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BEFORE THE FEDERAL ELECTION COMMISSION

)
) **MUR 8117**
)

**RESPONSE OF MAKE AMERICA GREAT AGAIN PAC
AND BRADELY T. CRATE, AS TREASURER**

By and through undersigned counsel, Make America Great Again PAC (f/k/a Donald J. Trump for President, Inc.) (“MAGAPAC”) and Bradley T. Crate, as Treasurer of Save America (collectively, “Respondents”) hereby respond to the Complaint in the above-captioned Matter Under Review. The Complaint, filed by End Citizens United PAC (“End Citizens United”), alleges that Respondents violated the Federal Election Campaign Act (the “Act”) and its associated regulations (the “FEC Regulations”) by accepting excessive contributions from Fox Corporation (“Fox”). The Complaint specifically argues that MAGAPAC accepted prohibited contributions from Fox when Fox’s chairman, Rupert Murdoch, allegedly provided Jared Kushner with material non-public information about Mr. Biden’s advertisements.¹ This allegation is based on a single sentence from a brief filed by Dominion Voting Systems in an unrelated civil action: “During Trump’s campaign, Rupert provided Trump’s son-in-law and senior advisor, Jared Kushner, with Fox confidential information about Biden’s ads, along with debate strategy.”²

When End Citizens United filed its Complaint on March 3, 2023, Mr. Murdoch’s deposition transcript and related exhibits were under seal; therefore, the success of End Citizens United’s Complaint depended wholly upon Dominion’s accurate characterization of Mr. Murdoch’s sealed testimony and of a sealed email exchange between Mr. Murdoch and Mr.

¹ See Compl. at 3.

² Dominion’s Combined Opposition to Fox News Network, LLC’s and Fox Corporation’s Rule 56 Motions for Summary Judgment at 12.

Kushner. On March 7, 2023, however, the Delaware court unsealed the underlying evidence.³ Undoubtedly to End Citizens United's dismay,⁴ the release of these exhibits, and subsequent public statements by Fox, shows that Mr. Murdoch: (a) did not provide Mr. Kushner with non-public information concerning the Biden campaign's advertising; and (b) merely offered personal opinions concerning (i) the relative quality of Trump campaign advertising to Biden campaign advertising and (ii) Mr. Trump's demeanor in debates. The Commission has consistently held that a political committee does not receive a contribution when it obtains information of this kind.

Notably, End Citizens United does not allege, nor does the Dominion record indicate, that: (a) Mr. Kushner shared any of Mr. Murdoch's emails or observations with campaign officials; (b) MAGAPAC took any action or made any changes to their strategy based upon information provided by Mr. Murdoch to Mr. Kushner; (c) Mr. Murdoch provided any information at the request or suggestion of MAGAPAC; or (d) Fox and MAGAPAC otherwise improperly coordinated in violation of the Act. Given the foregoing, the Complaint does not adequately "describe a violation of statute or regulation over which the Commission has jurisdiction."⁵ Respondents respectfully request the Commission find there is no reason to believe a violation of the Act occurred, dismiss the Complaint, and close the file. In the alternative, the Commission

³ See, e.g., Jack Queen & Helen Coster, *Unsealed Court Exhibits Show Rupert Murdoch Questioned if Fox Hosts 'Went too Far'*, REUTERS, Mar. 7, 2023, <https://www.reuters.com/legal/unsealed-court-exhibits-show-rupert-murdoch-questioned-if-fox-hosts-went-too-far-2023-03-08/>.

⁴ Ignoring this public release of exculpatory information, End Citizens United has failed to amend or withdraw its Complaint, causing Respondents to expend significant time and resources in responding. To the fullest extent permitted by law, Respondents reserve the right to seek fees and costs.

