

RECEIVED

By OGC-CELA at 4:14 pm, Mar 01, 2021

WILMERHALE

March 1, 2021

Christopher E. Babbitt

VIA ELECTRONIC MAIL

+1 202 663 6681 (t)

+1 202 663 6363 (f)

christopher.babbitt@wilmerhale.com

Mr. Jeff S. Jordan
Assistant General Counsel
Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Kathryn Ross, Paralegal
1050 First Street, NE
Washington, DC 20463

Re: MUR 7869 — Response of Facebook, Inc.

Dear Mr. Jordan:

This letter is submitted on behalf of our client, Facebook, Inc. (“Facebook”), in response to the complaint filed in the above-captioned matter under review.

The complaint is the latest in a series alleging violations of the Federal Election Campaign Act (“FECA” or “the Act”) based on the complainant’s personal beliefs about the political implications of the manner in which Facebook manages third-party content on its platform.¹ In this case, the complaint rests entirely on the *pro se* complainant’s “information and belief” about matters in which he had no direct involvement, and for which he identifies no source or basis to substantiate his allegations. Notwithstanding these foundational defects, it broadly alleges in conclusory terms that Facebook acted as an “undercover media operative” for the Biden campaign by blocking distribution of “negative news coverage” and “suppressing those who would attempt to share such negative information” about Joe Biden—and that Facebook therefore made an improper corporate in-kind contribution to the Biden campaign in violation of 52 U.S.C. § 30118(a). The complaint fails as a matter of law for at least the following reasons:

First, the complaint does not allege facts sufficient to establish a FECA violation. The vague, conclusory, and speculative allegations fail to meet the basic requirements established by Commission regulations and precedent and thus provide no “reason to believe” that Facebook has violated the Act.

Second, the complaint has not alleged a “contribution” under FECA and Commission precedent. As the complaint offers only the most conclusory allegations of coordination, it amounts to nothing more than a personal disagreement with Facebook’s independent activities regarding content on its platform, which are beyond the scope of 52 U.S.C. § 30118(a). Equally

¹ See MUR 7812, MUR 7825,

WILMERHALE

Mr. Jeff S. Jordan

March 1, 2021

Page 2

fatal, the complaint fails to adequately allege that any of Facebook's activities were done "for the purpose of influencing" a federal election, 52 U.S.C. § 30101(8)(A)(i), rather than for independent business reasons related to minimizing misinformation on the Facebook platform for the benefit of Facebook users.

As explained in greater detail below, the complaint's allegations are insufficient, lack substance, and fail to state any cognizable FECA violation as a matter of law. Accordingly, the Commission should find "no reason to believe" that Facebook violated the Act. In the alternative, the Commission should exercise its discretion to dismiss the complaint with no further action.²

LEGAL STANDARD

The Act requires the Commission to find "reason to believe that a person has committed, or is about to commit," a FECA violation before it may initiate an investigation.³ "The Commission may find 'reason to believe' *only if* a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the FECA."⁴ By contrast, the Commission has explained that it "finds 'no reason to believe' when the complaint, any response filed by the respondent, and any publicly available information, when taken together, *fail to give rise to a reasonable inference that a violation has occurred*, or even if the allegations were true, would not constitute a violation of the law."⁵ A "no reason to believe" finding is appropriate where the allegations are "so vague that an investigation would be effectively impossible" or where the complaint "fails to describe a violation of the Act."⁶

The Commission has further clarified that "[u]nwarranted legal conclusions from asserted facts, ... or mere speculation, ... will not be accepted as true."⁷ As most relevant here, "[c]omplaints not based upon personal knowledge must identify a source of information that

² In the interest of brevity, this response focuses on these fundamental defects in the complaint's theory of liability. Were the Commission to take any action beyond either finding no reason to believe or dismissing the complaint at the outset, Facebook expressly reserves any defenses available under 11 C.F.R. §§ 100.73 & 100.132, 47 U.S.C. § 230, and the First Amendment.

³ 52 U.S.C. § 30109(a)(2).

⁴ MUR 4960 (Hillary Rodham Clinton For U.S. Senate Exploratory Committee, *et al.*), Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith and Scott E. Thomas, at 1-2 (emphasis added); *see also* MUR 5467 (Michael Moore), First General Counsel's Rpt., at 5 (citing MUR 4960) ("Purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find a reason to believe that a violation of the FECA has occurred.").

