

OFFICE OF
GENERAL COUNSEL

2023 MAR 22 AM 6:51

DONALD J. TRUMP

-against-

MUR # 8123

BIDEN FOR PRESIDENT

JAMES CLAPPER

Former Director of National Intelligence

Former Under Secretary of Defense for Intelligence

Former Director of the National Geospatial Intelligence Agency

Former Director of the Defense Intelligence Agency

MICHAEL HAYDEN

Former Director, Central Intelligence Agency

Former Director, National Security Agency

Former Principal Deputy Director of National Intelligence

LEON PANETTA

Former Director, Central Intelligence Agency

Former Secretary of Defense

JOHN BRENNAN

Former Director, Central Intelligence Agency

Former White House Homeland Security and Counterterrorism Advisor

Former Director, Terrorism Threat Integration Center

Former Analyst and Operations Officer, Central Intelligence Agency

THOMAS FINGER

Former Deputy Director of National Intelligence for Analysis

Former Assistant Secretary for Intelligence and Research, Department of State

Former Chair, National Intelligence Council

RICK LEDGETT

Former Deputy Director, National Security Agency

JOHN MCLAUGHLIN

Former Acting Director, Central Intelligence Agency

Former Deputy Director, Central Intelligence Agency

Former Director of Analysis, Central Intelligence Agency

Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

MICHAEL MORELL

Former Acting Director, Central Intelligence Agency

Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

MIKE VICKERS

Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

DOUG WISE

Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

NICK RASMUSSEN

Former Director, National Counterterrorism Center

RUSS TRAVERS

Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

ANDY LIEPMAN

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

JOHN MOSEMAN

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

LARRY PFEIFFER

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

JEREMY BASH

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

RODNEY SNYDER

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

GLENN GERSTELL

Former General Counsel, National Security Agency

DAVID B. BUCKLEY

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

NADA BAKOS

Former Analyst and Targeting Officer, Central Intelligence Agency

PATTY BRANDMAIER

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

JAMES B. BRUCE

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

DAVID CARIENS

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

JANICE CARIENS

Former Operational Support Officer, Central Intelligence Agency

PAUL KOLBE

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

PETER CORSELL

Former Analyst, Central Intelligence Agency

BRETT DAVIS

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations,
CIA

ROGER ZANE GEORGE

Former National Intelligence Officer

STEVEN L. HALL

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

KENT HARRINGTON

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

DON HEPBURN

Former Senior National Security Executive

TIMOTHY D. KILBOURN

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

RON MARKS

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

JONNA HIESTAND MENDEZ

Technical Operations Officer, Central Intelligence Agency

EMILE NAKHLEH

Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
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GERALD A. O'SHEA

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NICK SHAPIRO

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JOHN SIPHER

Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

STEPHEN SLICK

Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

CYNTHIA STRAND

Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

GREG TARBELL

Former Deputy Executive Director, Central Intelligence Agency
Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

DAVID TERRY

Former Chairman of the National Intelligence Collection Board
Former Chief of the PDB, Central Intelligence Agency
Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

GREG TREVERTON

Former Chair, National Intelligence Council

JOHN TULLIUS

Former Senior Intelligence Officer, Central Intelligence Agency

DAVID A. VANELL

Former Senior Operations Officer, Central Intelligence Agency

WINSTON WILEY

Former Director of Analysis, Central Intelligence Agency
Former Chief, Counterterrorism Center, Central Intelligence Agency

KRISTIN WOOD

Former Senior Intelligence Officer, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

JOHN DOES 1-9

Additional former intelligence officers who joined the letter, but chose to remain anonymous

*Re: Complaint Against Biden for President and 51 Individual Respondents
Regarding In-Kind Corporate Contributions and Federal Contractor Contributions*

COMPLAINT

1) This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) of the Federal Election Campaign Act ("FECA"). It is based upon information and belief, as set forth below, leading to the conclusion that the fifty-one individuals captioned above (jointly "Individual Respondents") each made contributions of an item of value – namely the publicly issued letter signed in their names and calling upon the collective weight and experience of their federal employment – in contravention of the limitations placed upon federal contractors. These contributions, valued well in excess of \$200 in that they had a substantial influence on the outcome of the Presidential election, went unreported by Biden for President ("Biden" or "The Biden Campaign"). Further, based upon information and belief and as set forth below, Twitter, Inc. and Facebook assisted in the FECA violations of the fifty-one individual respondents in that they increased the impact of their individual contributions by making corporate in-kind contributions to Biden, which went unreported.

