

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Tiffany Muller
End Citizens United
100 M Street SE
Washington, D.C. 20003

Complainant,

v.

Donald J. Trump
Palm Beach, FL 33480

Donald J. Trump for President 2024, Inc.
Bradley T. Crate, Treasurer
P.O. BOX 509
24, INC., Virginia 22216

X Corp. f/k/a Twitter, Inc.
1355 Market Street Suite 900
San Francisco, CA 94103

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Donald J. Trump, Donald J. Trump for President 2024, Inc. (the “*Campaign*”), and Bradley T. Crate in his official capacity as Treasurer, and X Corp. f/k/a Twitter, Inc. (“*X*”) (collectively, “*Respondents*”) for violating the Federal Election Campaign Act of 1971, as amended (the “*Act*”), and Federal Election Commission (the “*Commission*”) regulations. The Act and Commission regulations prohibit corporations from making contributions to federal candidates, and federal candidates may not accept such contributions. Respondents violated this clear prohibition on August 12, 2024, when X hosted a “conversation” between X’s owner Elon Musk and Trump that amounted to a virtual campaign event for Donald J. Trump financed by X. Such a brazen corporate contribution

undermines the anti-corruption aims of the Act, and the Commission should immediately investigate these violations and take appropriate remedial action.

FACTS

Donald J. Trump is a candidate for President.¹ Donald J. Trump for President 2024, Inc. is his principal campaign committee, and Bradley T. Crate is its treasurer.² X Corp. is a corporation.³ On August 12, 2024, after generating headlines for the Trump-Musk campaign event,⁴ Trump joined a X live stream marred with technical issues⁵ that featured express advocacy by X owner Elon Musk to support the Trump Campaign.⁶ The livestream was hosted by Musk and X employees were assigned to facilitate, monitor, and in real time fix the technical issues with the livestream event.

LEGAL ANALYSIS

Federal law prohibits corporations from making contributions to candidates and candidates from accepting such contributions.⁷ A “contribution” includes “anything of value” provided to a federal candidate in connection with their election.⁸ The Commission has held that activities involving the participation of a federal candidate result in contributions “if the

¹ Donald J. Trump, FEC Form 2, Statement of Candidacy (July 24, 2024), <https://docquery.fec.gov/pdf/081/202407249665725081/202407249665725081.pdf>.

² *Id.*

³ See Alexa Corse, *Twitter Inc. Changes Its Name to X Corp. and Moves to Nevada*, WALL STREET JOURNAL (April 12, 2023), <https://www.wsj.com/articles/twitter-inc-changes-its-name-to-x-corp-and-moves-to-nevada-703ac892>.

⁴ MacKenzie Sigalos and Rebecca Picciotto, *Musk-Trump alliance: Why the onetime enemies are teaming up to try to win the White House*, CNBC (Aug. 8, 2024), <https://www.cnbc.com/2024/08/08/trump-musk-crypto-harris-election.html>.

⁵ Michael Gold, *Musk Tees Up Softball Questions for Trump on X, After Technical Problems*, NEW YORK TIMES (Aug. 13, 2024), <https://www.nytimes.com/2024/08/12/us/politics/trump-musk-interview-x.html>;

⁶ Elon Musk repeatedly endorsed Donald Trump and advocated for the defeat of Vice President Kamala Harris throughout the livestream campaign event. Elon Musk (@elonmusk), X (Aug. 13, 2024, 3:03 A.M.), <https://x.com/elonmusk/status/1823254086126608862>. “And uh so that's so a big y'know part of the reason why I was excited to endorse you as the president of the United States.” *Id.* t 2:46. “I think we're in massive trouble with a Kamala administration and that's my honest opinion um and uh and I think uh I think really its essential that uh you win for the good of the country this election, and I'm just stating my opinion.” *Id.* at 47:45. “Those are my values and and and I think um you know and and and so I mean that's uh, why I'm supporting you for president.” *Id.* at 1:08:31.

⁷ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(d).