⁵ 11 C.F.R. § 111.4(d)(3); see also MUR 6554 (Friends of Weiner), Factual & Legal Analysis at 5 ("The Complaint and other available information in the record do not provide information sufficient to establish a violation.").

should dismiss the Complaint pursuant to the Commission’s prosecutorial discretion under *Heckler v. Chaney*.⁶

FACTUAL BACKGROUND

The Complaint concerns (a) a series of three emails between Mr. Murdoch and Mr. Kushner on September 24-25, 2020, (b) a mid-October 2020 verbal statement by Mr. Murdoch to Mr. Kushner that “more stuff on Biden was coming, hopefully before the debate,” and (c) a paraphrased statement in mid-October 2020 of Mr. Murdoch to Mr. Kushner that “Trump must not look like a bully” in an upcoming debate. The relevant portions of Mr. Murdoch’s testimony and the email exchange are annexed hereto as Exhibits A and B respectively.

During the aforementioned time period, Mr. Trump was the forty-fifth President of the United States and a candidate for re-election to that federal office.⁷ Jared Kushner is Mr. Trump’s son-in-law and, during such time period, served as a Senior Advisor to President Trump.⁸ Respondent MAGAPAC was Mr. Trump’s designated principal campaign committee.⁹ MAGAPAC currently is a nonconnected multicandidate PAC¹⁰ that is principally engaged wind-down activities. Respondent Bradley Crate was, and currently is, treasurer of MAGAPAC.¹¹ At all times, Respondents have complied with their obligations to report contributions and expenditures in accordance with the Act and FEC Regulations. This matter is not an exception.

⁶ *Heckler v. Chaney*, 470 U.S. 821, 837–38 (1985) (holding that agency decisions not to institute proceedings are unreviewable unless otherwise provided by Congress).

⁷ Donald J. Trump, Statement of Candidacy, FEC Form 2 (Mar. 4, 2020).

⁸ *See, e.g.*, Compl. at 2.

⁹ *Id.*

¹⁰ Make America Great Again PAC, Statement of Organization, FEC Form 1 (Nov. 17, 2022).

¹¹ *Id.*

ARGUMENT

End Citizens United alleges that, by virtue of Mr. Murdoch’s correspondence with Mr. Kushner, Fox made an impermissible corporate contribution to MAGAPAC and that MAGAPAC failed to report such contribution in accordance with the Act and FEC Regulations. Specifically, End Citizens United alleges¹² that Fox made, and MAGAPAC received, corporate contributions in violation of by Section 30118(a) of the Act¹³ and FEC Regulation 114.2.¹⁴ As the Commission is well-aware, the Act and FEC Regulations define a “contribution” to include “anything of value” given or paid by any person for the purpose of influencing a federal election.¹⁵ Likewise, a person or entity makes a contribution to a political committee when it makes “expenditures” for the purpose of influencing an election or provides goods or services to a political committee without charge or at a charge that is less than fair market value.¹⁶ The Act requires political committees to file regular reports in accordance with the provisions of 52 U.S.C. § 30104, disclosing itemized breakdowns, including the name and address of each person who made any contribution aggregating in excess of \$200, together with the date and amount of any such contribution.¹⁷

End Citizens United’s Complaint fails to identify a violation of the Act or FEC Regulations for one simple reason: the correspondence at issue did not have “value.” Following the public release of Mr. Murdoch’s testimony, a Fox spokesperson acknowledged that Mr. Murdoch shared

¹² See, Compl. at 1.

¹³ 52 U.S.C. § 30118(a) (prohibiting corporations from making contributions to presidential campaign committees).

¹⁴ 11 C.F.R. § 114.2 (prohibiting corporations from making contributions to presidential campaign committees).

¹⁵ *Id.* § 100.52 & 100.111.

¹⁶ *Id.* § 100.52(d).

