ballot for US House, US Senate, and Gubernatorial races must:

- Meet Ballotpedia's threshold for an official candidate requiring that they register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline (this may require gathering petition signatures and paying a filing fee);
- Meet certain account requirements before becoming verified, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and
- Comply with our Twitter Rules and Terms of Service as we have stated on our Help Center page.

Attempts to abuse this system diminish the integrity of the conversation on Twitter regarding elections. If a Twitter account engages in, or has engaged in, activity that violates the Twitter Rules, it may be ineligible for verification or subject to enforcement action.

--

Twitter Government & Electionsgov@twitter.com | follow us: @TwitterGov

On Wed, Aug 19, 2020 at 1:15 PM Derek Utley <derek@xstrats.com> wrote:

Hello Twitter team. Please confirm receipt of our request. Thanks!

Sent from my iPhone

On Aug 18, 2020, at 9:32 PM, Derek Utley <derek@xstrats.com> wrote:

Twitter Gov Team-

Anna Paulina Luna has just won her primary election in the Florida-13 district. Please submit her twitter account @realannapaulina for verification. We appreciate your assistance.

Thanks

Derek

Derek Utley
Chairman
X Strategies, LLC
Mobile:
www.xstrats.com
303 Evernia Street, Suite 200
West Palm Beach, FL 33401

From: [ogccela](#)
To: ["KReynolds@dickinson-wright.com"](#)
Cc: ["CSpies@dickinson-wright.com"](#)
Subject: RE: Anna Paulina Luna FEC Complaint Updated
Date: Sunday, October 25, 2020 1:07:00 PM
Attachments: [APL FEC Complaint Notarized.pdf](#)

Dear Ms. Reynolds:

This is in response to your follow-up email to the Federal Election Commission (the "Commission") on behalf of your client, Anna Paulina Luna for Congress, received on October 22, 2020. Unfortunately, your updated submission still does not meet the Commission's requirements for a legally-sufficient complaint. Although your updated submission was notarized, it was not sworn to, as required under the Act. The complainant must swear that the contents of the complaint are true to the best of his/her knowledge, and the notary must represent as part of the jurat that such swearing occurred. The preferred form is **"Subscribed and sworn to before me on this ____ day of ____, 2020."**

This matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. **Any corrections to your complaint must be submitted in writing to the General Counsel at the FEC's street address, or submitted by email to EnfComplaint@fec.gov, if you are in a state in which electronic notarization is permissible.**

Please note that complaints received by mail on or after June 18, 2020, will not be processed on a daily basis until the Commission resumes normal mail operations. Therefore, the Commission asks that anyone filing an enforcement complaint by mail also send an electronic copy of the complaint to EnfComplaint@fec.gov. The Commission encourages the use of electronic signatures and notarizations where permitted by state law. Electronically submitted copies of complaints that otherwise appear to be in order will be deemed received on the date the copy was electronically received by staff. Complaints that are filed only by mail will be deemed received when actually received by Office of General Counsel staff, subject to mail processing delays.

If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

Sincerely,

Jeff S. Jordan (*by MBD*)
Assistant General Counsel
Federal Election Commission
Office of General Counsel/Complaints Examination and Legal Administration

BEFORE THE FEDERAL ELECTION COMMISSION

Anna Paulina Luna for Congress
1201 Gandy Blvd. N
P.O. Box 23064
Saint Petersburg, FL 33742-8001

v.

MUR No. _____

Twitter, Inc.
1355 Market Street,
Suite 900
San Francisco, CA 94103

Complaint

When the Federal Election Campaign Act ("FECA") was passed and amended, television was the dominant medium for federal campaigns, and rules were established by the Federal Election Commission ("FEC") and the Federal Communications Commission ("FCC") to ensure that candidates had equal access to this public forum. Twitter is a new public forum and when Twitter discriminates against conservative leaders like Anna Paulina Luna ("APL" or "Luna") by applying its universal regulations in an arbitrary and subjective manner, it is not only un-American and morally wrong, it is also illegal.

