

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

INNISFREE M&A INCORPORATED,

Plaintiff,

Index No.

-against-

TWITTER, INC.,

Defendant.

COMPLAINT

Plaintiff Innisfree M&A Incorporated (“Innisfree” or “Plaintiff”), by its undersigned attorneys, as and for its complaint against Twitter, Inc. (“Twitter” or “Defendant”) for breach of contract, account stated, and unjust enrichment, alleges as follows:

JURISDICTION AND VENUE

1. This Court possesses personal jurisdiction over Twitter pursuant to CPLR § 302 because Twitter conducts business within the State of New York, and Innisfree’s claims arise from Twitter’s transacting business within the State of New York.

2. Venue is proper in the County of New York, New York pursuant to CPLR § 503 because Innisfree is a resident of New York County, New York.

THE PARTIES

3. Plaintiff Innisfree M&A Incorporated is a corporation organized under the laws of the State of Delaware with a principal place of business located in New York County, New York. Innisfree is in the business of providing shareholder intelligence, strategic advice, and solicitation execution services to corporations and investors worldwide.

4. Defendant Twitter, Inc. is a Delaware corporation with its principal place of business in San Francisco, California. Twitter operates the microblogging and social networking service “Twitter” worldwide, including in New York County.

FACTUAL ALLEGATIONS

5. On or about May 13, 2022, Twitter and Innisfree entered into a contract (the “Agreement”), which was signed by Sean Edgett, Twitter’s then General Counsel. A copy of the Agreement is annexed hereto as **Exhibit 1**¹ and incorporated herein by reference.

6. Pursuant to the Agreement, Twitter retained Innisfree to provide proxy solicitation services to Twitter in connection with a Special Meeting held by Twitter in September 2022 in relation to Elon Musk’s acquisition of Twitter. These services included, but were not limited to, providing analysis and advice to the Twitter team and outreach to certain Twitter shareholders in advance of the Special Meeting.

7. In connection with the Agreement, Innisfree provided Twitter with the requested proxy solicitation services (collectively, the “Services Rendered”).

8. Thereafter, on or about September 26, 2022, Innisfree sent Twitter an invoice (the “Invoice”) for payment of the Services Rendered in the sum of \$1,902,788.03. A copy of the Invoice is annexed hereto as **Exhibit 2** and incorporated herein by reference.

9. On or about October 28, 2022, in response to Innisfree’s inquiry about payment status, Twitter advised Innisfree that the Invoice had been “successfully processed” and would be paid on November 21, 2022. A copy of this correspondence from Twitter is annexed hereto as **Exhibit 3** and incorporated herein by reference.

¹ Certain exhibits have been redacted for confidential information.

10. Despite having confirmed that payment would be received by Innisfree for the Services Rendered on or before November 21, 2022, on November 21, 2022, Twitter requested additional information regarding the Agreement and the Services Rendered. A true and correct copy of this correspondence is annexed hereto as **Exhibit 4** and incorporated herein by reference.

11. Innisfree promptly provided the requested information on November 22, 2022 and November 23, 2022 (the “November 2022 Correspondence”). Copies of these correspondences are collectively annexed hereto as **Exhibit 5** and incorporated herein by reference.

12. When Innisfree did not receive payment or any response to the November 2022 Correspondence, Innisfree followed up with Twitter regarding payment of the Invoice on December 6, 2022 and December 13, 2022. Copies of these correspondences are collectively annexed hereto as **Exhibit 6** and incorporated herein by reference.

13. Twitter neither paid the Invoice nor provided any response to the November Correspondence.

14. On December 23, 2022, Innisfree, through its undersigned counsel, sent Twitter a letter demanding payment of the Invoice in the amount of \$1,902,788.03 for the Services Rendered. A copy of this correspondence, without exhibits, is annexed hereto as **Exhibit 7** and incorporated herein by reference.

15. Twitter did not respond to Innisfree’s letter dated December 23, 2022.

16. As of the date of this Complaint, Twitter has stopped communicating with Innisfree and owes Innisfree no less than \$1,902,788.03 pursuant to the Agreement.