¹⁷ 52 U.S.C. § 30104(b).

a Biden advertisement with Mr. Kushner but added that the video was already publicly available.¹⁸ Specifically, the spokesperson said, “Mr. Murdoch forwarded an already-publicly available Biden campaign ad which was available on YouTube and had even run on public airwaves.”¹⁹ According to this same report, “[a] Dominion spokesperson did not refute Fox’s new claims.”²⁰ Moreover, in Mr. Murdoch’s two email exchanges with Mr. Kushner, Mr. Murdoch does not offer substantive advice concerning the content of the Trump campaign’s television advertising. In the first exchange, Mr. Murdoch stated that he heard from “his people” that Biden’s advertisements are “a lot better creatively than yours” but neither suggested why this was the case nor offered recommendations.²¹ In the second exchange, Mr. Murdoch told Mr. Kushner that the Trump campaign’s advertising has improved but did not offer reasons why.²² The relevant portions of Mr. Murdoch’s unsealed testimony reveal that the so-called “debate strategy” Mr. Murdoch offered to Mr. Kushner was limited to a suggestion that Mr. Trump “not look like a bully”²³ in the next debate and a notification that “more stuff on Biden was coming, hopefully before the next debate.”²⁴ In each instance, Mr. Murdoch testified that any exchanges he had with Mr. Kushner about Mr. Trump’s campaign were as a friend to Mr. Kushner and not in his capacity as chairman of Fox.²⁵

¹⁸ Roger Sollenberger, *Court Docs Show Fox News Chief Was ‘Trying to Help’ Kushner*, DAILY BEAST, Mar. 8, 2023, <https://www.thedailybeast.com/court-docs-show-fox-news-chief-rupert-murdoch-was-trying-to-help-jared-kushner>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ E-mail from Rupert Murdoch to Jared Kushner (September 24, 2020) (annexed hereto as Exhibit B).

²² E-mail from Rupert Murdoch to Jared Kushner (September 25, 2020) (annexed hereto as Exhibit B).

²³ Rupert Murdoch Dep. 213:17–20 (annexed hereto as Exhibit A).

²⁴ *Id.* 212:4–19.

²⁵ *Id.* 213:22–214:16.

In light these revelations, the Complaint’s reliance on the First General Counsel’s report in MUR 6908 (National Republican Congressional Committee)²⁶ and the Commission’s Advisory Opinion numbered 2022-12 (Ready for Ron)²⁷ is inapposite. The First General Counsel’s report in MUR 6908 (National Republican Congressional Committee) is premised on fact that certain polling information had value to the National Republican Congressional Committee (the “NRCC”) because it was not readily available to members of the general public. In that MUR, it was alleged that the NRCC covertly posted encrypted polling data to anonymous Twitter accounts.²⁸ Because the polling data was encoded, and therefore required special knowledge to interpret, the First General Counsel’s Report concluded the polling information had value, by virtue of it not being publicly available, and urged the Commission to find reason to believe the NRCC made contributions to certain political committees who decrypted the data.²⁹ Similarly, in Advisory Opinion 2022-12 (Ready for Ron), the Commission determined that a gift of a draft PAC’s petition data to Governor DeSantis (after he becomes a federal candidate) would constitute a contribution to Mr. DeSantis’s campaign.³⁰ Although the list in question contained publicly available information, the Commission reasoned that the list had value, in part, because its development required significant expenditures by the draft PAC.³¹

In the current Matter Under Review, none of the information Mr. Murdoch shared with Mr. Kushner constituted non-public or proprietary information. To the contrary, Fox has acknowledged that Mr. Murdoch shared a Biden advertisement with Mr. Kushner, but clarified that the

²⁶ Fed. Election Comm’n, MUR 6908 (National Republican Congressional Committee) (decided May 2, 2019).

²⁷ Fed. Election Comm’n, Advisory Op. 2022-12 (Ready for Ron) (Sept. 28, 2022).

²⁸ Fed. Election Comm’n, First Gen. Counsel’s Rept., MUR 6908 (NRCC) at 2.

²⁹ *Id.* at 10–16.

³⁰ Fed. Election Comm’n, Advisory Op. 2022-12 (Ready for Ron) at 9–10.

