

# Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

August 29, 2023

**VIA ELECTRONIC MAIL**

Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
1050 First Street, NE  
Washington, DC 20463

**Re: MUR 8118** [REDACTED]

Dear Ms. Brown,

We are in receipt of your letter [REDACTED] dated August 15, 2023, [REDACTED]  
[REDACTED] that Mr. Murdoch is  
[REDACTED] being notified in his personal capacity.

This Response is submitted by the undersigned counsel on behalf of Respondent Rupert Murdoch, in his personal capacity, in connection with MUR 8118. Mr. Murdoch joins the Response previously submitted on behalf of Fox Corporation in these matters, a copy of which is attached for your convenience.

As you confirmed in your telephone conversation with Tim Kronquist and Mike Bayes on August 23<sup>rd</sup>, Mr. Murdoch's Designation of Counsel in this matter, signed on March 10, 2023, remains in force, and that a new designation is not necessary.

Sincerely,



Matthew S. Petersen  
Timothy Kronquist  
Jason Torchinsky  
Michael Bayes

Attachment

# Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

March 9, 2023

Federal Election Commission  
Office of Complaints Examination  
& Legal Administration  
1050 First Street, NE  
Washington, DC 20463

**Re: Complaints Filed By Media Matters for America and End Citizens United PAC Against Fox Corporation and Make America Great Again PAC (formerly known as Donald J. Trump for President, Inc)**

Dear Mr. Lockett,

This Response is submitted by the undersigned counsel on behalf of Respondent Fox Corporation in connection with the complaints filed by Media Matters for America and End Citizens United PAC. Fox Corporation has not yet been formally notified by the Commission that these two complaints were filed, but both have been publicized in the media. We are providing a designation of counsel without having MUR numbers yet assigned in order to facilitate the Commission's review of this matter at the earliest possible opportunity. This matter has been badly misrepresented in the media, and our client wishes to address the allegations immediately. As explained below, the allegations made in the Complaints are based on one sentence in a litigant's brief opposing the Respondent's motion for summary judgment and fail to present sufficient facts to establish a violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), or Federal Election Commission ("Commission") regulations.

The Complaints filed by End Citizens United PAC and Media Matters for America are substantially similar in terms of their substance, as well as in their lack of factual and legal support. Both allege that Fox Corporation Chairman Rupert Murdoch caused Fox Corporation to make an unlawful in-kind contribution to Donald J. Trump for President, Inc. (now known as Make America Great Again PAC) by "provid[ing] confidential information" to the campaign. Specifically, Mr. Murdoch is alleged to have shared not-yet-aired Biden campaign ads with an agent of the Trump campaign as well as information about the Biden campaign's "debate strategy." The Complaints allege that the Respondent shared "a thing of value" in the form of "material non-public information," but neither Complaint actually identifies with any specificity what exactly was shared.

The Complainants' allegations derive from a state court filing by the Plaintiff in *US Dominion, Inc. et al. v. Fox News Network, LLC and Fox Corporation*.<sup>1</sup> In that filing, Dominion

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<sup>1</sup> See Dominion's Combined Opposition to Fox News Network, LLC's and Fox Corporation's Rule 56 Motions for Summary Judgment, *US Dominion, Inc., Dominion Voting Systems, Inc., and Dominion Voting Systems Corporation*

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asserts that “[d]uring Trump’s campaign, Rupert [Murdoch] provided Trump’s son-in-law and senior advisor, Jared Kushner, with Fox confidential information about Biden’s ads, along with debate strategy. Ex.600, R.Murdoch 210:6-9; 213:17-20, Ex.603 (providing Kushner a preview of Biden’s ads before they were public).”<sup>2</sup> The news articles and commentary referenced in the Complaints are based on this same sentence, and it does not appear that any of the articles and commentary cited in the Complaints provide any additional factual information related to the allegations. The exhibits referenced in Dominion’s court filing (“Ex.600, R.Murdoch 210:6-9; 213:17-20, Ex.603”) were sealed pursuant to the state court’s orders governing that civil matter and not available to the Complainants or the news media, so neither could have relied on those exhibits. Thus, the sentence and parenthetical in the Plaintiff’s filing, as quoted above, is the sole evidence presented in the Complaint in support of the allegations.

