

**COVINGTON**

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**By Electronic Mail**

May 17, 2022

Mr. Roy Q. Lockett  
 Federal Election Commission  
 Office of Complaints Examination & Legal Administration  
 1050 First Street, NE  
 Washington, D.C. 20463

**Re: FEC MUR 7991 (Google LLC)**

Dear Mr. Lockett:

Biden for President and Rebecca Wise in her official capacity as Treasurer respectfully request the Federal Election Commission find the Complaint in MUR 7991 fails to provide evidence of a violation of federal campaign finance law, dismiss the Complaint, and close the file in this matter.

The Complaint states no facts, and indeed makes no allegations, that Biden for President took any action that would constitute a violation of federal campaign finance law. The only allegation made against any person — based solely on a research paper by several graduate students and their professor at North Carolina State University — is that the spam filter in Google's Gmail disproportionately screened Republican-leaning emails, and had that spam made it through the filter, it would have generated increased contributions and votes for Republican-leaning candidates. From this, the Complaint concludes that Google must have intended to favor one political party and its candidates over another, and if it did, the law was violated.

There are no allegations that Biden for President or any other campaign committee knew of or took any action to support any activities alleged in the Complaint. Instead, the Complaint argues that preventing Republican-inclined voters from participating more in the electoral process was itself an in-kind contribution to the opposing candidates, including Biden for President and "hundreds" of Democratic candidates. Complaint at p. 2. Upon this thin reed, a violation of the federal campaign finance laws cannot be built.<sup>1</sup>

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<sup>1</sup> "The Commission has long considered activity engaged in for *bona fide* commercial reasons not to be 'for the purpose of influencing an election,' and thus, not a contribution or expenditure under section 30118(a). This is true even if a candidate benefitted from the commercial activity." MUR 7870 (Google LLC), First General Counsel's Report, pages 7-8 and citations noted therein.

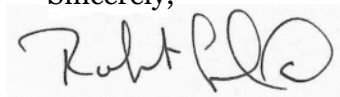
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The Commission has resolved the legal theory advanced here in numerous matters since the 2020 election. *See, e.g.*, MURs 7870 (Google LLC), MUR 7869 (Facebook, Inc.), MUR 7868 (Twitter, Inc.), MUR 7858 (Facebook, Inc.), MUR 7841 (Twitter, Inc.), MUR 7834 (Google LLC), MUR 7832 (Twitter, Inc.), MUR 7829 (Twitter, Inc.), MUR 7827 (Twitter, Inc.), MUR 7825 (Facebook, Inc.), MUR 7821 (Twitter, Inc.), MUR 7812 (Facebook, Inc.), MUR 7742 (Twitter, Inc.), MUR 7687 (Twitter, Inc.), MUR 7641 (Facebook, Inc.), MUR 7550 (Twitter, Inc.), MUR 7447 (Twitter, Inc.), and MUR 7443 (Twitter, Inc.). This pleading brings no new facts or legal arguments to the questions raised and answered in these earlier cases.

For all of the foregoing reasons, we respectfully request this matter be dismissed and closed.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Lenhard", enclosed within a light gray rectangular border.

Robert Lenhard