³¹ *Id.*

advertisement in question was already publicly available—a clarification that was not disputed by Dominion.³² Additionally, Mr. Murdoch’s “debate strategy” advice concerning Mr. Trump’s demeanor in the first debate was widely discussed in public media at that time.³³ Likewise, a vague suggestion that “more stuff” is coming out about Biden “hopefully before the debate,” without more, lacks the specificity required to have value under the Act³⁴ and, in any event, does not involve the disclosure of non-public information that Fox or others expended resources to develop. Furthermore, Mr. Murdoch’s unsolicited, friendly advice regarding the relative quality of Mr. Biden’s and Mr. Trump’s advertising cannot constitute a contribution to MAGAPAC.³⁵

Given the foregoing, the Complaint fails to allege that MAGAPAC received a contribution from Fox in violation of the Act. Furthermore, the Complaint does not allege any specific facts that, if proven true, would establish that Fox provided any non-public information to MAGAPAC, or that this information was actually material to any aspect of the Trump campaign’s activities. The law “does not permit a complainant to present mere allegations that the Act has been violated

³² See *supra* notes 16–17 and accompanying text. Even if the advertisement in question was not publicly available, Respondents believe that, without evidence that Mr. Kushner provided the advertisement to representatives of MAGAPAC and that MAGAPAC used the advertisement in connection with its media strategy, no violation of the Act occurred.

³³ See e.g., James Poniewozik, *Donald Trump Burns the First Debate Down*, N.Y. TIMES, Sept. 30, 2020, <https://www.nytimes.com/2020/09/30/arts/television/donald-trump-debate.html> (“The first Trump-Biden face-off was a dumpster fire, and a bullying president lit the match.”); Dan Balz, *Trump Sets the Tone for the Worst Presidential Debate in Living Memory*, WASH. POST, Sept. 29, 2020, https://www.washingtonpost.com/politics/trump-and-biden-stage-the-worst-presidential-debate-in-living-memory/2020/09/29/9cdeeb56-027e-11eb-b7ed-141dd88560ea_story.html (“The reality TV star president knows one speed on a debate stage: to attack, to bully his opponent and to ignore the rules.”); Aaron Blake, *5 Takeaways from the First Presidential Debate*, WASH. POST, Sept. 29, 2020, <https://www.washingtonpost.com/politics/2020/09/29/takeaways-first-presidential-debate/> (noting that the debate was “unwatchable”).

³⁴ Fed. Election Comm’n, Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioner Caroline C. Hunter, MUR 6908 (NRCC) (May 2, 2019) (finding that information of a general nature, such as top-line polling data, does not have value under the Act).

³⁵ *Id.* For this reason, Respondents further contend that End Citizens United has failed to sufficiently allege that Mr. Murdoch’s discussions and communications with Mr. Kushner were intended to “influence an election.”

and request that the Commission undertake an investigation to determine whether there are facts to support the charges.”³⁶

CONCLUSION

Because End Citizens United’s Complaint fails to identify anything of value that MAGAPAC received by virtue of Mr. Murdoch’s correspondence with Mr. Kushner, Respondents did not receive a contribution from Fox and complied with their reporting obligations. Respondents respectfully request the Commission find there is no reason to believe a violation of the Act occurred, dismiss the Complaint, and close the file. In the alternative, the Commission should dismiss the Complaint pursuant to the Commission’s prosecutorial discretion under *Heckler v. Chaney*.³⁷

Respectfully submitted,



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³⁶ Fed. Election Comm’n, Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn, MUR 6056 (Protect Colorado Jobs) (June 1, 2009) at 6 n. 12.

³⁷ *See supra* note 2. The Commission has previously found no reason to believe a violation of the Act occurred or exercised their prosecutorial discretion to dismiss matters where the value of the conduct in question was *de minimis*. *See, e.g.*, Fed. Election Comm’n, Statement of Reasons of Commissioners Hans A. von Spakovsky and Ellen L. Weintraub, MUR 5743 (Betty Sutton) (Jan. 23, 2007); Fed. Election Comm’n, Statement of Reasons of Commissioners Matthew S. Petersen, Caroline C. Hunter, and Donald F. McGhan, MUR 5996 (Tim Bee) (Dec. 3, 2009).