As explained below, the allegations in the Complaints are factually incorrect. Mr. Murdoch forwarded a link to one already-public Biden campaign advertisement to Mr. Kushner. At the time Mr. Murdoch sent this email, the advertisement at issue had been publicly posted on YouTube the day before by the Biden campaign and was broadcast by at least one television station earlier that same day. Mr. Murdoch also did not share any information about the Biden campaign’s debate preparations or strategy; rather, he suggested that Mr. Trump avoid looking like a bully in the next debate. The language quoted above from Dominion’s court filing is inaccurate, the news articles cited in the Complaint that seized on this language are inaccurate, and the allegations made in the Complaints are inaccurate. Both Complaints should be dismissed expeditiously.

### **Biden Campaign Ads**

The language in the Dominion court filing asserts that Mr. Murdoch provided Mr. Kushner “with Fox confidential information about Biden’s ads” and gave him “a preview of Biden’s ads before they were public.” Both claims are false, and the exhibits referenced by Dominion in support of these claims do not substantiate the sentence in Dominion’s pleading. The exhibit material referenced in the Dominion filing is from a deposition taken of Mr. Murdoch, portions of which the parties agreed to unseal. *See* Exhibit A (attached). The relevant portion is set forth below:

Q. Sir, you would also have conversations with Mr. Jared Kushner to comment on the Trump campaign’s advertisements; right?

A. I think so, yes.

Q. And you would give him a preview of the ads that Biden was going to air on Fox; right?

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*v. Fox News Network, LLC and Fox Corporation*, Case No. N21C-11-082 EMD JURY (Del. Super. Ct. Feb. 27, 2023).

<sup>2</sup> *Id.* at 12.

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A. No.

*[counsel marks and provides Exhibit 3339 to the deponent]*

Q. And, sir, at 6:26 a.m. on September 24<sup>th</sup>, 2020, you wrote Mr. Kushner and said, “My people tell me his advertisements are a lot better creatively than yours. Just passing by it on.” Do you see that?

A. Yes.

Q. And then he responds, and then you tell him that [As read] Your upcoming advertisement is an improvement. But you tell him that Biden is in the same football game – is also extremely good; right?

A. That’s what the record shows.

Q. And it says, “Will send it”?

A. Yes. It’s, of course, Fox – Fox Broadcasting Network, not Fox News.

Q. Sure. But do you think it is appropriate for someone in your position to give a heads up to the opposing campaign about what the ad of the opposing campaign will show before it is public?

THE WITNESS: I was trying to help Mr. Kushner. He’s a friend of mine.

Q. You were trying to help the Trump campaign by giving him a preview of the Biden campaign’s ads before it was public?

A. Right.

MR. WEBB: Objection; form.

THE WITNESS: I guess so.<sup>3</sup>

“Exhibit 3339” referenced above is an email in which Mr. Murdoch stated he would send a certain Biden campaign advertisement to Mr. Kushner. *See* Exhibit B (attached). In a separate email, Mr. Murdoch forwarded a link to the single Biden campaign advertisement to Mr. Kushner on September 25, 2020, at approximately 5:30 p.m. *See* Exhibit C (attached). The evidence does *not* support Complainants’ claims that multiple advertisements were shared.

The emailed link (<https://app.frame.io/presentations/bc07df89-e6a3-400f-8bb9-a6a729d8ab10>), which is still available as of the date of this Response, is to a Biden campaign ad

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<sup>3</sup> Response Exhibit A, Murdoch Deposition Transcript p. 208, Line 19 – p. 210, Line 11.

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titled “New Start” that was to be aired “this weekend,” *i.e.*, Saturday, September 26, 2020 or Sunday, September 27, 2020. Significantly, though, “New Start” was uploaded to YouTube by the Biden campaign on September 24, 2020 – the day before Mr. Murdoch’s email to Mr. Kushner.<sup>4</sup> “New Start” already aired several hours earlier on a local Fox station in Marquette, Michigan (WLUC2) on September 25, 2020, during the 10:00 am episode of Judge Judy’s television show.<sup>5</sup>

The advertisement that Mr. Murdoch shared with Mr. Kushner, therefore, had already been publicly distributed and was readily available to any member of the public, including, of course, presidential campaigns that carefully track and monitor their opponent’s advertising. The shared link was *not* “material non-public information” and had no value as “material non-public information.” Any statements contained in Dominion’s court filing, the news articles based upon that filing, and the two Complaints that either suggest or flatly assert that “material non-public information” was shared with an agent of the Trump campaign are factually incorrect.