2) "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation..." 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

3) "A 'reason to believe' finding, followed by an investigation, would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred and, if so, its exact scope." FEC, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545 (March 16, 2007).

BACKGROUND

4) Then-Former Vice President Joe Biden was a candidate for the Office of President of the United States in the 2020 election.

5) President Donald J. Trump was also a candidate for the Office of President of the United States in the 2020 election.

6) Biden for President was the principal campaign committee of then-candidate Joe Biden.

7) The Individual Respondents are fifty-one federal employees who worked in or for the Intelligence Community prior to or during the 2020 Presidential campaign. Each Individual Respondent relied upon and emphasized their employment background in the course of their actions leading up to this Complaint, and each was bound by a lifelong contractual obligation with the Federal Government to maintain the secrecy of classified information, rendering them Federal contractors.

8) Twitter, Inc., was a publicly traded corporation that allows users to communicate through 280-character messages called "Tweets" that are posted on its website and through its associated mobile apps. Its corporate headquarters are located at 1355 Market Street, Suite 900, San Francisco, CA 94103. Twitter's primary source of income is advertising. While Twitter is not a Respondent herein, Twitter's activities surrounding the 2020 Presidential campaign in general and the Hunter Biden laptop issue in particular affected and contributed to the impact of the Individual Respondents' non-reported in-kind contributions. The impact of and political motivation for these activities has become increasingly clear in light of the recent release of the "Twitter Files" by the current private owner of Twitter, Elon Musk.

9) Facebook is an online social media and social networking service owned by Meta Platforms, Inc. Facebook allows users to exchange "posts" consisting of text, images, videos or weblinks and also supports an instant messaging service. Facebook's corporate headquarters are located at 1 Hacker Way, Menlo Park, CA 94025. Facebook's primary source of income is advertising. While Facebook is not a Respondent herein, Facebook's activities surrounding the 2020 Presidential campaign in general and the Hunter Biden laptop issue in particular affected and contributed to the impact of the Individual Respondents' non-reported in-kind contributions.

10) Twitter, Facebook, and similar social media and social networking services have become a primary news source for many Americans, with news viewer percentages nearing or surpassing 50% of younger demographic consumers.¹

11) Throughout the 2020 Presidential campaign, Respondents engaged in a concerted effort to support and influence the election of Joe Biden as President. In so doing, each Respondent provided Biden with in-kind contributions valued well in excess of \$200 in the aggregate and the Individual Respondents further provided a contribution of value in direct contravention to the limitations placed on federal contractors.

¹ <https://www.worldatlas.com/articles/where-do-americans-get-their-news-from>

12) On October 14, 2020, the New York Post (“Post”) published the first of several articles revealing that a number of emails had been discovered on Hunter Biden's personal computer, which appeared to portray corruption by both Joe Biden and his son. In particular, the emails appeared to show that Hunter Biden traded on then-Vice President Biden's position in office to extract enormous fees from companies tied to the Chinese government and in Ukraine and that he then funneled a portion of these fees to his father as kickbacks. The existence of these emails further suggested that Joe Biden repeatedly lied to the voting public during his Presidential campaign in denying any knowledge of, or involvement with, Hunter Biden's activities.

13) In response to the Post's articles, Twitter took unprecedented actions to suppress the articles from being shared on its platform.² According to public reports, Twitter blocked users from sending or sharing any “tweets” that included links to the articles. Not only did Twitter disable the Post's original tweets linking to the Hunter Biden article, on October 14, 2020, they blocked all users from tweeting the Post story. Any attempt to tweet it was met with an error message of “We can't complete this request because this link has been identified by Twitter or our partners as being potentially harmful.”