⁵ *Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process*, 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007), https://www.fec.gov/resources/cms-content/documents/notice_2007-6.pdf (emphasis added).

⁶ *Id.*

⁷ MUR 4960, Statement of Reasons, at 2.

Mr. Jeff S. Jordan

March 1, 2021

Page 3

reasonably gives rise to a belief in the truth of the allegations presented.”⁸ The Commission does not find “reason to believe” FECA violations have occurred absent reliable evidence thereof and has repeatedly found “no reason to believe” to dispose of complaints that do not allege specific facts sufficient to establish a violation.⁹

Even if the allegations in a complaint do not fail as a matter of law, the Commission also has discretion to dismiss complaints that do not warrant further expenditure of Commission resources.¹⁰

ARGUMENT

I. The Complaint Is Too Vague And Conclusory To Support A “Reason To Believe” Finding

The four-page complaint does not come anywhere close to alleging facts that establish a “reason to believe” Facebook has violated FECA. Commission regulations state that a complaint “should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction.”¹¹ This complaint fails to meet that standard. Moreover, the complaint is concededly not based upon the complainant’s personal knowledge, yet it fails to “identify a source of information that reasonably gives rise to a belief in the truth of the allegations presented,” as required under Commission precedent.¹² The complaint’s sweeping allegations about matters in which the complainant was not involved are based entirely on “information and belief,” without any substantiation or support. Indeed, the complaint acknowledges that it is not submitted on behalf of “any client or other third-party” with

⁸ *Id.* at 1 (first citing 11 C.F.R. § 111.4(d)(2); then quoting MUR 4545 (Clinton/Gore ’96 Primary Comm./Amtrak), First General Counsel’s Rpt., at 15; and then quoting MUR 3534 (Bibleway Church of Atlas Road, Inc., *et al.*), Statement of Reasons of Chairman Scott E. Thomas, Vice Chairman Trevor Potter, and Commissioners Joan D. Aikens, Lee Ann Elliot, Danny Lee McDonald, and John Warren McGarry, at 2).

⁹ *See* MUR 3534, Statement of Reasons, at 2 (unanimously rejecting OGC recommendation and finding no reason to believe because the complaint was “vague” as to the content of communications at issue, and because “there was a lack of evidence” of facts suggesting a FECA violation); MUR 4869 (American Postal Workers Union), Statement of Reasons of Chairman Darryl R. Wold, Vice Chairman Danny L. McDonald, and Commissioners David M. Mason, Karl J. Sandstrom, and Scott E. Thomas, at 2 (unanimously finding no reason to believe because the complaint failed to allege conduct that would constitute a violation of FECA); MUR 7169 (Democratic Congressional Campaign Committee, *et al.*), Factual and Legal Analysis, at 11 (rejecting complaints alleging an excessive in-kind contribution where “the Complaints do not allege specific facts that are sufficient to provide reason to believe that the conduct prong has been satisfied.”); MUR 6821 (Shaheen for Senate, *et al.*), Factual and Legal Analysis, at 7-8 (finding no reason to believe there had been a “coordinated communication” where the complaint “fails to identify any communication” between the relevant parties); MUR 5754 (MoveOn.org Voter Fund), Factual and Legal Analysis, at 3 (finding “the complaint does not contain sufficient information on which to base an investigation” into whether the conduct standard was met where it does not “even specifically identify which ‘conduct’ standard would apply to the activity complained of” and “does not connect any such discussions” to any alleged coordinated communications).

¹⁰ *See generally Heckler v. Chaney*, 470 U.S. 821 (1985).

¹¹ 11 C.F.R. § 111.4(d)(3).

¹² MUR 4960, Statement of Reasons, at 1 (citations omitted).

Mr. Jeff S. Jordan

March 1, 2021

Page 4

additional knowledge or information, and it concedes that the relevant facts are “difficult to know without investigation.”¹³

The Office of General Counsel has routinely recommended that the Commission reject complaints based on similarly conclusory allegations,¹⁴ and the Commission has regularly found “no reason to believe” in comparable circumstances.¹⁵ As the complaint here quite literally provides “no reason to believe” that FECA was violated, the Commission should dispose of the matter accordingly.