Twitter's anti-conservative discrimination became illegal when Twitter deliberately refused to "verify" Anna Paulina Luna, the Republican nominee for Florida's 13th Congressional District, while providing the verification logo to her opponents. When APL, an Air Force veteran and small business owner, became a federal candidate for Florida's 13th District, FEC and FCC regulations prohibited Twitter from discriminating against her candidacy and denying her something of value provided for free to her opponent. Just as a radio or television station may not sell time only to a candidate's opponent, Twitter may not do so either without providing equal access and opportunity to all candidates running for the same office.

In its latest attempt to minimize the views it does not like by suppressing APL's account, Twitter has run afoul of several FEC and FCC regulations. This complaint is filed pursuant to 52 U.S.C. §§ 30118(a) and 30109(a)(1) and is based on information providing reason to believe that Twitter, Inc. ("Twitter") has violated and is engaging in the continuing violation of the corporate contribution and/or expenditure prohibitions established by FECA, 52 U.S.C. § 30101, et. seq. and Commission regulations. Specifically, by not verifying federal candidate Anna Paulina Luna from its platform, Twitter is providing something of value to Luna's political opponents for the purpose of influencing the election in Florida's 13th District. Also, when Twitter refused to verify her account, it prevented Luna from having equal access to the platform that was given to her political opponents, thereby also violating the FCC's equal-time rule. 47 U.S.C. §§ 315(a).

The standard for an FEC investigation is, “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...” 52 U.S.C. § 30109(a)(2); see also 11 C.F.R. § 111.4(a). That standard is easily met in this matter and the Commission should take proper action.

FACTS

Twitter is a social media networking service where users can send and receive short posts known as “tweets.” Users can also interact with tweets through likes, re-tweets, and comments. Twitter is one of the largest social networks worldwide, with 330 million active users.¹ Users may also be “verified” on Twitter with a blue check mark, which indicates that the account is one of public interest.² Twitter will verify accounts maintained by users in music, acting, government, politics, media, and other prominent groups. Although Twitter is free to join, it places a valuation on access to its platform by allowing users to promote their tweets or account for a fee.³ The average cost of a promoted tweet is roughly \$1.35 per click, reply, or retweet.⁴ To promote an account, it costs users between \$2.50 and \$4 per account follow.⁵ Twitter suggests that advertisers spend \$30 per day in order to consistently reach audiences.⁶ Twitter recommends that individuals and groups that want to increase their follower list, see more engagement with their tweets, or gain more traffic for their website to use the promotion feature.⁷

Twitter’s rules state that in order to receive a verified badge from Twitter, candidates who qualify for the primary ballot for the United States House of Representatives, United States Senate, and Gubernatorial races must meet the following guidelines: (1) meet Ballotpedia’s threshold for an official candidate;⁸ (2) meet certain account requirements, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and (3) comply with Twitter’s Rules and Terms of Service.⁹

¹ See Twitter, Q1 2019 Earnings Report, at 5, *available at* https://s22.q4cdn.com/826641620/files/doc_financials/2019/q1/Q1-2019-Slide-Presentation.pdf.

² Twitter, About Verified Accounts, <https://help.twitter.com/en/managing-your-account/about-twitter-verified-accounts>.

³ See Twitter, Create a Tweet Engagements Campaign (last accessed Jan. 9, 2020), *available at* <https://business.twitter.com/en/help/campaign-setup/create-a-tweet-engagement-campaign.html>.

⁴ Shashank Mehrotra, *How Much Does It Cost to Advertise on Facebook, Twitter, LinkedIn and YouTube?* LinkedIn (July 2, 2016).

⁵ *Id.*

⁶ See Twitter, Get Started with Twitter Ads, *available at* <https://business.twitter.com/en/solutions/twitter-ads.html?ref=en-btc-solutions-footer>. Twitter announced that it was banning all political advertising, which went into effect November 22, 2019. See Kate Conger, *Twitter Will Ban All Political Ads, C.E.O. Jack Dorsey Says*, THE NEW YORK TIMES (Oct. 30, 2019). However, Twitter does not preclude candidates from soliciting donations through the platform.

⁷ Twitter, Get Started with Twitter Ads, *available at* <https://business.twitter.com/en/solutions/twitter-ads.html>.

⁸ Ballotpedia requires candidates to register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline.