EXHIBIT A

Deposition Transcript of Rupert Murdoch

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<p>1 THE VIDEOGRAPHER: One moment, please.</p> <p>2 The time is 10:26 a.m., and we are going off the</p> <p>3 video record.</p> <p>4 (Recess.)</p> <p>5 THE VIDEOGRAPHER: The time is 10:44 a.m., and</p> <p>6 we are back on the video record.</p> <p>7 BY MR. NELSON:</p> <p>8 Q. Sir, you would also have discussions with</p> <p>9 Ms. Scott about the polling and the methodology that</p> <p>10 Fox News was doing; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And, sir, you would also have comments and</p> <p>13 provide comments to Ms. Scott about the panels of</p> <p>14 guests that were appearing on Fox shows; correct?</p> <p>15 A. I may have, occasionally.</p> <p>16 Q. What do you recall?</p> <p>17 A. I don't recall anything.</p> <p>18 Q. But you just know that you may have</p> <p>19 occasionally done so?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And, sir, you would also have</p> <p>22 conversations with Ms. Scott about the importance of</p> <p>23 giving exposure to Republicans in close Senate</p> <p>24 races; right?</p> <p>25 A. Yes.</p>	<p>1 (Exhibit 3339 was marked for</p> <p>2 identification.)</p> <p>3 MR. NELSON: Let's go to the next exhibit, which</p> <p>4 is Exhibit 3339.</p> <p>5 MR. WEBB: The witness has Exhibit 3339.</p> <p>6 BY MR. NELSON:</p> <p>7 Q. And, sir, at 6:26 a.m. on September 24th,</p> <p>8 2020, you wrote Mr. Kushner and said, "My people</p> <p>9 tell me his advertisements are a lot better</p> <p>10 creatively than yours. Just passing by it on."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And then he responds, and then you tell him</p> <p>14 that [As read] Your upcoming advertisement is an</p> <p>15 improvement.</p> <p>16 But you tell him that Biden is in the same</p> <p>17 football game -- is also extremely good; right?</p> <p>18 A. That's what the record shows.</p> <p>19 Q. And it says, "Will send it"?</p> <p>20 A. Yes. It's, of course, Fox -- Fox</p> <p>21 Broadcasting Network, not Fox News.</p> <p>22 Q. Sure. But do you think it is appropriate</p> <p>23 for someone in your position to give a heads up to</p> <p>24 the opposing campaign about what the ad of the</p> <p>25 opposing campaign will show before it is public?</p>
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<p>1 Q. Why did you talk to Ms. Scott about that?</p> <p>2 A. It was a bit subjective. A friend of mine</p> <p>3 was running and beaten in Pennsylvania.</p> <p>4 Q. And you asked Ms. Scott or suggested to</p> <p>5 Ms. Scott that it would be nice if we could look at</p> <p>6 some of the close Senate races and give a little</p> <p>7 exposure to Republicans in those close races; right?</p> <p>8 MR. WEBB: Objection; form.</p> <p>9 THE WITNESS: I think so.</p> <p>10 MR. WEBB: What do you -- do I hit something to</p> <p>11 refresh my screen?</p> <p>12 MR. NELSON: Let's go off the record.</p> <p>13 THE VIDEOGRAPHER: The time is 10:46 a.m., and</p> <p>14 we are going off the record.</p> <p>15 (Technical recess.)</p> <p>16 THE VIDEOGRAPHER: The time is 10:47 a.m., and</p> <p>17 we are back on the video record.</p> <p>18 BY MR. NELSON:</p> <p>19 Q. Sir, you would also have conversations with</p> <p>20 Mr. Jared Kushner to comment on the Trump campaign's</p> <p>21 advertisements; right?</p> <p>22 A. I think so, yes.</p> <p>23 Q. And you would give him a preview of the ads</p> <p>24 that Biden was going to air on Fox; right?</p> <p>25 A. No.</p>	<p>1 MR. WEBB: Objection to the form of the</p> <p>2 question.</p> <p>3 THE WITNESS: I was trying to help Mr. Kushner.</p> <p>4 He's a friend of mine.</p> <p>5 BY MR. NELSON:</p> <p>6 Q. You were trying to help the Trump campaign</p> <p>7 by giving him a preview of the Biden campaign's ads</p> <p>8 before it was public?</p> <p>9 A. Right.</p> <p>10 MR. WEBB: Objection; form.</p> <p>11 THE WITNESS: I guess so.</p> <p>12 BY MR. NELSON:</p> <p>13 Q. And you would routinely suggest stories to</p> <p>14 Ms. Scott about what Fox News or Fox Business should</p> <p>15 cover; correct?</p> <p>16 A. Suggestions, yes.</p> <p>17 Q. And, sir, you would also suggest particular</p> <p>18 guests that should appear on Fox News; correct?</p> <p>19 A. Not all of them, but I might have suggested</p> <p>20 one or two.</p> <p>21 Q. And, in fact, in mid-October of 2020, you</p> <p>22 told Ms. Scott that you had just read an interview</p> <p>23 with a person named Victor Davis Hanson saying, "The</p> <p>24 election was going to be close."</p> <p>25 Do you recall that?</p>