In addition, “New Start” was a variation on a previously aired ad titled “Fresh Start.” “Fresh Start” was publicly posted on YouTube almost two weeks earlier on September 8, 2020.<sup>6</sup> Thus, while “New Start” contained cosmetic differences, mainly the voiceover by Joe Biden, to the extent that “New Start” conveys a campaign message and strategy, that message and strategy had already been made public in a substantially similar advertisement more than two weeks earlier. In other words, even if “New Start” had not already been publicly available at the time Mr. Murdoch shared it with Mr. Kushner, it did not reveal any “[m]aterial non-public information concerning campaign strategy, messaging, or advertising.” The message and strategy of that advertisement was already well-known and had already been deployed publicly.

### **Debate Strategy**

According to the Complaints, Mr. Murdoch also provided “debate strategy” to Mr. Kushner.<sup>7</sup> Dominion’s court filing does not explain the nature of the “debate strategy” that was supposedly shared; in fact, it asserts only that “confidential information about Biden’s ads” was shared “along with debate strategy.” Business Insider appears to have assumed, and then reported without any actual evidence, “that Murdoch provided Jared Kushner with advance knowledge of *then-candidate Joe Biden’s political ads and debate preparations*.”<sup>8</sup> End Citizens

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<sup>4</sup> Joe Biden for President 2020, New Start, <https://www.youtube.com/watch?v=foiRlQg87CE> (accessed March 7, 2023).

<sup>5</sup> This Kinetiq webpage, <https://www.iqmediacorp.com/ClipPlayer?ClipID=35482602-e8f8-491d-897b-37d3ff3a8111&TE=%7B0%7D>, indicates that “New Start” aired on September 25, 2020, during the 10:00 am episode of Judge Judy on WLUC2 (FOX) in Marquette, Michigan.

<sup>6</sup> Joe Biden for President 2020, Fresh Start, <https://www.youtube.com/watch?v=35ZGAI4m9d8> (accessed March 7, 2023).

<sup>7</sup> See End Citizens United PAC Complaint at 1, 3; Media Matters for America Complaint at 2.

<sup>8</sup> Azmi Haroun and Jacob Shamsian, *Rupert Murdoch gave Jared Kushner ‘confidential information’ about Biden’s 2020 ads before they were public, Dominion alleges*, Business Insider, Feb. 27, 2023, <https://www.businessinsider.com/murdoch-gave-kushner-confidential-information-about-biden-dominion-2023-2> (emphasis added).

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United PAC repeats this baseless claim in its Complaint.<sup>9</sup> However, a review of the relevant unsealed exhibits cited in Dominion’s court filing, and quoted above, makes clear that Business Insider’s claim that information about Joe Biden’s debate preparations was shared is inaccurate and without any basis.

During a deposition, Mr. Murdoch was asked, “You were also giving Mr. Kushner debate advice for Mr. Trump; correct?” Mr. Murdoch responded, “No. I only remember myself being horrified at Mr. Trump’s behavior in the first debate.” Following several questions about debate moderator Chris Wallace, the questioner stated, “Sir, as the next debate approached, you told Mr. Kushner that it was really important that Trump must not look like a bully; right?” Mr. Murdoch responded, “I’m sure.”<sup>10</sup> That was the extent of the questioning about presidential debates, and the apparent source for Dominion’s claim that Mr. Murdoch provided “debate strategy” to Mr. Kushner.

Even assuming *arguendo* that merely suggesting, “don’t look like a bully” somehow constitutes “debate strategy” in the broadest possible sense, it is not “material non-public information.” Rather, that advice reflected a widely shared reaction to the first 2020 debate.<sup>11</sup> Most significantly, though, the claim made by reporters for Business Insider that Mr. Murdoch provided Mr. Kushner “with advance knowledge of *then-candidate Joe Biden’s ... debate preparations*” appears to be an unwarranted presumption and false reporting. The only “debate strategy” that Mr. Murdoch provided was to convey that President Trump should “not look like a bully” in a subsequent debate. This is certainly not “confidential information,” it is not a “thing of value,” and it is not, in any way, a violation of the Act.

### Analysis

As set forth above, the information that Mr. Murdoch shared with Mr. Kushner was not “material non-public information” about the Biden campaign. The shared television advertisement was publicly available information, and the supposed “debate strategy” was entirely unrelated to the Biden campaign’s internal strategies. The former was not confidential or “non-public” as the advertisement had been made publicly available on YouTube and had already been broadcast. The latter was not “material” and could be found in dozens of editorials and op-eds following the first 2020 presidential debate.