⁹ Twitter, About Election Labels on Twitter (last accessed Oct. 13, 2020).

Twitter's process of verifying candidates is done in partnership with Ballotpedia.¹⁰ Ballotpedia first checks to ensure the Twitter account is real and connected to the candidate, using official filings and lists.¹¹ Ballotpedia then sends Twitter a list of on-ballot candidates to verify, which it sends every week.¹² Then, Twitter conducts its own investigation into the account's legitimacy.¹³ For example, as discussed above, Twitter does not verify accounts that have never tweeted or that do not have profile pictures of the person's face. Once Twitter has completed its internal investigation and has found no errors, it will provide the candidate with a verification checkmark.

APL is the Republican nominee for Florida's 13th District. She is widely regarded as rising star in the Republican Party, being listed on the National Republican Congressional Committee's (NRCC) list of "Young Guns"¹⁴ and endorsed by President Donald Trump.¹⁵ Prior to becoming a federal candidate, Luna was nationally known as a social media influencer. Currently, even without verification she has still amassed over 219,000 followers on her Twitter account (@realannapaulina).¹⁶

On December 12, 2019, Twitter announced that it would start verifying the accounts of all candidates running for Congress in the 2020 election cycle.¹⁷ Under this plan, the responsibility is not supposed to be on the candidate to ask for verification, but rather Twitter will actively search for candidates to verify.¹⁸ When asked about the change in Twitter policy, Twitter spokesperson Nick Pacilio stated, "A significant factor in expanding verification to these races was to ensure a level playing field."¹⁹ However, Twitter has had significant issues in its verification process, from verifying fake candidates²⁰ to at one point not verifying ninety (90) percent of all gubernatorial candidates.²¹

On September 9, 2019, Luna filed her Statement of Candidacy with the Federal Election Commission.²² On February 7, 2020, two months after Twitter announced its new verification policy, Luna reached out to Twitter via e-mail, because she had not yet been verified and was the

¹⁰ Emily Birnbaum and Chris Mills Rodrigo, *Twitter Falling Short on ledge to Verify Primary Candidates*, THE HILL (Feb. 25, 2020).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ National Republican Congressional Committee (NRCC), Young Guns Program (last accessed Oct. 13, 2020), available at <https://gopyoungguns2020.com/>.

¹⁵ Anna Paulina Luna for Congress, Anna Paulina Luna Wins Republican Primary for FL-13 (Aug. 18, 2020), available at <https://www.votcannapaulina.com/post/anna-paulina-luna-wins-republican-primary-for-fl-13> (showing endorsement for President Trump).

¹⁶ Anna Paulina Luna (@realannapaulina), Twitter (last accessed Oct. 13, 2020), available at https://twitter.com/realannapaulina?ref_src=twsrc%5Fgoogle%7Ctwcamp%5Fserp%7Ctwgr%5Fauthor.

¹⁷ Nancy Scola, *Twitter to Verify All Congressional and Gubernatorial Primary Hopefuls*, POLITICO (Dec. 12, 2019).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Allum Bokhari, *Twitter Verified a Fake Candidate, But Not Florida Congressional Candidate Anna Paulina Luna*, BREITBART (Mar. 6, 2020).

²¹ Birnbaum, *supra* Note 10.

²² Anna Paulina Luna, FEC Form 2 (Statement of Candidacy), available at <https://docquery.fec.gov/cgi-bin/forms/H0FL13158/1350634/>.

only candidate in the Republican primary who had not been verified.²³ On the same day, she received a response from Twitter's Government and Elections Team, stating that she had not met Ballotpedia's thresholds, which is required to receive Twitter verification.²⁴ Luna responded by stating that her profile with Ballotpedia was up-to-date, and had been for some time.²⁵ Twitter then responded that her request would be processed "on a rolling basis."²⁶

After receiving no change in her verification almost a month later (March 3, 2020), Luna sent another email re-stating that she was the only candidate in her primary not verified.²⁷ Three days later, Twitter responded to Luna's email, stating Twitter's qualifications for receiving a verified badge without providing any explanation as to how Luna might not satisfy its requirements.²⁸ No further response was provided by Twitter on the status of her request.