14) Twitter took additional efforts to block distribution of the Hunter Biden laptop story, going so far as to lock the New York Post's primary Twitter account as of 2:20 p.m. on Wednesday, October 14, 2020, the same day that the article was published. The message received when clicking on the link to the Post's Hunter Biden article said: “Your account has been locked (Showed the New York Post logo).” The message then stated: “What happened? We have determined that this account violated Twitter Rules. Specifically, for: 1. Violating our rules against distribution of hacked material. We don't permit the use of our services to directly distribute content obtained through hacking that contains private information, may put people in physical harm or danger, or contains trade secrets.” Twitter also suspended, or locked, the accounts of multiple users who shared either the articles themselves or details about the articles, including but not limited to the Trump campaign (@Tea~Trump), White House Press Secretary Kayleigh McEnany (@kayleighmcenany), Republicans on the U.S. House Judiciary Committee (@JudiciaryGOP), and Jake Sherman of Politico (@JakeSherman).

15) In defense of its actions, a Twitter spokesperson told the New York Post. “In line with our Hacked Materials Policy, as well as our approach to blocking URLs, we are taking action to block any links to or images of the material in question on Twitter.” In a lengthier public statement, Twitter claimed that the New York Post article violated

² The actions of Twitter and Facebook are discussed in detail herein in order both to illuminate the impact of the Individual Respondents' contributions and to maintain chronological order. The Individual Respondents' contributions mere days later were able to have disproportionate weight and impact on the election, in part due to the activities of Twitter and Facebook as described in detail *infra*.

Twitter's rules, noting the article was "hacked" and in violation of their Hacked Materials Policy and claiming that the laptop contained privileged information such as email addresses and phone numbers which also violated their rules. Users who were able to find and click the New York Post link on Twitter were shown an alert warning them that the webpage may be "potentially spammy or unsafe." The warning listed several "unsafe" categories that material on the Post's site could fall into. The warning finished with a statement that the link could fall into "certain categories of content, that if posted directly on Twitter, are a violation of Twitter's rules." It then gave the user directions to return to the previous page (although it did have an option to "Ignore this warning and continue," the wording of the warning in its entirety strongly discouraged Twitter users from following through to the article).

16) At the time that Twitter issued its "hacked materials" statement and blocked users from accessing the content, there was absolutely no evidence that either the article itself – which had been published by a reputable news organization – or the laptop discussed within it had been hacked. Nor was there anything other than partisan political viewpoints to indicate that John Paul Mac Isaac, the repairer of the laptop, had been involved in anything untoward. Not only has no evidence ever emerged to support Twitter's baseless and outrageous claim that the article constituted "hacked material," but the claim has now been clearly and completely refuted. Indeed, the recently released "Twitter Files" reveal that on October 14th, in the midst of blocking the Hunter Biden revelations, Communications employees within Twitter were internally discussing their struggle to understand the policy basis for marking this as unsafe, then attempting to give an "explainability argument" to offer if they were to be questioned on it – saying it is marked unsafe while they figure out if it hacked. Employees further noted that they would face "tough questions" if they don't produce a reason to have marked the story as unsafe.

17) The intentional targeting of the New York Post articles discussing Hunter Biden's emails – targeting which pro-Biden stories bearing otherwise similar characteristics did not receive despite Twitter's claim that they were merely even-handedly enforcing a previously existing policy³ – constituted an in-kind contribution by

³ For example, Twitter did not ban or provide warning labels for articles regarding then-President Donald Trump's tax returns, despite the fact that the tax returns did in fact constitute hacked materials. Tax filings and all financial records are legally protected private information. It is a crime to release them without the consent of the taxpayer. It is also illegal to print or publish tax returns or information from them. Section 7213 of the Internal Revenue Code prescribes each violation is a felony punishable by \$5,000 and/or five years in federal prison, plus the cost of prosecution. Despite these restrictions, The New York Times illegally obtained these tax returns and printed them. Twitter amplified and distributed this information, which is still available today on Twitter. Similarly, there was an illegal leak of a whistleblower complaint about President Trump's call with Ukrainian President Volodymyr Zelensky. Again, it was the New York Times who reported that Rep. Adam Schiff learned of the complaint before it was filed. This information

Twitter to the Biden Campaign which Twitter has previously asserted was unsolicited by the Biden Campaign. However, the significance of this in-kind contribution cannot be overstated as some polls show that up to 17% of people who voted for President Biden would not have done so if they knew about the contents of the laptop at the time. Moreover, the Twitter Files call the lack of solicitation into question.