II. The Complaint Fails To Allege That Facebook Made An Improper Contribution

Setting aside the pleading and evidentiary defects above, the complaint’s argument that Facebook’s treatment of third-party content on its platform resulted in an improper contribution to the Biden campaign fails on the merits for multiple reasons.

A. Facebook’s Actions Are Independent Activities That Were Not Made In Coordination With Any Political Campaign

Independent activity is, by definition, not a contribution under FECA. FECA and its implementing regulations distinguish between activities performed in cooperation or coordination

¹³ The reference to “attached materials” in the opening paragraph of the complaint can be disregarded. The undersigned counsel for Facebook contacted CELA to inquire whether there were any such materials, and CELA confirmed with the complainant that there are no additional materials beyond the public internet links cited in the complaint itself.

¹⁴ See MUR 6907 (Huckabee), First General Counsel Rpt., at 8-9 (rejecting “conclusory assertions” that “do[] not provide specific information to support” the claims and finding that “[g]eneral characterizations [], without more, do not afford a reasonable basis to conclude the Respondents may have violated the Act or Commission regulations”); MUR 6607 (Hannemann, *et al.*), First General Counsel Rpt., at 11-12 (finding that “the conclusory nature of the allegation” about coordinated communications “does not warrant expending Commission resources to conduct such an investigation here” where the complaint failed to identify the problematic communications “or include any information concerning their timing, subjects, or content”); MUR 6570 (Berman for Congress, *et al.*), First General Counsel Rpt., at 14 (“Given the conclusory nature of the Complaint - made without personal knowledge or reference to supporting evidence - and the lack of information available from any other source that would support a reasonable inference that the activities here may have been coordinated within the meaning of the regulations, we conclude that the Commission lacks a sufficient basis to find that a violation occurred.”); MUR 6554 (Friends of Weiner), First General Counsel Rpt., at 6 (recommending dismissal of a complaint alleging unpaid services and disputed debts where complainant “has provided no names, dates, e-mails, letters, or contemporaneous documents to support these conclusory assertions”).

¹⁵ See, e.g., MUR 4960, Statement of Reasons, at 3 (finding no reason to believe where the complaint failed to allege “sufficiently specific allegation” and where complaint did not allege facts sufficient to show “essential element” of violation); MUR 4869, Statement of Reasons, at 2 (unanimously finding no reason to believe because “no violation of [FECA] had been alleged”); MUR 3534, Statement of Reasons, at 1-2 (unanimously rejecting OGC recommendation and finding no reason to believe on the basis of a “lengthy and disjointed complaint” that was “quite vague” as to the facts alleged).

Mr. Jeff S. Jordan

March 1, 2021

Page 5

with a candidate or campaign, which may constitute in-kind contributions,¹⁶ and activities performed independently, which may not.¹⁷ Independent activities are subject to reporting requirements only if they qualify as “independent expenditures.”¹⁸ Other independent activities are simply outside the scope of FECA.¹⁹

The complaint provides no reason to believe there was any coordination with the Biden campaign. While the complaint repeats the conclusory statement that Facebook’s actions were done “in coordination” with the campaign, it offers no supporting facts or specificity. For example, it does not identify even a single instance in which a Facebook employee coordinated with a counterpart from the Biden campaign regarding any particular piece of content or any category of content (or anything else, for that matter). Indeed, the complaint does not allege any interaction between Facebook and the Biden campaign *at all*. Rather, it cites media reports that a former Facebook employee worked for the Biden transition team (not the campaign), and that individuals employed by a range of technology companies (including Amazon, Google, and Apple, in addition to Facebook) served on Biden’s Innovation Policy Committee. But none of that is relevant under Commission regulations, and the complaint does not even *allege* that any coordination actually occurred through either apparatus. In any event, the Commission has repeatedly found that

¹⁶ See, e.g., *How To Report In-Kind Contributions*, FEC, <https://www.fec.gov/help-candidates-and-committees/filing-reports/in-kind-contributions/> (last visited Feb. 25, 2021) (“Goods or services offered free or at less than the usual charge result in an in-kind contribution. Similarly, when a person or entity pays for services on the committee’s behalf, the payment is an in-kind contribution. An expenditure made by any person or entity in cooperation, consultation or concert with, or at the request or suggestion of, a candidate’s campaign is also considered an in-kind contribution to the candidate.”).