Three months later, on June 11, 2020, Luna sent another request to Twitter to get her account verified.²⁹ She also explained that because she had not yet been verified, she had multiple people attempt to solicit money using her name and/or Anna Paulina Luna for Congress.³⁰ Twitter again re-stated their requirements for verification without providing an explanation for why Luna did not satisfy them, but claimed that it was going to "escalate" her request to Twitter's Support Team for further review.³¹

Two months later, and after Luna won the Republican primary for Florida's 13th Congressional District, Derek Utley, a consultant for Anna Paulina Luna for Congress, emailed Twitter's Government and Elections team, explaining that Ms. Luna had won her primary election, and that her verification should be submitted.³² Twitter yet again responded with their qualifications for verification, without providing any explanation as to how she might not have satisfied these requirements or why she was not currently verified.³³

There has been no further correspondence between Luna or anyone acting on behalf of the Campaign and Twitter. As of the date of this Complaint, Luna has still not been verified by Twitter.³⁴ Luna has satisfied all requirements to be verified on Twitter, and has not engaged in any conduct that would prohibit her from being verified on the platform.

Although Twitter claims to apply Twitter rules equally to all of its users,³⁵ publically available information indicates otherwise. Twitter has previously faced scrutiny for their

²³ See Attachment A.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Attachment B.

²⁸ *Id.*

²⁹ See Attachment C.

³⁰ *Id.*

³¹ *Id.*

³² See Attachment D.

³³ *Id.*

³⁴ Anna Paulina Luna (@realannapaulina), Twitter (last accessed Oct. 13, 2020), available at https://twitter.com/realannapaulina?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

³⁵ See Twitter, Safety on Twitter, https://about.twitter.com/en_us/safety.html (last accessed Jan. 13, 2020). Twitter states that "[w]e treat everyone equally: the same Twitter Rules apply to all."

discriminatory treatment of conservative voices on their platform. A report by *Vice News* alleged that Twitter was limiting the visibility of prominent Republicans in search results (“shadow-banning”).³⁶ Those who were impacted included Republican Party chair Ronna McDaniel, Rep. Mark Meadows, Rep. Jim Jordan, Rep. Matt Gaetz, and Rep. Devin Nunes.³⁷ A similar review of prominent Democrat officeholders indicated that Democrats were not being shadow-banned.³⁸ This and other reporting prompted Congress to hold two separate hearings with Twitter and other social media platforms regarding alleged bias.³⁹

There are numerous and significant benefits to being verified on Twitter. First, verification gives candidates an additional boost of credibility.⁴⁰ Verification indicates to other Twitter users that a profile is in the public interest and authentic, which can lead to more followers and a higher social media profile.⁴¹ Verified candidate accounts will automatically jump to the top of search results,⁴² and verified accounts also receive significant boosts in engagement, including a 38% increased engagement on photos, a 16% boost on tweets with hashtags, and a 28% boost on videos.⁴³ These statistics are especially significant as Election Day approaches and as candidates attempt to gain attention and raise money. In the week before Election Day, people on Twitter see tweets from Labeled accounts approximately 100 million times each day, and 13% of election conversation on Twitter in the United States included a Tweet with a label.⁴⁴

Second, it cuts down on impersonation or scam accounts, a common issue for public figures, and a costly problem for political candidates.⁴⁵ With the prevalence of fake and parody accounts on social media, being verified can help official accounts stand out and provide confidence to voters that they are hearing directly from the individual behind the account and/or contributing to the candidates campaign as opposed to a sham group.⁴⁶ Many candidates who have not been verified have faced these exact bad actors during their campaign.⁴⁷

Twitter is well-aware of the value of verification and its influence on American politics. When explaining the exact Twitter policy at issue in this matter, Twitter’s Public Policy Director