18) Acting in tandem with Twitter, Facebook restricted access to the New York Post articles and their revelations about the Hunter Biden emails. Facebook's "posts" are shown to users in "feeds" or streams of images coming from accounts followed by the users intermingled with advertisements and other content suggested by Facebook. Facebook utilizes algorithms to predict which posts a user will react to; these same algorithms can be used to either bring a post that Facebook wants seen (such as an advertisement or suggested source of content) to the forefront of a "feed" or to suppress posts that Facebook does not want seen. Essentially Facebook uses their algorithms to censor the "posts" available to each user. In the case of the Post's reporting on the Hunter Biden emails, Facebook used the algorithm to suppress or hide the story. Andy Stone, Facebook's then-policy communications director, stated that the New York Post story was going to be "fact-checked" by Facebook's third-party fact checking partners. He stated that, in the meantime, they would be "reducing its distribution on their platform." Stone also tweeted out that the review was "part of our standard process to reduce the spread of misinformation." There is no indication, however, that Facebook ever "fact-checked" the Post's story or amended its "reduction" of the story when no evidence emerged that it was faulty. Nor did Stone ever explain how Facebook, a social media platform, intended to "fact-check" a story published by a news organization whose business included fact-checking or what indicia about the Post's reporting would have triggered a "fact-checking" response by Facebook.

19) The disparity in treatment received by the Hunter Biden reporting was noted by Paul Bond at Newsweek on October 19, 2020, in an article entitled *Facebook's Effort to Suppress the Hunter Biden NY Post Story Gave It Half the Reach of Major Anti-Trump Scoops*. Bond noted that according to Newswhip, which tracks Facebook's likes, shares, and comments, as well as "influencer" shares on Twitter, roughly 1.94 million people engaged with The New York Posts' Hunter Biden story in the first 24 hours after publishing, and a total of 2.12 million readers as of that Sunday. In comparison, Bond noted that 3.69 million people read the Atlantic article accusing Trump of calling fallen soldiers "losers and suckers" in its first 24 hours of publishing and 6.86 million people read the story by that Sunday. (This story turned out to be false but did not trigger a "fact-checking" review). Similarly, about 4.12 million people read the New York Times story on President Trump's tax returns in its first 24 hours after release, and 5.37 million by that Sunday (a story containing hacked material illegally released that was not flagged or

was classified, as was the call, yet the information, selectively leaked to the media so as to prompt Congressional inquiry, was also amplified and distributed by Twitter in direct contrast to Twitter's handling of the Hunter Biden laptop press coverage.

otherwise suppressed). This is a significant difference in distribution. Bond also noted that Facebook has publicly stated that when it flags a story for third party review, if deemed false, views of the article plummet on average 80 per cent. As noted above, there is no indication, however, that Facebook ever “fact-checked” the Post’s story or amended its “reduction” of the story when no evidence emerged that it was faulty. Rather, Facebook relied upon the flag itself to suppress distribution of the Post’s reporting.

20) Recognizing the glaring partiality of Twitter and Facebook’s actions, Sen. Josh Hawley sent letters to the Twitter and Facebook CEOs demanding answers about why the platforms had actively censored the New York Post’s reporting on the Biden laptop. Hawley’s letter to Mark Zuckerberg, Facebook’s then-CEO, noted that “[t]he seemingly selective nature of this public intervention suggests partiality on the part of Facebook.” Hawley went on to say that, “[a]nd your efforts to suppress the distribution of content revealing potentially unethical activity by a candidate for president raises a number of additional questions, to which I expect responses immediately.” To Jack Dorsey (Twitter’s then-CEO) Hawley wrote that what Twitter had done was “an unusual intervention that is not universally applied to all content.” He demanded answers as to how they had determined that the Post’s reporting had violated their policy on “hacked materials” and why they had taken unprecedented actions to lock the Post’s account. “I ask that you immediately answer these questions and provide the necessary justifications so that your users can feel confident that you are not seeking to influence the outcome of the presidential election with your content removal decisions,” Hawley wrote.