¹⁷ See, e.g., 52 U.S.C. § 30101(17) (defining “independent expenditure” as “not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized political committee, or their agents, or a political party committee or its agents”); 11 C.F.R. § 100.16 (same); *Making Independent Expenditures*, FEC, <https://www.fec.gov/help-candidates-and-committees/making-independent-expenditures/> (last visited Feb. 25, 2021) (“Independent expenditures are not contributions”); AO 2019-18 at 3 (corporate activities are not a contribution where the corporation does not “have any interaction with any candidate or political party, or make any contributions directly to any political committee”).

¹⁸ 11 C.F.R. § 114.10(b) (prescribing reporting requirements for corporations that make independent expenditures); see also *Making Independent Expenditures* (“individuals, groups, corporations and labor organizations that make independent expenditures must disclose them quarterly on Form 5 and also as required on 24-hour and 48-hour reports”).

¹⁹ AO 2019-18 at 3, 5 (corporate activities that are independent of candidates or political committees and that do not expressly advocate for or against a candidate are neither contributions nor independent expenditures).

Mr. Jeff S. Jordan

March 1, 2021

Page 6

coordination has not been established under circumstances far less attenuated than those alleged here.²⁰

In the absence of any non-conclusory allegations regarding coordination with the Biden campaign, the complaint amounts to nothing more than a criticism of Facebook's independent actions regarding the content on its platform, which are beyond the scope of 52 U.S.C. § 30118(a).

B. Facebook's Actions Were Not Undertaken "For The Purpose Of Influencing Any Election For Federal Office"

To constitute an in-kind contribution under FECA, an activity must be undertaken "for the purpose of influencing [an] election for Federal office."²¹ The complaint fails to provide any basis to conclude that Facebook moderates content or operates its third-party fact-checking program for such a purpose, and thus fails to establish a FECA violation for this independent reason.

1. Facebook Did Not Undertake Any Activity Involving Express Advocacy Or Solicitation Of Funds Intended To Influence An Election

To determine the "purpose" of an activity alleged to be a contribution, the Commission first applies a two-part test for distinguishing between political and nonpolitical intent. An activity is not a "contribution" under this test "if (1) there is an absence of any communication expressly advocating the nomination or election of the [candidate] appearing or the defeat of any other candidate, and (2) there is no solicitation, making, or acceptance of a campaign contribution for the [candidate] in connection with the event."²² Neither part of the test is satisfied here: There is no allegation that Facebook *expressly* advocated for the nomination, election, or defeat of any candidate, nor is there any allegation that it solicited a campaign contribution. Accordingly, Facebook did not make a contribution under this test.

²⁰ See, e.g., MUR 6664 (Wall for Congress, *et al.*), Factual and Legal Analysis, at 8 (finding no coordination where the complaint "fail[ed] ... to allege a specific incident of coordination" and instead merely "surmise[d]" that such coordination occurred because an employee of a labor organization later became campaign manager of a congressional campaign for a candidate supported by the union); MUR 6668 (Jay Chen for Congress, *et al.*), Factual and Legal Analysis, at 8 (finding no coordination despite the sibling relationship between a candidate and the principal donor to a Super PAC supporting his candidacy where the complaint did not allege "any discussion, participation, or activity between the ... brothers that might satisfy the conduct prong"); MUR 7067 (Friends of Patrick Murphy, *et al.*), Factual and Legal Analysis, at 5 (finding no coordination even though the candidate's father and his father's company, in which the candidate had an ownership interest, contributed to a Super PAC supporting his candidacy—reasoning that the close familial and business relationship, "without more, does not appear to satisfy any of the conduct standards").

²¹ 52 U.S.C. § 30101(8)(A)(i); see also, e.g., AO 1982-56 ("[A]lthough media or other public appearances by candidates may benefit their election campaigns, the person defraying the costs of such an appearance will not be deemed to have made a contribution in-kind to the candidate absent an indication that such payments are made to influence the candidate's election to Federal office.").