CAUSES OF ACTION

COUNT I

(Breach of Agreement against Twitter)

17. Innisfree repeats and realleges each of the foregoing allegations as if fully set forth herein.

18. The Agreement is a valid and binding contract.

19. Pursuant to the Agreement, Innisfree performed the Services Rendered for Twitter.

20. The Agreement requires Twitter to pay Innisfree for the Services Rendered.

21. Twitter has failed to make any payment to Innisfree for the Services Rendered, despite repeated demand by Innisfree and confirmation by Twitter that it would pay Innisfree for the Services Rendered after receiving the Invoice.

22. Twitter's failure to pay Innisfree for the Services Rendered constitutes a breach of the Agreement.

23. Innisfree has performed, and continues to perform, all of its obligations under the Agreement.

24. As of December 23, 2022, Twitter remains in default of its obligations to Innisfree under the Agreement in an amount of not less than \$1,902,788.03, in addition to (a) post-judgment interest at the applicable rates, (b) all other amounts due Innisfree under applicable law, and (c) such other and further relief as the Court may deem just, proper and equitable.

WHEREFORE, Innisfree has been damaged and is entitled to the sum of not less than \$1,902,788.03 from Twitter, in addition to (a) post-judgment interest at the applicable rates, (b) all other amounts due Innisfree under applicable law, and (c) such other and further relief as the Court may deem just, proper and equitable.

COUNT II
(Account Stated against Twitter)

25. Innisfree repeats and realleges each of the foregoing allegations as if fully set forth herein.

26. Upon performing the Services Rendered in accordance with the Agreement, Innisfree delivered the Invoice to Twitter.

27. Twitter received and retained the Invoice without objection at any time after Innisfree delivered the Invoice to Twitter.

28. Furthermore, upon receipt of the Invoice, Twitter confirmed that it received the Invoice, that the Invoice had been “successfully processed,” and that Twitter would pay the Invoice in November 2022.

29. Notwithstanding same, Twitter has failed to make the required payment to Innisfree.

30. As of December 23, 2022, Twitter is indebted to Innisfree in the amount of not less than \$1,902,788.03.

31. By reason of the foregoing, Innisfree has been damaged and is entitled to the sum of not less than \$1,902,788.03 as of December 23, 2022, in addition to (a) post-judgment interest at the applicable rates, (b) all other amounts due Innisfree under applicable law, and (c) such other and further relief as the Court may deem just, proper and equitable.

WHEREFORE, Innisfree seeks a judgment against Twitter in an amount of not less than \$1,902,788.03 as of December 23, 2022, in addition to (a) post-judgment interest at the applicable rates, (b) all other amounts due Innisfree under applicable law, and (c) such other and further relief as the Court may deem just, proper and equitable.

COUNT III
(Unjust Enrichment against Twitter)

32. Innisfree repeats and realleges each of the foregoing allegations as if fully set forth herein.

33. Twitter has been enriched by Innisfree's supply of the Services Rendered without payment to Innisfree.

34. By reason of the foregoing, Twitter has been enriched at Innisfree's expense.

35. Equity and good conscience do not permit Twitter to retain the benefits and value of the Services Rendered without payment to Innisfree.

36. By reason of the foregoing, Innisfree has been damaged and is entitled to the sum of not less than \$1,902,788.03 as of December 23, 2022, in addition to (a) post-judgment interest at the applicable rates, (b) all other amounts due Innisfree under applicable law, and (c) such other and further relief as the Court may deem just, proper and equitable.

WHEREFORE, Innisfree seeks a judgment against Twitter in an amount of not less than \$1,902,788.03 as of December 23, 2022, in addition to (a) post-judgment interest at the applicable rates, (b) all other amounts due Plaintiff under applicable law, and (c) such other and further relief as the Court may deem just, proper and equitable.

Dated: February 3, 2023

VEDDER PRICE P.C.

By /s/ Jonathan A. Wexler

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