In the coordination context, the sharing of public information generally cannot yield a coordinated communication or a resultant in-kind contribution. *See* 11 C.F.R. § 109.21(d)(2),

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<sup>9</sup> *See* End Citizens United PAC Complaint at 3.

<sup>10</sup> Response Exhibit A, Murdoch Deposition Transcript p. 212, Line 21 – p. 213, Line 20.

<sup>11</sup> *See, e.g.*, Los Angeles Times, *Editorial: Trump’s bullying was an insult to the American people*, Sept. 29, 2020, <https://www.latimes.com/opinion/story/2020-09-29/biden-trump-first-debate-opinion>; Justine Coleman, *Undecided voters call Trump ‘bully’ and Biden ‘better than expected’ after debate*, The Hill, Sept. 30, 2020, <https://thehill.com/homenews/campaign/518909-undecided-voters-after-debate-call-trump-bully-and-biden-better-than/>; Richard Wolffe, *Trump heckled, bullied and lied through debate. It won’t help him beat Biden.*, The Guardian, Sept. 30, 2020, <https://www.theguardian.com/commentisfree/2020/sep/30/donald-trump-joe-biden-debate-bully-heckle-lie>.

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(3), (4)(iii), (5)(ii).<sup>12</sup> The underlying facts in this matter demand the same result – sharing publicly available formation is not something of value for purposes of the Act’s “contribution” definition. Thus, the Respondent did not make an in-kind contribution to the Trump campaign.

The Commission has grappled with the issue of “information as a thing of value” in the recent years without clear resolution. Both Complaints reference MUR 6908 in support of the proposition that “material non-public information” about campaign strategy, messaging, and advertising is “a thing of value.”<sup>13</sup> MUR 6908, however, yielded a 2-2 deadlock by the Commission. The controlling bloc of Commissioners wrote that “there was no evidence indicating that the Twitter posts provided information that was material to [Respondents’] public communications.”<sup>14</sup> Thus, even if the information shared by Mr. Murdoch with Mr. Kushner had been “material non-public information,” the Commission does not necessarily assign any value to such information, nor is it clearly established that information generally is, in fact, “a thing of value” for purposes of the Act’s “contribution” definition. A “contribution” includes “anything of value,” 52 U.S.C. § 30101(8)(A)(i), and the Commission has defined “anything of value” to include “all in-kind contributions,” which in turn includes “the provision of any goods or services without charge that is less than the usual and normal charge for such goods or services.” 11 C.F.R. § 100.52(d)(1). Shared information is not self-evidently commercial “goods or services.”<sup>15</sup>

In MUR 6958 (McCaskill), three Commissioners concluded that sharing “advice, in ‘broad generalities,’ about the effectiveness of a particular television ad” or “general advice informed by a poll” did not yield an impermissible in-kind contribution because “in the context of polling, ‘broad generalities’ discussed in one telephone conversation aren’t something of value.”<sup>16</sup> This controlling bloc of Commissioners also questioned how such “general advice” could ever be valued and characterized it as “too nebulous to quantify.”<sup>17</sup>

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<sup>12</sup> The Commission has previously suggested that there is no cost or value associated with electronically sharing a campaign advertisement that has been made publicly available. For example, in MUR 7023 (Kinzler for Congress), Illinois Families First was alleged to have violated the Act by tweeting a link to a publicly available campaign advertisement. The Office of General Counsel recommended against pursuing enforcement and noted that “the costs associated with the activity were likely *de minimis*.” MUR 7023 (Kinzler for Congress), First General Counsel’s Report at 13-16, <https://www.fec.gov/files/legal/murs/7023/17044414170.pdf>. The Commissioners unanimously agreed to dismiss this allegation. MUR 7023 (Kinzler for Congress), Certification, Apr. 28, 2017.

<sup>13</sup> See End Citizens United PAC Complaint at 4; Media Matters for America Complaint at 3. The Complaints also reference Advisory Opinion 2022-12 (Ready for Ron), which centered around a supporter mailing list. A mailing list, however, is a marketable product with an ascertainable commercial value. Advisory Opinion 2022-12 is inapposite to the Complainants’ claims.

<sup>14</sup> MUR 6908 (NRCC), Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioner Caroline C. Hunter at 5.