21) Twitter and Facebook’s unprecedented actions were then used by other entities to disparage the New York Post article in many fora. One early example, on October 15, 2020, was an NBC article written by Ken Dilanian entitled *Feds Examining whether alleged Hunter Biden emails are linked to foreign intel operation*, which attempted to debunk the entire New York Post story. In the article, Dilanian pointed to the actions of Facebook and Twitter in limiting the sharing of the story, purportedly due to questions about the provenance of the emails, as evidence that the laptop’s contents were unreliable.

22) On that same day, Jamel Brown, the Biden Campaign National Press Secretary, also relied upon and touted Twitter’s blocking of the laptop story. When asked about that very subject, in an interview with Cheddar, a political site, Brown stated “Well look, I think Twitter’s response to the article itself makes clear that these you know purported allegations are false. And they are not true. And glad to see you know that social media companies, like Twitter, taking responsibility to limit misinformation.”⁴

⁴ Brown’s quote the day after the suppression leaves no room for doubt that the Biden Campaign was well aware of Twitter’s actions. The Twitter Files further reveal that Biden routinely flagged specific tweets for review and action by Twitter employees; activity that was so routine during the campaign that an employee sending five tweets with the note “more to review from the Biden team” on October 24th occasioned no more response than “handled these” a few hours later.

23) On information and belief, the Biden Campaign seized the opportunity created by Twitter and Facebook's suppression of the Hunter Biden laptop story and acted to expand upon it. While the social media giants had slowed the spread of the story, the Campaign had to have been aware that more was needed to ensure that the Post's reporting – and the evidence of the laptop itself – was thoroughly discredited in the eyes of the voting public. The best way to achieve that goal, and the path chosen by the Biden Campaign, was to recruit experts from the Intelligence Community to take advantage of the window of opportunity created by Facebook and Twitter and to further suppress and discredit the discovery of the laptop emails.

24) By October 19, 2020, five days after the first New York Post article was published and relying in substantial part upon the suppression of that article and of subsequent Post reporting by Twitter and Facebook, the Individual Respondents had already bonded together to write, sign and publish a lengthy letter describing themselves as "individuals who devoted significant portions of our lives to national security." The letter assessed that the Hunter Biden emails referenced by the New York Post were fake. As a result, in addition to the suppression of the story undertaken by Facebook and Twitter, news and social media outlets began referring to the emails as a Russian ploy to influence the election. The speed with which this letter was written and the number of Individual Respondents involved points directly to the surreptitious involvement of the Biden Campaign in soliciting or organizing the drafters of the letter in a clear violation of FECA. A copy of this letter is annexed hereto as Exhibit "A."

25) The letter made several statements about intelligence strategies such as information operations, statements mentioning the CIA and other intelligence agencies, statements about foreign intelligence and foreign events, and went on to assess the reliability of the emails recovered from Hunter Biden's laptop. This assessment was made without actually reviewing the laptop or its contents, and without any investigation into the recovery or background of the emails, as the authors of the letter acknowledged. This lack of investigation is particularly noteworthy in light of the fact that it was apparent that the FBI was in possession of the actual laptop and had been for months, and was thus best suited to determine whether or not the emails were legitimate. Despite the FBI's possession of the laptop, and despite the Individual Respondents' complete lack of evidence and failure to review a single one of the recovered emails, the letter contained numerous irresponsible and intentionally inflammatory statements. These statements included claims that the emails had "all the classic earmarks of a Russian information operation" and that although they did not know if the emails were genuine or not, nor did they have evidence of Russian involvement, "just our experience makes us deeply suspicious that the Russian government played a significant role in this case." The Individual Respondents further stated that, "[i]f we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this." In their haste to assist the Biden campaign by discrediting the

laptop and its contents, the Individual Respondents emphasized their experience, high rank within the Intelligence Community, and long access to classified information about Russia, using it to lend weight and credibility to their statements, but took no time to actually analyze the recovered emails which were later determined to be genuine, nor did they inquire into the then current status of the FBI Investigation that had been ongoing for several months.

26) Further, and most significantly, each of the signers violated their life-long Federal contracts by drafting or signing the letter and publishing it without submitting it for pre-publication review by their respective agencies. The severity of this breach is exacerbated by the fact that the letter strongly, but falsely, implies that the analysis is based on their collective access to classified materials.

27) On information and belief, the letter was drafted by two of the Individual Respondents, Mike Morell and Marc Polymeropolous. The remainder of the Individual Respondents were not involved in the initial drafting, but all of them both signed and promoted the letter and its contents.