³⁶ Alex Thompson, *Twitter Appears to Have Fixed “Shadow Ban” of Prominent Republicans Like the RNC Chair and Trump Jr.’s Spokesperson*, *VICE NEWS* (July 25, 2018).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Twitter CEO Jack Dorsey testified before the House Energy and Commerce Committee about the moderation of online conduct on September 5, 2018. See Cecilia Kang, *et. al.*, *Twitter Dorsey Avoids Taking Sides in Partisan House Hearing*, *THE NEW YORK TIMES* (Sept. 5, 2018); Cecilia King and Sheera Frenkel, *Republicans Accuse Twitter of Bias Against Conservatives*, *THE NEW YORK TIMES* (Sept. 5, 2018). Carlos Monje, Jr., Twitter Director of Public Policy and Philanthropy, testified for the Senate Judiciary Constitution Subcommittee on April 1, 2019 about alleged bias against conservative voices on its platform. See David Shepardson, *Facebook, Google Accused of Anti-Conservative Bias at U.S. Senate Hearing*, *REUTERS* (Apr. 10, 2019).

⁴⁰ Josh Solomon, *Congressional Candidate Anna Paulina Luna Threatens to Sue Twitter Over Blue Check Mark*, *TAMPA BAY TIMES* (Sept. 16, 2020); see also Scola, *supra* Note 17.

⁴¹ Solomon, *supra* Note 40.

⁴² Scola, *supra* Note 17.

⁴³ Simon Rogers, *What Fuel’s a Tweet’s Engagement?*, *Twitter* (Mar. 10, 2014).

⁴⁴ Bridget Coyne, *Helping Identify 2020 US Election Candidates on Twitter*, *Twitter* (Dec. 12, 2019).

⁴⁵ Scola, *supra* Note 17.

⁴⁶ Michelle Castillo, *Does Being Verified on Twitter Really Matter?* *CNBC* (May 19, 2015).

⁴⁷ Birnbaum, *supra* Note 10.

Bridget Coyne stated “when voters look for the latest breaking news and political commentary during an election, they turn to Twitter to find it directly from the source.”⁴⁸ Additionally, Twitter has emphasized that it plays a “critical role” in “empowering democratic conversation, driving civil participation, facilitating meaningful political debate, and enabling people to hold those in power accountable.”⁴⁹ News commentators, election gurus, and political figures have also emphasized Twitter’s influence on American politics, especially in regards to the recent changes it has implemented on political advertising and combatting misinformation.

CAUSES OF ACTION

COUNT 1

Prohibited Contributions by Corporations

Under FECA, a contribution is defined 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); 11 C.F.R. § 100.52. The phrase “anything of value” includes all in-kind contributions. *Id.* at § 100.52(d)(1). The term “person” includes corporations. 52 U.S.C. § 30101(11). Federal law prohibits corporations, such as Twitter from making contributions to Federal candidates. 52 U.S.C. § 30118(a). If a corporation makes its facility available to one candidate for free, it must do so for all candidates. 11 C.F.R. § 114.13.

By verifying Luna’s Democrat opponent Charlie Crist but not Luna, Twitter is giving something of value to Luna’s opponent while at the same time denying Luna’s political campaign something of significant value. While it is difficult to ascertain an exact numerical value of a Twitter verification, we can rely on the valuation of a promoted tweet (as previously discussed) to provide an estimate. A promoted tweet, on average, costs \$1.35 per tweet. Even without being verified, Luna has a significant level of engagement, with many of her tweets having over 5,000 retweets.⁵⁰ With a Twitter verification, she would emerge as a top result on the website, which would naturally lead to an increase in engagement. Under Twitter’s valuation of \$1.35 per tweet and Twitter’s own statistics that show an increase an engagement by up to 38% with a verification label, the value of one of Luna’s tweets would increase by roughly \$1,900. Taking into account that Luna tweets multiple times per day and has been actively tweeting throughout her campaign, the added value that would have been provided by a verification is considerably higher.

Based on publically available information regarding the Twitter corporation’s political bias, it is clear that Twitter’s continued refusal to provide Luna with verification is intentional and for the purpose of influencing the Congressional election in Florida’s 13th District. If Twitter is going to provide certain benefits of its corporate-funded platform to one candidate in Florida’s 13th Congressional District, it must provide access to all of the candidates, including Luna.

⁴⁸ Coyne, *supra* Note 44.

⁴⁹ Vijaya Gadde and Kayvon Beykpour, Additional Steps We’re Taking Ahead of the 2020 US Election, Twitter (Oct. 9, 2020).