<sup>15</sup> See, generally, MUR 7271 (DNC), Statement of Reasons of Vice Chair Allen Dickerson and Commissioners Sean J. Cooksey and James E. “Trey” Trainor III at 9-11.

<sup>16</sup> MUR 6958 (McCaskill), Statement of Reasons of Vice Chair Caroline C. Hunter and Commissioners Lee E. Goodman and Matthew S. Petersen at 1, 4, 7.

<sup>17</sup> *Id.* at 7-8.

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Finally, when DNC official and CNN contributor Donna Brazile was caught red-handed sharing an upcoming, non-public debate question with Hillary Clinton's campaign in 2016,<sup>18</sup> the FEC declined to pursue enforcement.<sup>19</sup>

Thus, in prior enforcement matters, the Commission has declined to pursue enforcement where material of an intangible nature that is impossible to value – namely, information – has been shared. The Commission's regulatory definition of the phrase "anything of value" provides a solid basis for this approach and the same result is warranted here. Mr. Murdoch forwarded a link to a publicly available advertisement to Mr. Kushner, meaning Mr. Murdoch provided information that the Trump campaign either already had or could readily – and freely – access. Mr. Murdoch's email, therefore, had no ascertainable commercial value and cannot be an in-kind contribution. In short, Mr. Murdoch in no way caused Fox Corporation to violate the Act or Commission regulations.

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For the reasons set forth above, the Complaints should be expeditiously dismissed.

Sincerely,



Matthew S. Petersen  
Timothy Kronquist  
Jason Torchinsky  
Michael Bayes

cc: Chair Dara Lindenbaum  
Vice Chairman Sean J. Cooksey  
Commissioner Shana M. Broussard  
Commissioner Allen Dickerson  
Commissioner James E. "Trey" Trainor III  
Commissioner Ellen L. Weintraub

#### Attachments

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<sup>18</sup> See Katie Bo Williams, *WikiLeaks email suggests Brazile sent debate question to Clinton campaign*, The Hill, Oct. 31, 2016, <https://thehill.com/policy/cybersecurity/303556-emails-brazile-leaked-debate-question-to-clinton-camp/>.

<sup>19</sup> See MUR 7153 (Hillary for America), Factual and Legal Analysis at 8-9, [https://www.fec.gov/files/legal/murs/7153/7153\\_47.pdf](https://www.fec.gov/files/legal/murs/7153/7153_47.pdf).

**RESPONSE**

**EXHIBIT A**

# Exhibit 600

**In the Matter Of:**

*US Dominion, Inc. vs*

*Fox News Network*

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*KEITH MURDOCH*

*January 20, 2023*

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1 THE VIDEOGRAPHER: One moment, please.  
 2 The time is 10:26 a.m., and we are going off the  
 3 video record.  
 4 (Recess.)  
 5 THE VIDEOGRAPHER: The time is 10:44 a.m., and  
 6 we are back on the video record.  
 7 BY MR. NELSON:  
 8 Q. Sir, you would also have discussions with  
 9 Ms. Scott about the polling and the methodology that  
 10 Fox News was doing; correct?  
 11 **A. Yes.**  
 12 Q. And, sir, you would also have comments and  
 13 provide comments to Ms. Scott about the panels of  
 14 guests that were appearing on Fox shows; correct?  
 15 **A. I may have, occasionally.**  
 16 Q. What do you recall?  
 17 **A. I don't recall anything.**  
 18 Q. But you just know that you may have  
 19 occasionally done so?  
 20 **A. Yes.**  
 21 Q. Okay. And, sir, you would also have  
 22 conversations with Ms. Scott about the importance of  
 23 giving exposure to Republicans in close Senate  
 24 races; right?  
 25 **A. Yes.**

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1 Q. Why did you talk to Ms. Scott about that?  
 2 **A. It was a bit subjective. A friend of mine**  
 3 **was running and beaten in Pennsylvania.**  
 4 Q. And you asked Ms. Scott or suggested to  
 5 Ms. Scott that it would be nice if we could look at  
 6 some of the close Senate races and give a little  
 7 exposure to Republicans in those close races; right?  
 8 MR. WEBB: Objection; form.  
 9 **THE WITNESS: I think so.**  
 10 MR. WEBB: What do you -- do I hit something to  
 11 refresh my screen?  
 12 MR. NELSON: Let's go off the record.  
 13 THE VIDEOGRAPHER: The time is 10:46 a.m., and  
 14 we are going off the record.  
 15 (Technical recess.)  
 16 THE VIDEOGRAPHER: The time is 10:47 a.m., and  
 17 we are back on the video record.  
 18 BY MR. NELSON:  
 19 Q. Sir, you would also have conversations with  
 20 Mr. Jared Kushner to comment on the Trump campaign's  
 21 advertisements; right?  
 22 **A. I think so, yes.**  
 23 Q. And you would give him a preview of the ads  
 24 that Biden was going to air on Fox; right?  
 25 **A. No.**