28) Stunningly, one of the signers, Douglas Wise, former Deputy Director at DIA has since admitted that he and the other signers knew at the time they signed the letter that the emails on the laptop “had to be real.” Yet, they chose to dishonestly and corruptly discredit the laptop anyway to assist the Biden Campaign.

29) Partisan news sources and commentators immediately used the letter written by the Individual Respondents to support the Biden campaign, acting in tandem with the suppression of the original story. For example, Politico used the letter in an article it printed by Natasha Bertrand at 10:30 p.m. that same night. Bertrand claimed that those “50 (sic) former intel officials said the laptop was Russian disinformation.” Nick Shapiro, one of the 51 Individual Respondents, was quoted in Bertrand’s article as saying that “the real power here [of the letter] however is the number of former, working-level IC officers who want the American people to know that once again the Russians are interfering.” The Politico article touted the fact that some of the fifty-one formerly worked for President Trump, naming Russ Travers (National Counterterrorism Center), Gleun Gerstell (former NSA General Counsel), Rick Ledgett (former deputy NSA director), Marc Ploymeropoulos (retired CIA operations officer) and Cynthia Strand (former CIA deputy assistant director for global issues). The article also made a point to single out that some of the fifty-one were either former or former acting CIA directors – John Brennan, Leon Panetta, Mike Hayden, John McLoughlin, and Mike Morell.

30) One of the Individual Respondents, James Clapper, went beyond adding his signature to the letter. Clapper went on CNN on the date that the letter was published, October 19, 2020, and said that the laptop and emails were “classic textbook Russian tradecraft at work.” At the time that he made this further public statement, Clapper still had done no investigation whatsoever into the laptop itself or its contents and was merely

acting as a mouthpiece for the Biden Campaign, providing an in-kind contribution of significant value to the Campaign.

31) The partisan nature of the Individual Respondents' letter, and its intent to constitute a contribution in kind to the Biden campaign, is glaringly apparent when viewed in contrast to more responsible reporting by news sources that otherwise shared a pro-Biden bias. For example, Adam Goldman wrote an article for the New York Times on October 22, 2020, stating that the Trump campaign was promoting claims of corruption by Hunter Biden in order to damage the Biden campaign. After disparaging the Post's reporting and the veracity of the Hunter Biden laptop story repeatedly, Goldman admitted that no concrete evidence had emerged that the laptop contained Russian disinformation. Goldman further reported that, with mounting questions to the FBI regarding the investigation, the Bureau had written to Sen. Ron Johnson that it had not found any Russian disinformation on the laptop.

32) The credibility of the Individual Respondents' letter was further undercut when, on October 22, 2020, Tony Bobulinski, former partner of Hunter Biden, gave a statement to the media verifying the contents of the Hunter Biden laptop, including candidate Biden's involvement in the business dealings of Hunter and his companies. This statement should have effectively obliterated any claims of either hacked materials or Russian disinformation. However, the Individual Respondents maintained their support of the Biden Campaign's allegations that the emails were a Russian-generated hoax despite the absence of any evidence supporting this position.

33) On information and belief, the speed with which the Individual Respondents wrote their letter, gathered their widespread number for signing despite having worked for diverse agencies, and published the letter on a national scale would have been impossible without assistance and/or solicitation from the Biden Campaign.

34) Jen Psaki, formerly of the Obama/Biden administration, member of President-elect Biden's transition team, and the first Press Secretary to President Biden following his election, had early access to the letter, as she tweeted out on October 19, 2020 "Hunter Biden story is Russian disinfo, dozens of former intel officials say." Psaki, a commentator for CNN at that time, linked to the Politico article.

35) To support the Russian hoax theory promoted by the Biden campaign and supported by the Individual Respondents, during a presidential debate on October 22, 2020 (just after Bobulinski's public statement), then-candidate Biden stated "[h]is [referring to then-President Trump] buddy Rudy Giuliani, he's being used as a Russian pawn, he's being fed information that is Russian, that is not true." Candidate Biden then stated this was all part of a Russian plan. He then specifically cited the letter from the fifty-one Individual Respondents to support this claim, stating "[t]here's 50 [sic] former national intelligence folks who said that what he [referring to then-President Trump] is accusing me of is a Russian plan. They have said that this is, has all the four, five former

heads of the CIA, both parties say what he is saying is a bunch of garbage. Nobody believes it except him and his good friend Rudy Giuliani.” President Trump then responded, “You mean the laptop is now another Russia, Russia, Russia hoax?” To which candidate Biden responded, “[t]hat’s exactly what I was told.”