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<p>1 MR. WEBB: Objection to form.</p> <p>2 THE WITNESS: It's entirely possible.</p> <p>3 BY MR. NELSON:</p> <p>4 Q. Why do you say it's entirely possible?</p> <p>5 A. Because I tend to read what Victor says. I</p> <p>6 know him slightly from Stanford and the Hoover</p> <p>7 Institute.</p> <p>8 Q. And you suggested to Ms. Scott that he</p> <p>9 appear on Fox News; correct?</p> <p>10 A. I think he is a regular contributor.</p> <p>11 Q. And --</p> <p>12 A. It's a question how much you use them.</p> <p>13 Q. And, sir, you told Ms. Scott, "Might be</p> <p>14 worth putting on air"; right?</p> <p>15 A. If you say so.</p> <p>16 Q. Well, do you recall saying so?</p> <p>17 A. No. But I don't deny it.</p> <p>18 Q. Okay. Would it surprise you that, on</p> <p>19 October 14th, 2020, you suggested to Ms. Scott that</p> <p>20 Victor Davis Hanson might be worth putting on air?</p> <p>21 MR. WEBB: Objection; form.</p> <p>22 THE WITNESS: It would not surprise me.</p> <p>23 BY MR. NELSON:</p> <p>24 Q. Would it surprise you that two days later</p> <p>25 Mr. Hanson appeared on Fox News?</p>	<p>1 debate.</p> <p>2 BY MR. NELSON:</p> <p>3 Q. You understood that viewers -- your Fox</p> <p>4 viewers -- had a reaction against Fox because of</p> <p>5 Chris Wallace's performance as moderator?</p> <p>6 A. No. He lost control of it.</p> <p>7 Q. And you understood that there were many</p> <p>8 people who supported President Trump who were angry</p> <p>9 at Chris Wallace because of his performance at that</p> <p>10 debate?</p> <p>11 A. No.</p> <p>12 MR. WEBB: Objection; form.</p> <p>13 THE WITNESS: No. Wallace, in those debates,</p> <p>14 has a reputation of being pretty fair. It is why</p> <p>15 he's chosen. We were happy with that.</p> <p>16 BY MR. NELSON:</p> <p>17 Q. Sir, as the next debate approached, you</p> <p>18 told Mr. Kushner that it was really important that</p> <p>19 Trump must not look like a bully; right?</p> <p>20 A. I'm sure.</p> <p>21 Q. And, sir, in October of 2020 --</p> <p>22 A. Look, I just want to say this: That was</p> <p>23 advice from a friend to a friend. It wasn't advice</p> <p>24 from Fox Corporation or in my capacity at Fox.</p> <p>25 Q. What's the difference?</p>
Page 212	Page 214
<p>1 A. That's right. That's right.</p> <p>2 MR. WEBB: Objection; form.</p> <p>3 BY MR. NELSON:</p> <p>4 Q. You also told Mr. Kushner in mid-October of</p> <p>5 2020 that "more stuff on Biden was coming, hopefully</p> <p>6 before the debate"; right?</p> <p>7 MR. WEBB: Objection; form.</p> <p>8 THE WITNESS: I don't just to speculate on what</p> <p>9 that was now. Unless I was talking about the New</p> <p>10 York Post and Hunter Biden.</p> <p>11 BY MR. NELSON:</p> <p>12 Q. And you were giving them a heads up on</p> <p>13 that?