²² *Orloski v. Fed. Election Comm'n*, 795 F.2d 156, 160 (D.C. Cir. 1986); see also AO 1996-11; AO 1994-15; AO 1992-06; AO 1992-05; AO 1988-27, AO 1977-42.

Mr. Jeff S. Jordan

March 1, 2021

Page 7

2. The Third-Party Fact-Checking Program Has “Significant Non-Election Related Aspects”

In the absence of express advocacy or a solicitation, the Commission has looked to the totality of circumstances to assess whether an activity would be objectively perceived as an intentional attempt to influence an election.²³ Under this objective test, the Commission considers whether the “activity in question ... appear[s] to have any specific and significant non-election related aspects that might distinguish it from election influencing activity.”²⁴ It does not make this assessment based solely on the effects of the activity.²⁵

Facebook has strong business reasons for seeking to minimize misinformation on its platform. It has publicly explained that misinformation on the platform “is bad for our community and bad for our business.”²⁶ The explicit goal of Facebook’s third-party fact-checking program, which the complaint alleges disadvantages “right-leaning sources,” is to prevent the spread of viral misinformation and help users better understand what they see online.²⁷ Facebook has previously explained how its third-party fact-checking program operates in responses submitted to the Commission in multiple pending matters under review.²⁸

Facebook content subject to fact-checking is not limited to topics in the political realm; the program reaches misinformation on a broad range of topics. For example, the following claims have recently been fact-checked (and rated as false) by third parties as part of this program: (i) that wearing a face mask to slow the spread of COVID-19 could cause Legionnaires’ disease;²⁹ (ii) that wildfires in California, Oregon, and Washington were the result of arson by political extremists;³⁰ and (iii) that a list of celebrities, including Beyoncé and Chrissy Teigen, traveled on Jeffrey Epstein’s “Lolita Express” plane to his Caribbean island.³¹ And to the extent content from

²³ See, e.g., AO 1990-05; AO 1983-12 (“The purpose and functions of an organizational entity are material and relevant to the Commission’s characterization of the underlying purpose of a specific activity or program of that entity.”).

²⁴ AO 1983-12.

²⁵ MUR 7024 (Van Hollen for Senate, *et al.*), Factual and Legal Analysis, at 5 (“Although the outcome of these actions could potentially have had an effect on candidates in future elections, the effect on any particular candidate’s election would be too indirect and attenuated to constitute a contribution.”).

²⁶ See *Hard Questions: How Is Facebook’s Fact-Checking Program Working?*, FACEBOOK NEWSROOM (June 14, 2018), <https://newsroom.fb.com/news/2018/06/hard-questions-fact-checking/>.

²⁷ See *id.*

²⁸ See *supra* note 1.

²⁹ Saranac Hale Spencer, *Face Masks Don’t Cause Legionnaires’ Disease*, FACTCHECK.ORG (Aug. 12, 2020), <https://www.factcheck.org/2020/08/face-masks-dont-cause-legionnaires-disease/>.

³⁰ Camille Caldera, *Fact Check: Oregon, Washington Fires Were Not Set By Anti-Fascist Activists*, USA TODAY (Sept. 11, 2020), <https://www.usatoday.com/story/news/factcheck/2020/09/11/fact-check-oregon-fires-were-not-set-antifa-any-other-activists/3460386001/>.

³¹ Alexis Tereszczuk, *Fact Check: ‘Leaked’ Jeffrey Epstein Flight Log Is Fake - 40 Celebrities Including Beyonce, Chrissy Teigen & Barack Obama Were Never On ‘Lolita Express’*, LEADSTORIES (Aug. 15, 2020), <https://leadstories.com/hoax-alert/2020/08/fact-check-leaked-jeffrey-epstein-flight-log-is-fake-40-celebrities-including-beyonce-chrissy-teigen-barack-obama-were-never-on-lolita-express.html>.