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1 (Exhibit 3339 was marked for  
 2 identification.)  
 3 MR. NELSON: Let's go to the next exhibit, which  
 4 is Exhibit 3339.  
 5 MR. WEBB: The witness has Exhibit 3339.  
 6 BY MR. NELSON:  
 7 Q. And, sir, at 6:26 a.m. on September 24th,  
 8 2020, you wrote Mr. Kushner and said, "My people  
 9 tell me his advertisements are a lot better  
 10 creatively than yours. Just passing by it on."  
 11 Do you see that?  
 12 **A. Yes.**  
 13 Q. And then he responds, and then you tell him  
 14 that [As read] Your upcoming advertisement is an  
 15 improvement.  
 16 But you tell him that Biden is in the same  
 17 football game -- is also extremely good; right?  
 18 **A. That's what the record shows.**  
 19 Q. And it says, "Will send it"?  
 20 **A. Yes. It's, of course, Fox -- Fox**  
 21 **Broadcasting Network, not Fox News.**  
 22 Q. Sure. But do you think it is appropriate  
 23 for someone in your position to give a heads up to  
 24 the opposing campaign about what the ad of the  
 25 opposing campaign will show before it is public?

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1 MR. WEBB: Objection to the form of the  
 2 question.  
 3 **THE WITNESS: I was trying to help Mr. Kushner.**  
 4 **He's a friend of mine.**  
 5 BY MR. NELSON:  
 6 Q. You were trying to help the Trump campaign  
 7 by giving him a preview of the Biden campaign's ads  
 8 before it was public?  
 9 **A. Right.**  
 10 MR. WEBB: Objection; form.  
 11 **THE WITNESS: I guess so.**  
 12 BY MR. NELSON:  
 13 Q. And you would routinely suggest stories to  
 14 Ms. Scott about what Fox News or Fox Business should  
 15 cover; correct?  
 16 **A. Suggestions, yes.**  
 17 Q. And, sir, you would also suggest particular  
 18 guests that should appear on Fox News; correct?  
 19 **A. Not all of them, but I might have suggested**  
 20 **one or two.**  
 21 Q. And, in fact, in mid-October of 2020, you  
 22 told Ms. Scott that you had just read an interview  
 23 with a person named Victor Davis Hanson saying, "The  
 24 election was going to be close."  
 25 Do you recall that?

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1 MR. WEBB: Objection to form.  
 2 **THE WITNESS: It's entirely possible.**  
 3 BY MR. NELSON:  
 4 Q. Why do you say it's entirely possible?  
 5 **A. Because I tend to read what Victor says. I**  
 6 **know him slightly from Stanford and the Hoover**  
 7 **Institute.**  
 8 Q. And you suggested to Ms. Scott that he  
 9 appear on Fox News; correct?  
 10 **A. I think he is a regular contributor.**  
 11 Q. And --  
 12 **A. It's a question how much you use them.**  
 13 Q. And, sir, you told Ms. Scott, "Might be  
 14 worth putting on air"; right?  
 15 **A. If you say so.**  
 16 Q. Well, do you recall saying so?  
 17 **A. No. But I don't deny it.**  
 18 Q. Okay. Would it surprise you that, on  
 19 October 14th, 2020, you suggested to Ms. Scott that  
 20 Victor Davis Hanson might be worth putting on air?  
 21 MR. WEBB: Objection; form.  
 22 **THE WITNESS: It would not surprise me.**  
 23 BY MR. NELSON:  
 24 Q. Would it surprise you that two days later  
 25 Mr. Hanson appeared on Fox News?