36) The Individual Respondents worked for multiple different intelligence agencies, including the Central Intelligence Agency, the Department of Defense, the National Security Agency, the Office of the Director of National Intelligence, and the National Counterterrorism Center. As part of their employment, each and every one of the Individual Respondents signed a binding lifelong contract obligating them to maintain the secrecy and security of classified information and to seek prepublication review from their agency prior to publishing any material referencing or related to their intelligence employment. “Publishing” under the contracts binding the Individual Respondents includes within its terms both oral and written statements in any public forum. This contract remained in full force and effect for each of these federal employees even after otherwise leaving federal employment.

37) The Campaign, which immediately tried to discredit the New York Post’s reporting that the emails had been recovered and that their contents implicated Joe Biden as well as Hunter Biden, solicited the assistance of the Individual Respondents and relied upon the suppression of the original reporting by Facebook and Twitter to amplify the contribution of the Individual Respondents. In return, the Campaign received contributions in kind from all of the Individual Respondents – contributions which were sufficiently significant to have had a momentous effect on a close and bitterly contested Presidential contest.⁵ Moreover, the Campaign failed to report any of these in-kind contributions, despite the obligation to report in-kind contributions from individuals valued in excess of \$200. This is a clear violation of the Federal Election laws.

38) It was not until recently that certain signatories on this letter have begun to back away from their unlawful conduct, either admitting that they knew that the emails “bad to be real,” as in the case of Douglas Wise, or James Clapper’s recent claims that the letter was “deliberately distorted.” Though, none of these efforts to soften the impact of the letter were undertaken at the time, when the participants gleefully allowed the media and the Biden campaign to use their valuable, if unauthorized, intelligence analysis to influence the election.

⁵ That members of the Campaign and Facebook and Twitter, at least, continued to maintain ties after the election can be seen in continued evidence of contact, such as sharing legal representation in the defense of MUR 7868. Similar ties have likely been maintained with the Individual Respondents.

ANALYSIS

39) Federal campaign finance law dictates that any expenditure that is “coordinated” with a candidate is an in-kind contribution to the candidate and must be reported as a contribution to and expenditure by that candidate’s authorized committee. 11 C.F.R. §109.20(b).

40) The term “contribution” is defined in FECA to mean “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)(A)(i) (emphasis added); see also 11 C.F.R. §§100.51-100.56.

41) As used in the definition of “contribution,” the phrase “anything of value” includes “all in-kind contributions.” The “provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution.” 11 C.F.R. § 100.52(d)(1).

42) FECA’s so-called “press exemption” provides that the term “expenditure” does not include “any news story, commentary, or editorial *distributed* through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication” 52 U.S.C. § 30101(9)(B)(i) (emphasis added) (so-called “press exemption” for news stories *distributed* by media entities). Here, however, the story of the Hunter Biden emails was not distributed but, rather, was suppressed, incorrectly labeled as hacked or untrue, and hidden from the voting public. None of the Individual Respondents are media entities or distributors of the news; indeed, their federal contracts expressly forbid news distribution that has not undergone pre-publication review.

43) The authorized committee of a candidate for federal office must report to the Commission the identification of each person who makes a contribution to the committee with an aggregate value in excess of \$200 within an election cycle. 52 U.S.C. § 30104(b)(3)(A).

44) Federal government contractors may not make *any* contribution to a political party or candidate for federal office, and political parties and federal candidates may not solicit contributions from federal contractors. A federal government contractor is a person who enters into a contract, or is bidding on such a contract, with any agency or department of the United States government and is paid, or is to be paid, for services, material, equipment, supplies, land or buildings with funds appropriated by Congress. The campaign contribution restriction also applies to the personal and business funds of individuals under contract to the federal government. 52 U.S.C. § 30119(a); 11 C.F.R. § 115.2.