⁸ 52 U.S.C. §§ 30118(b)(2); 30101(8)(A).

activities involve (i) the solicitation, making, or acceptance of contributions to the candidate's campaign, or (ii) communications expressly advocating the nomination, election, or defeat of any candidate.”⁹

Although there is an exemption for “any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication,”¹⁰ a contribution can result if an entity otherwise entitled to the press exemption performs functions that are not within its normal press functions.¹¹ Specifically, the Commission has historically conducted a two-step analysis in applying the media exemption: (1) determine whether the entity is a press or media entity; and (2) if the entity is not owned or controlled by a political party, political committee, or candidate, determine whether the entity is acting in its “legitimate press function.”¹² To determine whether an entity is acting in its “legitimate press function,” the Commission considers “(1) whether the entity’s materials are available to the general public, and (2) whether they are comparable in form to those ordinarily issued by the entity.”¹³

Here—the considerable resources of X to host Trump’s campaign event, including dedicating real-time staff to address technical difficulties specifically for the campaign event and the time of its owner to participate in the event—are of significant value to the Trump Campaign. The event itself included repeated express advocacy by Musk for Trump.

X’s use of resources to support Trump’s campaign event is not protected by the media exemption. Applying the Commission’s two-step analysis, first, the Commission has considered

⁹ FEC Advisory Op. 1994-15 (Byrne).

¹⁰ 52 U.S.C. § 30101(9)(B)(i); 11 C.F.R. §§ 100.73, 100.132.

¹¹ See, e.g. General Counsel’s Report, FEC Matter Under Review 3657 (Multimedia Cablevision Co.) at 23–26 (May 25, 1994); FEC Advisory Op. 2011-11 (Colbert).

¹² FEC Advisory Op. 2010-08 (Citizens United) at 4-5 (quoting *Reader’s Digest Ass’n v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y. 1981)).

¹³ *Id.* at 6.

but has not ultimately resolved whether X is a press entity.¹⁴ However, that unresolved question is based on X's role as a platform hosting and moderating content.¹⁵ Even if X were a press entity, the owner's hosting a livestream event with a candidate featuring express advocacy is a departure from these usual hosting-and-content-moderation functions. It thus fails the second step in the Commission's press exemption test. X was not acting in its legitimate press function because hosting livestream campaign events with candidates is not "comparable in form" to X's regular activities.

The Commission has held that where an entity otherwise eligible for the press exemption departs from its usual activities to support a favored candidate, it loses the benefit of the press exemption. For example, in 1994, the Commission found reason to believe a violation occurred when a cable company included flyers opposing a candidate in subscribers' cable bills.¹⁶ In 2011, the Commission advised Viacom that costs associated with producing independent expenditures for a political action committee formed for a comedy program were not eligible for the press exemption.¹⁷ Thus, the Commission need not agree on whether X is generally eligible for the press exemption in order to find that it was not eligible for the press exemption for this unusual and particularly valuable contribution to the Trump Campaign. Moreover, X claims immunity under Section 230 of the Communications Decency Act as a provider of an "interactive computer service."¹⁸ This law shields such providers from being treated as a "publisher or speaker of any information" posted on their service by a third party and therefore liable for its content.¹⁹ If X

¹⁴ See FEC Matter Under Review 7827 (Twitter, Inc.), Supplemental Statement of Reasons of Vice Chair Allen Dickerson and Commissioner James E. "Trey" Trainor, III (Sept. 13, 2021); Statement of Reasons of Commissioner Sean J. Cooksey (Sept. 13, 2021).

¹⁵ See *id.*

¹⁶ General Counsel's Report, FEC Matter Under Review 3657 (Multimedia Cablevision Co.) at 23–26 (May 25, 1994).

¹⁷ FEC Advisory Op. 2011-11 (Colbert).

¹⁸ See FEC Matter Under Review 7827 (Twitter, Inc.), Response from Twitter, Inc., Jack Dorsey, and Brandon Borman at 14–15; 47 U.S.C. § 230(c)(1).

¹⁹ 47 U.S.C. § 230(c)(1).

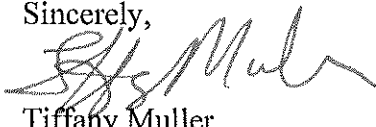
gets the benefit of *not* being treated as the “publisher or speaker” under the Communications Decency Act for information generally posted on its site, it cannot also claim the benefit of the press exemption for the Trump Campaign material it publishes using corporate resources.

Because X spent considerable resources to host an event to expressly advocate for Trump and was not entitled to the press exemption for that event, Respondents have violated the ban on giving and receiving corporation contributions.

REQUESTED ACTION

Respondents appear to have violated federal law by accepting and making a corporate contribution. I respectfully request that the Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, and enjoin Respondents from further violations of the law.

Sincerely,



Tiffany Muller
End Citizens United
100 M Street SE
Washington, D.C. 20003

SUBSCRIBED AND SWORN to before me this 13th day of August 2024.



Notary Public
My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2029