WILMERHALE

Mr. Jeff S. Jordan

March 1, 2021

Page 8

the political realm is selected for third-party fact-checking, it spans the political spectrum. For example, the following recent claims about Republican political figures have been deemed false or misleading by third-party fact-checkers as part of this program: (i) that President Trump's remarks about a payroll tax deferral indicated that he will "take away your Social Security";³² (ii) that Senator Mitch McConnell is the richest senator while Kentucky is the poorest state;³³ and (iii) that President Trump "bailed out Wall Street, but not Main Street" by signing the Coronavirus Aid, Relief, and Economic Security ("CARES") Act.³⁴

The complaint ignores this larger context in asserting that Facebook acted as an "undercover" media operative for the Biden campaign and that Facebook took "unprecedented" action in reducing the distribution of the New York Post's October 2020 story about Hunter Biden. Even a cursory review of the public record indicates there was nothing "undercover" or "unprecedented" about Facebook's actions: Facebook publicly announced that it had temporarily reduced distribution of the story on its platform pending third-party fact-checking, just as many prominent media organizations declined to embrace the story in light of questions about its veracity.³⁵ And while the New York Post article at issue here concerned negative information about a Democratic candidate, another complainant could have just as easily focused on posts concerning negative information about Republican political figures, as noted above.

In light of the foregoing, the complaint offers no factual basis to conclude that Facebook's ongoing program for limiting the spread of potentially false or misleading content on its platform constitutes a contribution to any particular political candidate or party committee.

³² Hallie Golden, *Fact Check: Trump's Payroll Tax Cut Remarks Do NOT Mean He 'Will Take Away Your Social Security'*, LEADSTORIES (Oct. 30, 2020), <https://leadstories.com/hoax-alert/2020/10/fact-check-trump-payroll-tax-cut-remarks-do-not-mean-he-will-take-away-your-social-security.html>.

³³ Camille Caldera, *Fact Check: Claims Are False About Mitch McConnell's Wealth, Kentucky's Lack of It*, USA TODAY (Oct. 20, 2020), <https://www.usatoday.com/story/news/factcheck/2020/10/20/fact-check-mitch-mcconnell-isnt-senates-richest-ky-isnt-poorest/3677447001/>.

³⁴ Louis Jacobson, *Fact Check: Lincoln Project's 'Mourning in America' Ad Critical of Trump Misleads on Bailouts*, POLITIFACT (May 7, 2020), <https://www.politifact.com/factchecks/2020/may/07/lincoln-project/mourning-america-ad-critical-trump-misleads-bailou/>.

³⁵ See Andy Stone (@andymstone), TWITTER (Oct. 14, 2020, 11:10 AM), <https://twitter.com/andymstone/status/1316395902479872000?s=20>; Katie Robertson, *New York Post Published Hunter Biden Report Amid Newsroom Doubts*, N.Y. TIMES (Oct. 18, 2020), <https://www.nytimes.com/2020/10/18/business/media/new-york-post-hunter-biden.html>; Mike Brest, *Fox News Passed on Chance to Break Hunter Biden Laptop Story Over Credibility Concerns: Report*, WASH. EXAMINER (Oct. 19, 2020), <https://www.washingtonexaminer.com/news/fox-news-passed-on-chance-to-break-hunter-biden-laptop-story-over-credibility-concerns-report>; Ben Smith, *Trump Had One Last Story to Sell. The Wall Street Journal Wouldn't Buy It.*, N.Y. TIMES (Oct. 25, 2020), <https://www.nytimes.com/2020/10/25/business/media/hunter-biden-wall-street-journal-trump.html>; Ken Dilanian & Tom Winter, *Here's What Happened When NBC News Tried to Report on the Alleged Hunter Biden Emails*, NBC NEWS (Oct. 30, 2020), <https://www.nbcnews.com/politics/2020-election/here-s-what-happened-when-nbc-news-tried-report-alleged-n1245533>.

WILMERHALE

Mr. Jeff S. Jordan
March 1, 2021
Page 9

CONCLUSION

The Commission should find no reason to believe that Facebook violated FECA—or, in the alternative, exercise its discretion to dismiss the complaint without further expenditure of Commission resources—and should dismiss this matter with no further action.

Respectfully submitted,

/s/ Christopher E. Babbitt

Christopher E. Babbitt

Jamie Yood

WILMER CUTLER PICKERING HALE AND
DORR LLP

1875 Pennsylvania Avenue, NW

Washington, D.C. 20006

Tel: (202) 663-6000

Fax: (202) 663-6363

christopher.babbitt@wilmerhale.com

jamie.yood@wilmerhale.com

Attorneys for Facebook, Inc.