⁵⁰ See, e.g. Anna Paulina Luna (@realannapaulina), Twitter (Oct. 11, 2020), *available at* https://twitter.com/realannapaulina?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor. This specific tweet had over 5,000 retweets.

There is no evidence, nor has Twitter provided any evidence, to show that Luna has not abided by all of Twitter's qualifications to receive verification. Her Ballotpedia profile is updated, she has met all of Twitter's qualifications, and she had followed Twitter's Terms of Engagement. Even though Twitter is responsible for finding candidates to verify on its platform, Luna has repeatedly reached out to Twitter to get her verification status changed. At no time during her correspondence with Twitter did they provide any explanation for how or why she has not been verified. Certainly, if there were a legitimate reason, it would have been provided her.

Thus, Twitter provided a prohibited corporate in-kind contribution to Luna's political opponents, violating 52 U.S.C. § 30118(a).

COUNT II

Failure to Provide Equal Access

In response to growing concerns that broadcast stations could influence the outcome of elections through the corporate in-kind contribution of promoting access to their platform to only select federal candidates, the FCC passed the "Equal-Time Rule," which states that "if any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station." 47 U.S.C. §§ 315(a), 73.1941(a). To comply with the law and provide equal access to candidates, licensees are prohibited discriminating between candidates in practice, regulations, facilities, or services for or in connection with the service, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage. *Id.* at § 73.1941(e).

A legally qualified candidate is defined as any person who (1) has publically announced his or her intent to run for nomination or office; (2) is qualified under the applicable local, State or federal law to hold the office for which he or she is a candidate; and (3) has met other qualifications.⁵¹ 47 C.F.R. § 73.1940. APL is considered a legally qualified candidate under FCC regulations.

Twitter only giving access to its corporate-funded platform to select favored candidates implicates the exact issue that the Equal-Time Rule was passed to address with broadcasters. By limiting Luna's use of its platform, Twitter is failing to provide equal access to all political candidates for Florida's 13th District. The Internet, and particularly social media, is the modern public forum, which is why Federal candidates rely heavily on it to win elections. Twitter, by allowing candidates for federal office to have free access to its platform, is no different from other broadcasting entities, such as radio or television. When Twitter permits political candidates to be verified its platform, it has the duty to allow all candidates access to that benefit. By refusing to provide Luna verification, while giving her opponent, Representative Charlie Crist

⁵¹ The third prong requires a person to meet either section (b)(c)(d) or (e) of the Regulations. Relevant to this case is section (b), which considers an individual to be a legally qualified candidate if that person (1) has qualified for a place on the ballot; or (2) has publically committed himself or herself to seeking election by the write-in method and is eligible under applicable law to be voted for by sticker, by writing in his or her name on the ballot or by other method, and makes a substantial showing that he or she is a bona fide candidate for nomination or office. *See* 47 C.F.R. § 17.1940(b).

verification, Twitter is not providing her with equal access as her political opponents, which it is obligated to do by law.

The writers of the Equal Time Rule feared the exact conduct being exhibited by Twitter. If social media platforms are allowed to arbitrarily (or with a political agenda) limit certain voices, especially federal candidates, from engaging in political discourse, they have the ability to influence and manipulate elections, which should alarm every person that participates or will participate in the voting process.

PRAYER FOR RELIEF

1. Wherefore, the Commission should find expedited reason to believe that Respondent Twitter is engaging in an ongoing knowing and willful violation of 52 U.S.C. § 301011, *et. seq.*; and move expeditiously to force Twitter to comply with the law.
2. Further, the Commission and/or the Department of Justice 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.

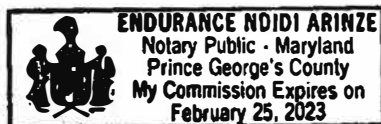
Dated: October 22, 2020

Respectfully submitted,

Charlie Spies
Katie Reynolds
Counsel to Anna Paulina Luna for Congress
Dickinson Wright PLLC
1825 I. Street NW Suite 900
Washington, D.C. 20006

CC:
U.S. Department of Justice
Attn: Atty. Gen. William Barr
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

The Notary is for Katherine Nicole Reynolds



10/22/2020

ATTACHMENT A

From: "Twitter Government & Politics" <gov@twitter.com>
Subject: Re: Anna Paulina Luna Ballotpedia
Date: February 7, 2020 at 7:33:59 PM EST
To: Anna Paulina ≤

Great! It should now be processed on a rolling basis.