</p> <p>14 A. No. I -- there is nothing specific in what</p> <p>15 you've said.</p> <p>16 Q. Okay. Just that more stuff on Biden was</p> <p>17 coming?</p> <p>18 MR. WEBB: Objection; form.</p> <p>19 THE WITNESS: If you say so, I accept that.</p> <p>20 BY MR. NELSON:</p> <p>21 Q. You were also giving Mr. Kushner debate</p> <p>22 advice for Mr. Trump; correct?</p> <p>23 MR. WEBB: Objection; form.</p> <p>24 THE WITNESS: No. I only remember myself being</p> <p>25 horrified at Mr. Trump's behavior in the first</p>	<p>1 MR. WEBB: Objection; form.</p> <p>2 THE WITNESS: You've been -- keep asking me</p> <p>3 questions as the head of Fox. It's a different role</p> <p>4 being a friend.</p> <p>5 BY MR. NELSON:</p> <p>6 Q. Do you think that anywhere you go, you</p> <p>7 represent Fox? Anything you say is effectively</p> <p>8 representing Fox?</p> <p>9 MR. WEBB: Objection; form.</p> <p>10 THE WITNESS: Any -- anything I say represents</p> <p>11 me.</p> <p>12 BY MR. NELSON:</p> <p>13 Q. Anything that you --</p> <p>14 A. If you say that's -- you can't say it's me,</p> <p>15 or it's the Wall Street Journal or it's the Adelaide</p> <p>16 News or something. No.</p> <p>17 Q. That's fair. Sir, you are one of the most</p> <p>18 successful businessmen this century.</p> <p>19 A. I wish that was true.</p> <p>20 Q. And --</p> <p>21 A. I gambled on a couple of things.</p> <p>22 Q. Often correctly, sir.</p> <p>23 A. And often failed.</p> <p>24 Q. And often failed.</p> <p>25 A. But the average was okay.</p>

EXHIBIT B

Email Between Rupert Murdoch and Jared Kushner

From: [REDACTED]
To: Jared Kushner
Sent: 9/25/2020 5:27:41 PM
Subject: Re: Advs.

Your adv at 1.0 pm this Sunday an improvement, but Biden in same football is extremely good. Or I think so! Will send it.

Sent from my iPhone

> On Sep 25, 2020, at 10:24 PM, Jared Kushner <jared@ [REDACTED] wrote:

>
> Should have some new creative out this week. I did a review and like what im seeing. I will now be reviewing this every week until the end as the real money is starting to be spent on TV and Digital to move voters universes and turn out the base voters

>
> On 9/24/20, 6:26 AM, "Murdoch, Rupert" [REDACTED] wrote:

>
> Jared,
> Know you are spending less on tv than Biden. However my people tell me his advs are a lot better creatively than yours
> Just passing by it on.
> Rupert.

>
>
> Sent from my iPhone

>
>
> This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee(s). If you are not an addressee indicated in this message (or responsible for delivery of the message to an addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox Corporation, or its subsidiaries must be taken not to have been sent or endorsed by any of them. No representation is made that this email or its attachments are without defect.

>

EXHIBIT 3339

01/20/2023
Rupert Murdoch