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1 **A. That's right. That's right.**  
 2 MR. WEBB: Objection; form.  
 3 BY MR. NELSON:  
 4 Q. You also told Mr. Kushner in mid-October of  
 5 2020 that "more stuff on Biden was coming, hopefully  
 6 before the debate"; right?  
 7 MR. WEBB: Objection; form.  
 8 **THE WITNESS: I don't just to speculate on what**  
 9 **that was now. Unless I was talking about the New**  
 10 **York Post and Hunter Biden.**  
 11 BY MR. NELSON:  
 12 Q. And you were giving them a heads up on  
 13 that?  
 14 **A. No. I -- there is nothing specific in what**  
 15 **you've said.**  
 16 Q. Okay. Just that more stuff on Biden was  
 17 coming?  
 18 MR. WEBB: Objection; form.  
 19 **THE WITNESS: If you say so, I accept that.**  
 20 BY MR. NELSON:  
 21 Q. You were also giving Mr. Kushner debate  
 22 advice for Mr. Trump; correct?  
 23 MR. WEBB: Objection; form.  
 24 **THE WITNESS: No. I only remember myself being**  
 25 **horrified at Mr. Trump's behavior in the first**

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1 **debate.**  
 2 BY MR. NELSON:  
 3 Q. You understood that viewers -- your Fox  
 4 viewers -- had a reaction against Fox because of  
 5 Chris Wallace's performance as moderator?  
 6 **A. No. He lost control of it.**  
 7 Q. And you understood that there were many  
 8 people who supported President Trump who were angry  
 9 at Chris Wallace because of his performance at that  
 10 debate?  
 11 **A. No.**  
 12 MR. WEBB: Objection; form.  
 13 **THE WITNESS: No. Wallace, in those debates,**  
 14 **has a reputation of being pretty fair. It is why**  
 15 **he's chosen. We were happy with that.**  
 16 BY MR. NELSON:  
 17 Q. Sir, as the next debate approached, you  
 18 told Mr. Kushner that it was really important that  
 19 Trump must not look like a bully; right?  
 20 **A. I'm sure.**  
 21 Q. And, sir, in October of 2020 --  
 22 **A. Look, I just want to say this: That was**  
 23 **advice from a friend to a friend. It wasn't advice**  
 24 **from Fox Corporation or in my capacity at Fox.**  
 25 Q. What's the difference?

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1 MR. WEBB: Objection; form.  
 2 **THE WITNESS: You've been -- keep asking me**  
 3 **questions as the head of Fox. It's a different role**  
 4 **being a friend.**  
 5 BY MR. NELSON:  
 6 Q. Do you think that anywhere you go, you  
 7 represent Fox? Anything you say is effectively  
 8 representing Fox?  
 9 MR. WEBB: Objection; form.  
 10 **THE WITNESS: Any -- anything I say represents**  
 11 **me.**  
 12 BY MR. NELSON:  
 13 Q. Anything that you --  
 14 **A. If you say that's -- you can't say it's me,**  
 15 **or it's the Wall Street Journal or it's the Adelaide**  
 16 **News or something. No.**  
 17 Q. That's fair. Sir, you are one of the most  
 18 successful businessmen this century.  
 19 **A. I wish that was true.**  
 20 Q. And --  
 21 **A. I gambled on a couple of things.**  
 22 Q. Often correctly, sir.  
 23 **A. And often failed.**  
 24 Q. And often failed.  
 25 **A. But the average was okay.**

**RESPONSE**

**EXHIBIT B**

# Exhibit 603

**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.

>



**RESPONSE**

**EXHIBIT C**

**To:** Jared Kushner [REDACTED]  
**From:** [REDACTED]@fox.com [REDACTED]@fox.com  
**Sent:** Fri 9/25/2020 5:28:59 PM (UTC-04:00)  
**Subject:** Fwd: Biden...

MUR811800081

Here it is.

Sent from my iPhone

Begin forwarded message:

**From:** "Murdoch, Lachlan" <[REDACTED]>  
**Date:** September 25, 2020 at 7:57:35 PM GMT+1  
**To:** "Murdoch, Rupert" <[REDACTED]>  
**Subject:** Fwd: Biden...

Biden ad.

L

Begin forwarded message:

**From:** "Winter, Seth" <[REDACTED]>  
**Subject:** Biden...  
**Date:** September 25, 2020 at 11:40:28 AM PDT  
**To:** "Murdoch, Lachlan" <[REDACTED]>, [REDACTED]  
[REDACTED]

Here is Biden's creative for this weekend. It is a :60 and running in AGOTW:

- <https://app.frame.io/presentations/bc07df89-e6a3-400f-8bb9-a6a729d8ab10>

Seth Winter  
EVP FOX Sports Sales & Marketing  
[REDACTED]