--

Twitter Government & Elections
gov@twitter.com | follow us: [@TwitterGov](https://twitter.com/TwitterGov)

On Fri, Feb 7, 2020 at 7:33 PM Anna Paulina
≤ wrote:

Hello,

Thank you very much for your response. My profile on Ballotpedia has been up to date for a while now with correct information and my profile has still not been verified. The other candidates in my primary race have all been verified. Can you please assist with the verification?

V/r,
Anna Paulina

Sent from my iPhone

On Feb 7, 2020, at 4:30 PM, Twitter Government & Politics <gov@twitter.com> wrote:

Hi Anna,

Thanks for reaching out. We're happy that you saw the announcement.

We're partnering with Ballotpedia to accurately identify candidates. Please contact Ballotpedia to

ensure your candidate profile is up-to-date with the most accurate information, including your official campaign Twitter handle.

To treat all candidates fairly, we will process these requests once we have received them from Ballotpedia. So in the meantime, we appreciate your enthusiasm and patience.

You can reach out to editor@ballotpedia.org or fill out your candidate survey: <https://ballotpedia.org/Survey>

--

Twitter Government & Elections

gov.twitter.com | follow us: [@TwitterGov](https://twitter.com/ATwitterGov)

From: **Anna Paulina** ≤
 Date: Fri, Feb 7, 2020 at 5:34 PM
 Subject: Anna Paulina Luna Ballotpedia
 To: <krosborough@twitter.com>
 Cc: Anna Paulina Luna
 <apl@voteannapaulina.com>

Good Afternoon Katie,

My name is Anna Paulina Luna. I am a congressional candidate in FL-13. I was given your contact by Allum from Breitbart. I have a Ballotpedia page (please see below) with my twitter listed. To date, everyone in my primary race has been verified on twitter except for me. I was wondering if you could assist with this? Please let me know if you need any more information. I look forward to speaking with you.

https://ballotpedia.org/Anna_Paulina_Luna

V/r,
 Anna Paulina Luna

Sent from my iPhone

ATTACHMENT B

From: "Twitter Government & Politics" <gov@twitter.com>
Subject: Re: Candidate verification update
Date: March 6, 2020 at 3:24:52 PM EST
To: Anna Paulina

Hi Anna,

In order to receive a verified badge, candidates who qualify for the primary ballot for US House, US Senate, and Gubernatorial races must:

- Meet Ballotpedia's threshold for an official candidate requiring that they register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline (this may require gathering petition signatures and paying a filing fee);
- Meet certain account requirements before becoming verified, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and
- Comply with our Twitter Rules and Terms of Service as we have stated on our Help Center page.

Attempts to abuse this system diminish the integrity of the conversation on Twitter regarding elections. If a Twitter account engages in, or has engaged in, activity that violates the Twitter Rules, it may be ineligible for verification or subject to enforcement action.

--

Twitter Government & Elections
gov@twitter.com | follow us: [@TwitterGov](https://twitter.com/TwitterGov)

On Tue, Mar 3, 2020 at 2:50 PM Anna Paulina ≤

wrote:

Good Morning,

Can you please check into my profile (@realannapaulina). I am not verified yet and I am

the only candidate I my primary to not be. My profile is in compliance with Ballotpedia and twitters standards for verification.

V/r,
Anna Paulina

Sent from my iPhone

ATTACHMENT C

From: cstrom@twitter.com <cstrom@twitter.com> **On Behalf Of** Twitter Government & Politics
Sent: Friday, June 12, 2020 1:12 PM
To: Anna Paulina Luna <apl@voteannapaulina.com>
Cc: Anna Paulina
Subject: Re: About your recent Twitter report 0156350059
 [ref:00DA0000000KOA8.5004A00001wOBPl:ref]

Hi Anna,

Thank you for flagging. We have escalated this with our Support Team for further review.