CAUSES OF ACTION

COUNT ONE

The Individual Respondents Made, and Biden for President Received, an In-Kind Contribution in Violation of the Federal Election Campaign Act

45) On October 14, 2020, the New York Post published the first of several articles revealing the content of emails recovered from Hunter Biden's laptop, some of which contained evidence of corruption and dishonesty on the part of then-candidate for President Joe Biden.

46) The Biden for President campaign immediately sought to deny and cover up the allegations contained in the Post article.

47) Individual Respondents Mike Morell and Marc Polymeropoulos drafted, and the remaining 49 Individual Respondents signed, a letter released to the public within five days of the New York Post article opining that the emails recovered from the laptop were evidence of a Russian misinformation campaign and citing the combined Intelligence Community experience of the Individual Respondents in support of this view, even though they were aware that the emails "had to be real."

48) Each of the Individual Respondents is and remains bound by contract with the Federal Government to protect the security of classified information and, as such, is a Federal contractor barred from making campaign contributions of any kind under 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2.

49) Based on the speed with which the Individual Respondents were enlisted and the identical nature of claims espoused by the Individual Respondents and the Biden for President committee, there is reason to believe that this action was taken in coordination with the campaign's suppression efforts and constituted an in-kind contribution in violation of 52 U.S.C. § 30118(a) and 11 C.F.R § 114.2(6).

50) Based on published reports, there is reason to believe that the Individual Respondents' letter positing that the Hunter Biden laptop was evidence of Russian misinformation was written and published with the purpose of influencing the 2020 presidential general election and was, therefore, an "expenditure" under FECA. 52 U.S.C. § 30101(9)(A)(i).

COUNT TWO

Biden for President Failed to Report the Receipt of an In-Kind Contribution in Violation of the Federal Election Campaign Act.

51) On October 14, 2020, the New York Post published the first of several articles revealing the content of emails recovered from Hunter Biden's laptop, some of which contained evidence of corruption and dishonesty on the part of then-candidate for President Joe Biden.

52) The Biden for President campaign immediately sought to deny and cover up the allegations contained in the Post article.

53) Individual Respondents Mike Morell and Marc Polymeropoulos drafted, and the remaining 49 Individual Respondents signed, a letter released to the public within five days of the New York Post article opining that the emails recovered from the laptop were evidence of a Russian misinformation campaign and citing the combined Intelligence Community experience of the Individual Respondents in support of this view.

54) Each of the Individual Respondents is and remains bound by contract with the Federal Government to protect the security of classified information and, as such, is a Federal contractor barred from making campaign contributions under 52 U.S.C. § 30119(a) and 11 C.F.R. § 115.2.

55) Based on the speed with which the Individual Respondents were enlisted and the identical nature of claims espoused by the Individual Respondents and the Biden for President committee, there is reason to believe that this action was taken in coordination with the campaign's suppression efforts and constituted an in-kind contribution in violation of 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(6).

56) Based on published reports, there is reason to believe that the Individual Respondents' letter positing that the Hunter Biden laptop was evidence of Russian misinformation was written and published with the purpose of influencing the 2020 presidential general election and was, therefore, an "expenditure" under FECA. 52 U.S.C. § 30101(9)(A)(i).

57) Biden for President was required by FECA to report to the Commission the identification of each person from whom an expenditure in an aggregate amount in excess of \$200 within the calendar year is received by the committee. 52 U.S.C. § 30104(b)(3)(A). The in-kind contributions provided by the Individual Respondents' letter provided a benefit to the campaign valued well in excess of \$200 and swayed a substantial percentage of the voting public.

58) Based on published reports and review of FEC records, there is reason to believe that Biden for President failed to report its receipt of this in-kind contribution from any and all of the Individual Respondents, in violation of 52 U.S.C. § 30104(b)(3)(A).

PRAYER FOR RELIEF

59) Wherefore, the Commission should find reason to believe that Biden for President and the Individual Respondents all violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission 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.

Respectfully submitted,




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VERIFICATION

By signing below, I swear that the allegations contained in this Complaint have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation.

Dated: March 14, 2023
Palm Beach, Florida


Donald J. Trump

Sworn to before me this 14
day of March, 2023


NOTARY PUBLIC