In order to receive a verified badge, candidates who qualify for the primary ballot for US House, US Senate, and Gubernatorial races must:

- Meet Ballotpedia's threshold for an official candidate requiring that they register with a federal or state campaign finance agency before the candidate filing deadline and appear on official candidate lists released by government election agencies after the candidate filing deadline (this may require gathering petition signatures and paying a filing fee);
- Meet certain account requirements before becoming verified, which include having a profile photo, header photo, bio, and website that clearly identify them as a candidate; and
- Comply with our Twitter Rules and Terms of Service as we have stated on our Help Center page.

Attempts to abuse this system diminish the integrity of the conversation on Twitter regarding elections. If a Twitter account engages in, or has engaged in, activity that violates the Twitter Rules, it may be ineligible for verification or subject to enforcement action.

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Twitter Government & Elections
gov@twitter.com | follow us: [@TwitterGov](https://twitter.com/TwitterGov)

On Thu, Jun 11, 2020 at 1:57 PM Anna Paulina Luna <apl@voteannapaulina.com> wrote:

My name is Anna Paulina Luna.

I am a congressional candidate
 (@realannapaulina / <http://www.twitter.com/realannapaulina>) for the 13th district of Florida and have not yet been verified.

I have been recognized by the National Republican Congressional Committee on the Young Guns list (<https://www.nrcc.org/2020/04/27/mccarthy-adds-candidates-to-2020-young-guns-program-2/>)

My Ballotpedia page is https://ballotpedia.org/Anna_Paulina_Luna

Would appreciate it if you guys could verify my account. I've had multiple people attempting to solicit money under false pretenses, of which I had to report pages to get them removed, people running scams pretending to use money for my campaign, and am the only unverified candidate in my race.

Thank you.

Anna Paulina Luna

From: Twitter Support <support@twitter.com>

Date: June 10, 2020 at 7:48:14 PM EDT

To: " " < >

Subject: About your recent Twitter report 0156350059

[ref:00DA0000000K0A8.5004A00001wOBPl:ref]



Hello,

Thanks for reaching out.

For security reasons, we need this report to be sent from an email address at your company's domain. You can [refile your support request](#) using an email from your organization.

Once the request has been filed, we'll review the report from that email address. We appreciate your help!

Thanks,

Twitter

[ref:00DA0000000K0A8.5004A00001wOBPl:ref]

[Help](#) | [Privacy](#)

Twitter, Inc. 1355 Market Street, Suite 900 San Francisco, CA 94103

ATTACHMENT D

From: Derek Utley <derek@xstrats.com>
Subject: Re: @RealAnnaPaulina Candidate Verification
Date: August 19, 2020 at 3:16:01 PM EDT
To: "Twitter Government & Politics" <gov@twitter.com>
Cc: Anna Paulina Luna <anna@annapaulina.com> Grace Albergo
 <grace@voteannapaulina.com>, James Blair <jblair@blairfl.com>

She has already won her primary. She's already passed all of ballotpedia's rules and she clearly identifies as a candidate. She is the nominee for the Republican party. Please proceed forward with verification.

Derek Utley
Chairman
X Strategies, LLC
Mobile:
www.xstrats.com
 303 Evernia Street, Suite 200
 West Palm Beach, FL 33401

On Wed, Aug 19, 2020 at 3:14 PM Twitter Government & Politics <gov@twitter.com> wrote:

Thanks for reaching out here.

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Twitter Government & Elections

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On Wed, Aug 19, 2020 at 1:15 PM Derek Utley <derek@xstrats.com> wrote:

Hello Twitter team. Please confirm receipt of our request. Thanks!

Sent from my iPhone

On Aug 18, 2020, at 9:32 PM, Derek Utley <derek@xstrats.com> wrote:

Twitter Gov Team-

Anna Paulina Luna has just won her primary election in the Florida-13 district. Please submit her twitter account @realannapaulina for verification. We appreciate your assistance.

Thanks

Derek

Derek Utley

Chairman

X Strategies, LLC

Mobile:

www.xstrats.com

~~303 Evernia Street~~, Suite 200

West Palm Beach, FL 33401